

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

December 7, 2020

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: CAA 06-2021-3307

**This ESA is issued to: City of Austin Water Utility – Albert H. Ullrich Water Treatment Plant
At: 625 East 10th Street, Austin, Texas 78701
for violating Section 112(r)(7) of the Clean Air Act**

The United States Environmental Protection Agency (EPA), through its delegated official, the Director of the Enforcement and Compliance Assurance Division, and the City of Austin Water Utility (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in the EPA's policies¹ are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On October 10, 2019, an authorized representative of the EPA conducted an inspection of Respondent's facility, located in Austin, Texas to determine compliance with the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The EPA found that Respondent had violated the RMP regulations and Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), as follows:

- 1) 40 C.F.R. § 68.39(b) – The owner or operator failed to document the rationale for the selection of the alternative release scenarios.
- 2) 40 C.F.R. § 68.50(c) – The owner or operator failed to document how the results of the hazard review were addressed.
- 3) 40 C.F.R. § 68.56(a) – The owner or operator failed to follow required timelines for preventative maintenance due to software issues.

SETTLEMENT

In consideration of the factors set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the criteria set forth in the EPA's policies¹, and upon consideration of the entire record, EPA and Respondent enter into this ESA in order to settle the violations, described above, for the total penalty amount of **\$2,100.00**.

¹ "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68" (2004); and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions" (2013)

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein, 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 CAA, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that Respondent has corrected the violations listed above and has paid the full penalty of **\$2,100.00** by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

The Docket Number of this ESA is **CAA-06-2021-3307** and must be included on the payment. **The signed ESA and a copy of the payment must be sent by email to: flores.carlos@epa.gov**

Full payment of the ESA penalty shall only resolve Respondent's civil liability for the violations alleged above. The EPA does not waive any other enforcement action by EPA for any other past, present, or future violations under the CAA or any other statute.

If the signed ESA with a copy of the payment is not returned to the EPA Region 6 at the above e-mail address in correct form by Respondent within 30 days of the date of the receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violations identified in this ESA.

This ESA is binding on the EPA and Respondent and is effective upon filing with the Regional Hearing Clerk.

The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this ESA, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA: flores.carlos@epa.gov

To Respondent: Yessenia.Jaramillo@austintexas.gov

SIGNATURE BY RESPONDENT:

Signature: Rick Coronado Digitally signed by Rick Coronado
Date: 2020.12.09 12:46:09 -06'00'

Date: _____

Name (print): Rick Coronado

Title (print) Assistant Director

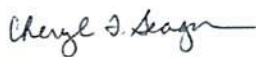
Cost of Corrective Actions: N/A - time associated with labor

Respondent's Brief Description of Complying Action: _____

Item 1 - listed alternative release scenario rationale as the most likely scenario to occur in the RMP. Item 2 - listed corrective action taken for each hazard found on the Process Hazard Analysis worksheet. Item 3 - changed INFOR System to reflect date of preventative maintenance activities instead of the date PM activities were input into the INFOR System. This shows all PM occurred on a timely basis in accordance with regulatory requirements.

If you need additional space or would like to provide additional supporting documentation, please attach to this document.

SIGNATURE BY EPA:



Digitally signed by CHERYL SEAGER
DN: cn=US, c=U.S. Government, ou=Environmental
Protection Agency, cn=CHERYL SEAGER,
0.9.2342.19200300.100.1.1=66001003651793
Date: 2021.01.07 15:26:20 -0600

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division

It is so ORDERED. This Order shall become effective upon filing of the fully executed ESA with the Regional Hearing Clerk.

**Rucki,
Thomas**

Digitally signed by Rucki, Thomas
DN: cn=Rucki, Thomas,
email=Rucki.Thomas@epa.gov
Date: 2021.01.07 20:44:09 -0600

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify, on the date identified below, a true and correct copy of the foregoing Expedited Settlement Agreement was delivered to the Regional Hearing Clerk, U.S. EPA Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to EPA: flores.carlos@epa.gov

Copy via Email to Respondent: Yessenia.Jaramillo@austintexas.gov

CARLOS FLORES

Digitally signed by CARLOS FLORES
DN: c=US, o=U.S. Government, ou=Environmental
Protection Agency, cn=CARLOS FLORES,
0.9.2342.19200300.100.1.1=68001003655731
Date: 2021.01.11 15:17:00 -06'00'

Carlos Flores
United States Environmental Protection Agency,
Region 6