

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REGION 2  
2010 JUN 17 PM 12:14  
REGIONAL HEARING  
CLERK

|                         |   |   |  |
|-------------------------|---|---|--|
| In the Matter of:       | ) | ) | Docket No. CAA-02-2009-1226                |
|                         | ) | ) |  |
| Inergy Midstream, LLC,  | ) | ) | <u>CONSENT AGREEMENT AND FINAL</u>         |
| 7535 Eagle Valley Road  | ) | ) | <u>ORDER</u>                               |
| Savona, New York, 14879 | ) | ) |  |
|                         | ) | ) | Under Section 113(d) of the Clean Air Act, |
| Respondent.             | ) | ) | 42 U.S.C. § 7413 (d)                       |
|                         | ) | ) |  |

**I. PRELIMINARY STATEMENT**

Complainant, the United States Environmental Protection Agency ("EPA"), Region 2, and Respondent, Inergy Midstream, LLC, by their undersigned representatives, hereby consent and agree as follows:

1. EPA initiated this proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), by issuing an Administrative Complaint, Docket No. CAA-02-2009-1226 (hereinafter, "Complaint"), against Respondent on September 29, 2009.
2. Respondent is the owner and/or operator of the facility located at 7535 Eagle Valley Road, Savona, New York (the "Facility").
3. The Complaint charged Respondent with one count for violations of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), and the regulations promulgated thereunder at 40 C.F.R. Part 68 for failure to comply with the requirements for a risk management plan at the Facility.
4. Respondent hereby certifies that it has fulfilled all reporting obligations for the violations cited in the Complaint.
5. Respondent admits the jurisdictional allegations set forth in the Complaint.
6. Pursuant to Section 113(d) of the Act, and taking into consideration the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is fifty two thousand, six hundred thirty dollars and forty cents (\$52,630.40).

7. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the assessment of the civil penalty cited in the foregoing paragraph.
8. Respondent agrees to pay fifty two thousand, six hundred thirty dollars and forty cents (\$52,630.40) as a civil penalty for the count alleged in the Complaint and set forth in Paragraph 3, above, by cashier's or certified check payable to the "Treasurer, United States of America." The check shall be identified with a notation of the name and docket number of this case (set forth in the caption on the first page of this document) and shall be sent to:

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

A copy of the check and the transmittal letter shall be sent to each of the following:

Lauren P. Charney  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 17th Floor  
New York, New York 10007

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, New York 10007.

Respondent agrees to make such payment on or before thirty (30) calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall be referred to as the "due date").

- a) Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for appropriate enforcement, including collection of the amount set forth in this Paragraph, plus allowable interest and such other penalties as provided for in this Consent Agreement.
- b) Further, if payment is not received on or before the due date, Respondent agrees to the assessment of interest, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, Respondent agrees to pay a late

payment handling charge of \$15 for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.

- c) Respondent also agrees to pay a quarterly non-payment penalty for each calendar quarter during which such nonpayment persists, pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This quarterly non-payment penalty will be imposed for each calendar quarter during which such non-payment persists. The quarterly nonpayment penalty is 10% of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter.

9. The penalties and interest specified in Paragraph 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of State or federal taxes.

## **II. GENERAL PROVISIONS**

10. Respondent neither admits nor denies the factual allegations contained in the Complaint. Respondent waives any right to contest the allegations contained in the Complaint and/or to appeal the Final Order accompanying this Consent Agreement.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions between EPA staff and the Regional Administrator or Deputy Regional Administrator of EPA Region 2, or their designee, and further waives the right to be served with and to reply to any memorandum or communication addressed by EPA staff to the Regional Administrator or Deputy Regional Administrator, or their designee, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

12. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, State, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State, or local permit. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

13. Each party to this action shall bear its own costs and attorney fees.

14. Full and complete satisfaction of the requirements of this Consent Agreement and Final Order shall resolve Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.

15. The person signing below on behalf of Respondent hereby certifies that he or she is fully authorized by Respondent to execute this Consent Agreement on behalf of Respondent and to


legally bind Respondent to this Consent Agreement in accordance with all of the terms and conditions contained herein.

16. The Director of the Emergency and Remedial Response Division of EPA Region 2 has been delegated the authority to sign the Consent Agreement in this action, and the Regional Administrator of EPA Region 2 has been delegated the authority to sign the Final Order in this action.

17. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

Consent Agreement In the Matter of Inergy Midstream, LLC  
Docket No. CAA-02-2009-1226

For Respondent  
Inergy Midstream LLC

  
\_\_\_\_\_  
Signature

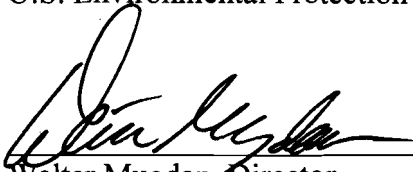
Date: 5-27-10

William P. Moler  
Name (Printed or Typed)

Senior VP  
Title (Printed or Typed)

Consent Agreement In the Matter of Inergy Midstream, LLC  
Docket No. CAA-02-2009-1226

For Complainant  
U.S. Environmental Protection Agency:



Walter Mugdan, Director  
Emergency and Remedial Response Division  
U.S. EPA, Region 2

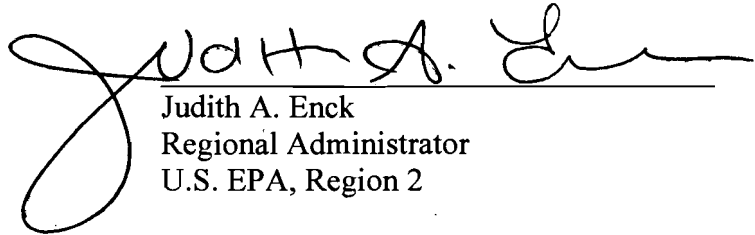
Date: May 21, 2010

In the Matter of Inergy Midstream, LLC, Docket No. CAA-02-2009-1226

FINAL ORDER

The Consent Agreement In the Matter of Inergy Midstream LLC, Docket No. CAA-02-2009-1226, signed on behalf of Respondent Inergy Midstream LLC and the Environmental Protection Agency, is hereby approved, incorporated herein, and issued by U.S. EPA, as a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

June 1, 2010  
Date

  
Judith A. Enck  
Regional Administrator  
U.S. EPA, Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

\_\_\_\_\_) )  
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IN THE MATTER OF: ) ) FINAL ORDER  
Inergy Midstream, LLC, ) ) Docket No. CAA-02-2009-1226  
) )  
Respondent. ) )  
) )  
Proceeding under Section 113 of the ) )  
Clean Air Act, 42 U.S.C. §7413. ) )  
) )  
\_\_\_\_\_)

**CERTIFICATION OF SERVICE**

I certify that the foregoing Consent Agreement and Final Order has been sent this day in the following manner to the addresses listed below:

Original and one copy by hand delivery to:

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, New York 10007-1866

One copy by certified mail to:

Brody Smith  
Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, NY 13202-1355

Date: 6/17/10  
Name: Brenda Hadley  
Title: Branch Secretary  
Address: 290 Broadway,  
New York, NY 10007