



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

15 JUL 6 9:39 AM

DOCKET NO: CAA (112r)-09-2015-000¹

This ESA is issued to: **Morada Produce Company, LP**
500 North Jacktone Rd.
Stockton, CA 95215

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Foppiano Farms, 500 North Jacktone Rd., Stockton, CA 95215

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, the Superfund Director, and Morada Produce Company, LP ("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). EPA has 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 review and update its risk management plan ("RMP") for the stationary source referenced above and submit it to EPA, as required by Section 112(r)(7) of the Act and 40 C.F.R. §§ 68.190(a) and 68.195. Respondent failed to review and update its RMP and submit it to EPA on or before **05-11-2014** in violation of Section 112(r)(7) of the Act and 40 C.F.R. §§ 68.190(a) and 68.195.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, if any, 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 **\$2,000.00**.

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 an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields) **or alternatively has sent a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$2,000.00** 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 online payment or cashier's check should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the Cincinnati Finance Center. This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Angie Proboszcz (SFD-9-3)
U.S. Environmental Protection Agency
Region IX
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.

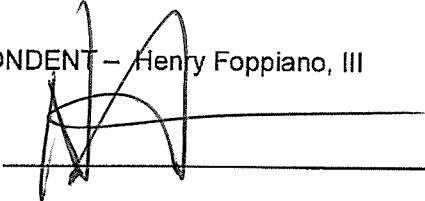
If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA, the ESA is withdrawn, without prejudice to EPA's ability to file an 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 – Henry Foppiano, III

Signature: _____

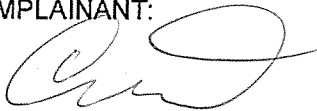


Date: 6-10-15

Name (print): Henry Foppiano, III

Title (print): Owner

FOR COMPLAINANT:

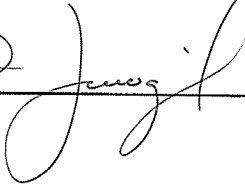


Enrique Manzanilla
Superfund Director
U.S. EPA Region IX

Date: 6/26/15

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

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



Date: 07/01/15

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Expedited Settlement Agreement (ESA) in the matter of Morada Produce Company, LP [Docket Number CAA(112R)-09-2015-0001] has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

The Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent -

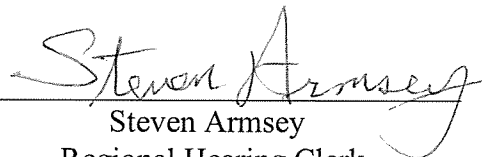
Mr. Henry Foppiano, III
Owner
Morada Produce Company, LP
500 North Jacktone Rd.
Stockton, CA 95215

HAND DELIVERED:

Complainant -
(By Counsel)

Letitia Moore
Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA. 94105

Dated at San Francisco, CA, July 8, 2015;



Steven Armsey
Regional Hearing Clerk
EPA, Region 9