



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 24 2011

REPLY TO THE ATTENTION OF:
SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jon Watson, P.E.
Public Utilities Superintendent/Engineer
Brooklyn Park Water Treatment Plant
8300 Noble Avenue North
Brooklyn Park, Minnesota 55443

RE: Expedited Settlement Agreement
ESA Docket No. RMP-11-ESA-028
Docket No. **CAA-05-2011-0049**

BD# 2751103A048

Dear Mr. Watson:

Enclosed please find a copy of the fully executed Risk Management Plan Expedited Settlement Agreement (ESA). The ESA is binding on EPA and the City of Brooklyn Park. EPA will take no further action against the Brooklyn Park Water Treatment Plant for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Mr. Greg Chomycia at (312)353-8217, or chomycia.greg@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bob Mayhugh".

Bob Mayhugh, Acting Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGISTRATION CLERK
U.S. EPA REGION 5
AUG 24 PM 3:13

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: RMP-11-ESA-028

CAA-05-2011-0049

This ESA is issued to: City of Brooklyn Park, Minnesota

BD# 2751103A048

at: Brooklyn Park Water Treatment Plant, 5100 Edinbrook Terrace, Brooklyn Park, Minnesota
for violations of Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 5, and the City of Brooklyn Park, Minnesota ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a complaint, or the adjudication of any issue of fact or law, is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

On May 25, 2010, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) to pursue this action in an administrative forum.

ALLEGED VIOLATIONS

On August 18, 2009, an authorized EPA representative conducted a compliance inspection ("August 18, 2009 Inspection") of the Brooklyn Park Water Treatment Plant, 5100 Edinbrook Terrace, Brooklyn Park, Minnesota ("Facility") to determine its compliance with the Risk Management Plan ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the August 18, 2009 Inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.36(a)- Failure to review and update the off-site consequence analysis at least once every five years;
2. 40 C.F.R. § 68.39(e)- Failure to have documentation for the data used to estimate the public and environmental receptors;

3. 40 C.F.R. § 68.69(a)- Failure to develop and implement written operating procedures;
4. 40 C.F.R. § 68.71(a)- Failure to train employees involved in operating a process in an overview of the process and operating procedures;
5. 40 C.F.R. § 68.73(b)- Failure to establish written procedures to maintain the on-going integrity of the process equipment;
3. 40 C.F.R. § 68.73(d)(2)- Failure to follow recognized and generally accepted good engineering practices for inspections and testing procedures;
3. 40 C.F.R. § 68.73(d)(4)- Failure to document tests and inspections performed on process equipment;
3. 40 C.F.R. § 68.79(d)(4)- Failure to conduct an audit of the prevention program within three years.

SETTLEMENT

In consideration of the municipal budget of Respondent, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$7,200.00**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this

ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$7,200.00 in payment of the full penalty amount to the following address:

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

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-11-ESA-028.)

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

Greg Chomycia
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (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 in this ESA.

This ESA is binding on the Parties signing below.


Each Party to this action shall bear its own costs and fees, if any.

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

...RECORDING CLERK
U.S. EPA REGION 5
2011 AUG 24 PM 3:13

In the Matter of:
Brooklyn Park Water Treatment Plant
Brooklyn Park, Minnesota
Docket No:

FOR RESPONDENT:

Signature: 
Name (print): Jonathan A. Watson
Title (print): Public Utilities Superintendent
City of Brooklyn Park, Minnesota

Date: July 28, 2011

FOR COMPLAINANT:


for Douglas Ballotti, Acting Director
Superfund Division

Date: 8/17/11

In the Matter of:
Brooklyn Park Water Treatment Plant
Brooklyn Park, Minnesota
Docket No: CAA-05-2011-0049

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FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Susan Hedman
Regional Administrator

Date: 8-20-11