

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9  
75 Hawthorne Street  
San Francisco, CA 94105

\*\* FILED \*\*

08MAY2019 - 08:10AM

U.S.EPA - Region 09

DOCKET NO: CAA (112r)-04-2019-0038

This ESA is issued to: JR Simplot Company Helm Plant  
12688 S. Colorado Ave.  
Helm, CA 93627-0128

For: Violation of Section 112(r)(7) of the Clean Air Act.  
At: JR Simplot Company Helm Plant, 12688 S. Colorado Ave., Helm, CA 93627-0128

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region 9, by its duly delegated official, Enrique Manzanilla, Superfund Director, and JR Simplot Company Helm Plant ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 2 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

#### ALLEGED VIOLATIONS

Following its July 27, 2016 inspection, EPA alleges Respondent's failure to:

- 1) Comply with the requirements of 40 C.F.R. § 68.48(a)(1) in that the Material Safety Data Sheet (MSDS) for anhydrous ammonia did not meet the requirements of the OSHA Hazard Communication Standard of 29 CFR 1910.1200(g).
- 2) Comply with the requirements of 40 C.F.R. § 68.65(b)(3) in that the physical and chemical properties of physical state, odor threshold, freezing point, and flammability limits for anhydrous ammonia were not stated in the MSDS or were stated incorrectly.
- 3) Comply with the requirements of 40 C.F.R. § 68.69(b) in that safety information was included as hyperlinks with the Standard Operating Procedures; however, the information was not readily available to employees as observed by EPA during our interview with Operator Eusebio Prieto.

#### SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of \$1,800.

This settlement is subject to the following terms and conditions:

The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C §7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own attorney's fees and costs, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States

Government, that the Respondent has corrected the violations listed above and has sent an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields) **or alternatively has sent a cashier's check or certified check** (payable to the

Treasurer, United States of America) in the amount of **\$1,800** in payment of the full penalty amount to the following address:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

The check or online payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the EPA Cincinnati Finance Center. This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Angie Proboszcz (SFD-9-3)  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

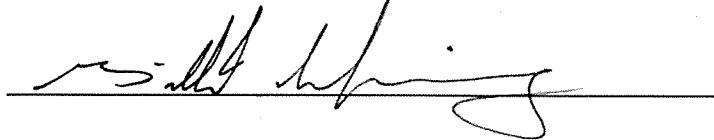
Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 9 office at the above address in correct form by the Respondent within 7 days of the date of Respondent's receipt of the proposed ESA and EPA has not granted an extension of its offer to settle, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT – JR Simplot Company Helm Plant


Signature: 

Date: 4/25/2019

Name (print): Gilbert Rodriguez

Title (print): Production Manager

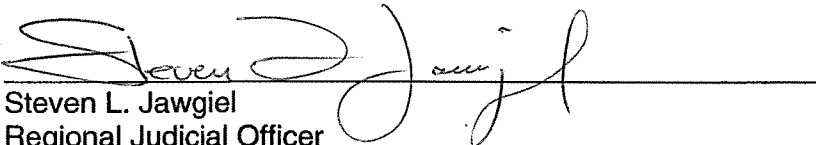
FOR COMPLAINANT:

  
\_\_\_\_\_

Date: 4/26/2019

Enrique Manzanilla, Director  
Superfund Division  
U.S. EPA Region 9

It is hereby ORDERED that this ESA be entered and Respondent pays the above penalty.

  
\_\_\_\_\_

Date: 05/03/19

Steven L. Jawgiel  
Regional Judicial Officer  
U.S. EPA Region 9

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Consent Agreement and Final Order in the matter of JR Simplot Company Helm Plant [Docket Number CAA(112R)-09-2019-0038], has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

The Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:  
(With Return Receipt)

Respondent -

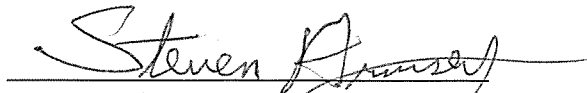
Mr. Gilbert Rodriguez  
Production Manager  
JR Simplot Company Helm Plant  
12688 S. Colorado Ave.  
Helm, CA 93627-0128

HAND DELIVERED:

Complainant -  
(By Counsel)

Andrew Helmlinger  
Office of Regional Counsel  
ENVIRONMENTAL PROTECTION AGENCY  
75 Hawthorne Street  
San Francisco, CA. 94105

Dated at San Francisco, CA, May 8, 2019;

  
Steven Armsey  
Regional Hearing Clerk  
EPA, Region 9