



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

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EXPEDITED SETTLEMENT AGREEMENT HEARINGS CLERK
EPA--REGION 10

DOCKET NO: CAA-10-2010-0153
This ESA is issued to: Tessengerlo Kerley, Inc.
233807 E. Straightbank Road
Kennewick, Washington, 99337

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), and by Respondent pursuant to Section 113(a)(3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On May 24, 2010, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary, 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 Summary for the total penalty amount of **\$1,170**.

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 in the Summary, 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 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 Respondent has corrected the violations listed in the enclosed Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$1,170 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 docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

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

Attn: Javier Morales, 112(r) Enforcement Coordinator
Office of Environmental Cleanup
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop ECL-116
Seattle, Washington 98101


Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA at the above address by 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 Summary.

This ESA is binding on the parties signing below.


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

FOR RESPONDENT:

Signature: 
 Name (print): DAWN KOMINSKI
 Title (print): Director of Regulatory Affairs
 Cost to correct violation(s): \$ 2,240.00

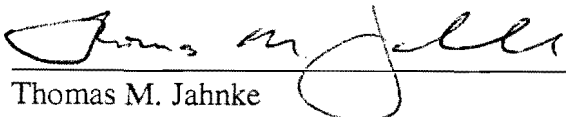
Date: 9-8-10

FOR COMPLAIANT:


 Wally Moon
 Preparedness and Prevention Team Leader
 Emergency Response Unit
 Office of Environmental Cleanup

Date: 9/20/10

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


 Thomas M. Jahnke
 Regional Judicial Officer
 EPA Region 10

Date: 9/23/10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: Tessengerlo Kerley, Inc., DOCKET NO.: CAA-10-2010-0153** was filed with the Regional Hearing Clerk on September 23, 2010.


On September 23, 2010 the undersigned certifies that a true and correct copy of the document was delivered to:

Bob Hartman, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on September 23, 2010, to:

Tessengerlo Kerley
Mr. Robert Inouye, Plant Manager
233807 E. Straightbank Road
Kennewick, WA 99337

DATED this 23rd day of September 2010.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10