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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BLVD
LENEXA, KANSAS 66219

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2016-0011

This ESA is issued to: Beachner Grain, Inc. - Chanute

At: 401 W. 21st St., Chanute, Kansas 66720

for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and Beachner Grain, Inc. - Chanute (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, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, and Waste Management Division. The Respondent is Beachner Grain, Inc. - Chanute, 401 W. 21st St., Chanute, Kansas 66720.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA). 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 EPA's policy entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provision, 40 C.F.R. Part 68," dated January 5, 2004, are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On June 17, 2015, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 401 W. 21st St., Chanute, Kansas, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the CAA by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings (RMP Findings), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the

entire record, the parties enter into the ESA in order to settle the violations, described in the enclosed RMP Findings, for the total penalty amount of **\$3,360**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the RMP Findings, 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 submission to the United States Government, that the Respondent has corrected the violations listed in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$3,360** in payment of the full penalty amount to the following address:

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

The Docket Number of this ESA is CAA-07-2016-0011, and must be included on the check.

This original ESA, a copy of the completed RMP Findings, and a copy of the check must be sent by certified mail to:

Krystal Stotts
Chemical Risk Information Branch
U.S. Environmental Protection Agency, Region 7
11201 Renner Blvd
Lenexa, Kansas 66219.

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A copy of the check must also be sent to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Upon Respondent's submission of the signed original ESA, the EPA will take no further civil action against Respondent for the alleged violations of the CAA referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 7 office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the RMP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

(Sign) 

Date: 3-4-2016

Name (print): Gary Beachner

Title (print): President
Beachner Grain, Inc. - Chanute


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FOR COMPLAINANT:



Date: 3/23/2016

 Becky Weber
Director
Air and Waste Management Division
EPA Region 7



Date: 3/23/2016

Erin Weekley
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

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I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date: 4-20-2016

The owner or operator failed to identify all hazards associated with the process and regulated substances

Facility addressed this post inspection

Prevention Program \$1200

Operating Procedures [§ 68.52(b)(7)]

The owner or operator failed to address the consequences of deviations and steps required to correct or avoid deviations.

How was this addressed:

Operating Procedures have been revised to indicate the Consequences of Deviation for the following area plant operation that were noted to be deficient:
Normal Shutdown, Emergency Shutdown and Startup After Emergency Shutdown

Prevention Program

No Penalty Assessed

Compliance Audits [§ 68.58(a)]

The owner or operator failed to certify that the Compliance Audits are conducted at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed. An example of a Compliance Audit is attached.

How was this addressed:

All Future Compliance Audits will follow the Compliance audit form supplied by the EPA.

\$600

Management System [§ 68.15(c)]

The owner or operator failed to document names or positions of people and lines of authority for implementation of individual requirements of the risk management program.

How was this addressed:

A job responsibility Chart has been established and is now a part of the RMP.

Safety Director - RMP Submission, Training, Inspections/Audits, Safety
Agronomy Manager - Review and Revise Procedures as needed, Training, Safety

Location Manager - Daily Operations, Safety, Maintenance/Repairs, Training
and Implementing Corrective Actions as needed.

Risk Management Plan

No Penalty Assessed

Registration [§ 68.160(b)(1)]

Risk Management Program Inspection Findings
CAA § 112(r) Violations

Beachner Grain, Inc. - Chanute
2600 Flynn Drive
Parsons, Kansas 67357
Docket No. CAA-07-2016-0011

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program \$1,500
Safety Information [§ 68.48(b)]
The owner or operator failed to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. Specifically, the facility did not have an adequate bulk tank gauge as required per CGA G2.1-2014. The bulk tank gauge is marked with the signage, "L.P. Gas Liquid Content Only".

Facility addressed this post inspection

Hazard Assessment: \$300
Documentation [§68.39(e)]
The owner or operator failed to maintain records on the offsite consequence analyses, including data used to estimate population and environmental receptors potentially affected.

Facility addressed this post inspection

Prevention Program \$300
Safety Information [§ 68.48(a)(5)]
The owner or operator failed to compile and maintain up-to-date safety information related to the regulated substances, processes, and equipment, specifically codes and standards used to design, build, and operate the process.

How was this addressed:

The Compressed Gas Standard (CGAG-2.1 - 2014) is now at the location.

Prevention Program \$300
Hazard Review [§ 68.50(a)(1)]

The owner or operator failed to accurately report the facility's latitude and longitude coordinates in the Risk Management Plan submittal

Facility addressed this post inspection

No Penalty Assessed

Risk Management Plan [§ 68.180(a)(1)]

The owner or operator failed to accurately report the facility's emergency response capabilities in the Risk Management Plan submittal

Facility addressed this post inspection

Total Unadjusted Penalty

\$4,200

Calculation of Adjusted Penalty

1st Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the row for number of employees 0-9 and column for >10 times the threshold quantity of 10,000 pounds of anhydrous ammonia as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 0.8. Therefore, the multiplier for Beachner Grain Inc. - Chanute = 0.8.

2nd Adjusted Penalty = \$4,200 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier)
Adjusted Penalty = \$3,360.

3rd An Adjusted Penalty of \$3,360 would be assessed to Beachner Grain Inc. - Chanute for violations found during the RMP Compliance Inspection. This amount will be found in the ESA.

Total Adjusted Penalty

\$3,360

This section must be also be completed and signed by Beachner Grain Inc. - Chanute:

The approximate cost to correct the above items: \$ 1000.00

Compliance staff name: Brent Bayliff

Signed:  Date: 3-4-2016

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

hoard.christine@epa.gov

Copy by First Class Mail to Respondent:

Gary Beachner, President
Beachner Grain, Inc. - Chanute
401 W. 21st Street
Chanute, Kansas 66720

Dated: 4/25/16



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7

