



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

FILED

2008 JUL 10 AM 9:15

U.S. EPA REGION IX
REGIONAL HEARING CLERK

DOCKET NO: CAA-09-2008-0027
This ESA is issued to: Splash Pool Chemicals of Arizona, Inc.

For: Violation of Section 112(r)(7) of the Clean Air Act.

At: Splash Pools Chemicals of Arizona, Inc., 3144 East 46th Street, Tucson, AZ 85713

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region IX, by its duly delegated official, Keith Takata, Superfund Director, and by Splash Pool Chemicals of Arizona, (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). On November 13, 2007, 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

- I. Respondent was required to prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with the covered process, including written procedures for normal operations and emergency shut-down of the 20-pound cylinder filling station as required by Section 112(r)(7) of the Act and 40 C.F.R. § 68.69(a). Respondent failed to prepare written operating procedures in violation of Section 112(r)(7) of the Act and 40 C.F.R. § 68.69(a).
- II. Respondent was required to prepare and implement written procedures to maintain the on-going mechanical integrity of the process equipment, including the chlorine storage and filling stations and to document each test and inspection that has been performed on process equipment, as required by Section 112(r)(7) of the Act and 40 C.F.R. §§ 68.73(b) and (d)(4). Respondent failed to prepare and implement and document an on-going mechanical integrity program for the chlorine storage and filling station area as required by Section 112(r)(7) and 40 C.F.R §§ 68.73(b) and (d)(4).

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, economic benefit, and other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$337.50**.

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 a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$337.50** in payment of the full penalty amount to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center

The check should reference Respondent's name and a copy of this ESA must be included with the check. This original ESA and a copy of the check must be sent by certified mail to:

Mary Wesling (SFD-9-3)
U.S. Environmental Protection Agency
Region IX (SFD-9-3)
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 IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA, 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.

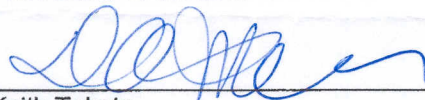
FOR RESPONDENT – Splash Pool Chemicals of Arizona, Inc.

Signature:  Date: _____

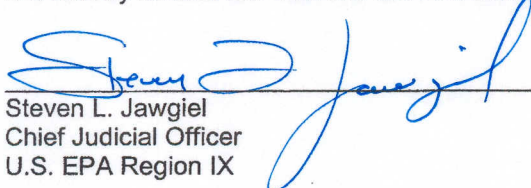
Name (print): TONY THOMAS

Title (print): CEO / PRESIDENT

FOR COMPLAINANT:

 Date: 7 July 2008
Keith Takata
Superfund Director
U.S. EPA Region IX

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

 Date: 07/09/08
Steven L. Jawgiel
Chief Judicial Officer
U.S. EPA Region IX

PO Box 979077
St. Louis, MO 63197-9000

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FOR RESPONDENT – Splash Pool Chemicals of Arizona, Inc.


Signature: 

Date: 06/27/08

Name (print): TONY THOMAS

Title (print): CEO / PRESIDENT

FOR COMPLAINANT:


Gov Keith Takata
Superfund Director
U.S. EPA Region IX

Date: 7 July 2008

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Steven L. Jawgiel
Chief Judicial Officer
U.S. EPA Region IX

Date: _____



Cashier's Check

No. 006985930

Notice to Purchaser: In the event this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Date

JUNE 17, 2008

91-170/1221

NAZ

Banking Center

TANQUE VERDE SABINO CANYON

0009658 00004 006985930

SPLASH POOLS CHEMICALS OF AZ, INC

Remitter (Purchased By)

\$

337.50

Pay

THREE HUNDRED THIRTY SEVEN DOLLARS AND 50 CENTS

To The Order Of

TREASURER, UNITED STATES OF AMERICA

Authorized Signature

Bank of America, N.A. Phoenix, AZ

VOID AFTER 90 DAYS

⑈006985930⑈ ⑆122101706⑆ 252563602⑈

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

03-14-3774B 09-2005

ANTI-FRAUD PROTECTION PATENTS 5,157,796; 5,446,199 US Patent & Trademark Office 6/16/01

CERTIFICATE OF SERVICE

Docket No. CAA-09-2008- 0027 4

I hereby certify that the original copy of the foregoing Expedited Settlement Agreement, with the Docket number referenced above, has been filed with the Region 9 Hearing Clerk and that a copy was sent by certified mail, return receipt requested, to:

Mr. Tony Thomas, Owner
Splash Pool Chemicals of Arizona, Inc.
3144 East 46th Street
Tucson, Arizona 85713

July 10, 2008
Date

Danielle E. Carr

Danielle Carr
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105