



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

RECEIVED

09 FEB - 7 PM 3:25

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2009-0050
This ESA is issued to: Albert Gosiak, President
Diamond Fruit Growers Inc.
P.O. Box 185
Odell, Oregon 97044

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 August 31, 2005, 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 and the Risk Management Plan Inspection Findings, Alleged Violations and Proposed Penalty Sheet, which are 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 and Sheet for the total penalty amount of **\$2,610**.

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 Sheet, and consents to the assessment of the penalty as stated above.

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FEB 03 2009

**Environmental
Cleanup Office**

The ESA, when executed by both parties, is binding on EPA and Diamond Fruit Growers upon receipt of the signed original document. Upon receipt, EPA will take no further action against Diamond Fruit Growers for the violations cited in the ESA. EPA will neither accept nor approve the ESA if returned more than 45 days after the date of Diamond Fruit Growers's receipt of this letter, unless an extension has been granted by EPA.

If Diamond Fruit Growers does not pay the penalty and return the signed original ESA within 45 days of receipt (90 days if an extension has been granted), this settlement offer will be automatically withdrawn, without prejudice to EPA's ability to file another enforcement action for the cited violations. EPA may seek penalties of up to \$27,500 per day for each violation (\$32,500 per day after March 15, 2004).

Diamond Fruit Growers is required in the ESA to certify that it has corrected the violations and paid the penalty. The payment for the penalty amount must be in the form of a cashier's check or certified check payable to the "Treasurer, United States of America" with the docket number of the ESA on the check. The docket number is located at the top left corner of the ESA.

Payment of the penalty amount shall be sent via certified mail to:

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

The signed original ESA with a copy of the check must be sent via 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

After the Regional Administrator signs the original ESA and it is filed with the Regional Hearing Clerk, EPA will send Diamond Fruit Growers a file-stamped copy.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Signature: David R. Garcia
Name (print): David R. Garcia
Title (print): VP Finance / Treasurer
Cost to correct violation(s): 2,610,00

Date: 1/27/09

FOR COMPLAIANT:

Kelly Huynh
Kelly Huynh
Preparedness and Prevention Team Leader
Emergency Response Unit
Office of Environmental Cleanup

Date: 2/3/09

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

M. Socorro Rodriguez
M. Socorro Rodriguez
Regional Judicial Officer
EPA Region 10

Date: Feb 5, 2009

01838 11-24
Office AU # 1210(8)

OFFICIAL CHECK

SERIAL #: 0183806548
ACCOUNT#: 4861-505527

Purchaser: DIAMOND FRUIT GROWERS INC
Purchaser Account: 4159587963
Operator I.D.: port2128 port1429

RECEIVED
January 27, 2009

PAY TO THE ORDER OF ***TREASURER ***
UNITED STATES OF AMERICA

09 FEB -5 PM 3:16

Two thousand six hundred ten dollars and no cents

NEW YORK
\$2,610.00

WELLS FARGO & COMPANY ISSUER
420 MONTGOMERY STREET
SAN FRANCISCO, CA 94163
PAYABLE AT WELLS FARGO BANK, N.A.
FOR INQUIRIES CALL (480) 394-3122

NOTICE TO PURCHASER-IF THIS INSTRUMENT IS LOST,
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION
AND REISSUANCE. AS A CONDITION TO CANCELLATION AND
REISSUANCE, WELLS FARGO & COMPANY MAY IMPOSE A
FEE AND REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 2,610.00
NON-NEGOTIABLE

Purchaser Copy

FB004 M4203 08458386

PRINTED ON LINEMARK PAPER. HOLD UP TO LIGHT TO VIEW FOR ADDITIONAL SECURITY FEATURES. SEE BACK.

01838 11-24
Office AU # 1210(8)

OFFICIAL CHECK

0183806548

Operator I.D.: port2128 port1429

January 27, 2009

PAY TO THE ORDER OF ***TREASURER ***
UNITED STATES OF AMERICA

Two thousand six hundred ten dollars and no cents

\$2,610.00

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SAN FRANCISCO, CA 94163
PAYABLE AT WELLS FARGO BANK, N.A.
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US \$ 2,610.00
Richard Levy
CONTROLLER

Docket No. CAA-10-2009-0050

⑈0183806548⑈ ⑆121000248⑆4861505527⑈

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: Diamond Fruit Growers, Inc., DOCKET NO.: CAA-10-2009-0050** was filed with the Regional Hearing Clerk on February 5, 2009.

On February 5, 2009 the undersigned certifies that a true and correct copy of the document was delivered to:

Deborah Hilsman, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
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 February 5, 2009, to:

Albert Gosiak, President
Diamond Fruit Growers, Inc.
P.O. Box 185
Odell, Oregon 97004

DATED this 5th day of February 2009.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10