

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)
)
JBS USA Food Company)
1770 Promontory Circle)
Greeley, Colorado 80634)
)
Respondent.)
)
)
)
)

Docket No.: CAA-08-2023-0007

EXPEDITED SETTLEMENT AGREEMENT

AUTHORITY

1. This Expedited Settlement Agreement (ESA), which is intended to simultaneously commence and conclude this matter, is being entered into by the United States Environmental Protection Agency (EPA), Region 8, by its duly delegated official, the Manager of the Air and Toxics Enforcement Branch in the Enforcement and Compliance Assurance Division, and **JBS USA Food Company** (Respondent). This matter is authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The EPA and Respondent agree that the EPA has jurisdiction over this matter pursuant to sections 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. §§ 7413(a)(3) and (d); however, Respondent neither admits nor denies the EPA's specific factual allegations contained herein.
3. The EPA and the U.S. Department of Justice have determined, pursuant to section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that the EPA may pursue this type of case through administrative enforcement.

RESPONDENT

4. The Respondent is a Delaware Corporation that is authorized to do business in the state of Colorado.
5. The Respondent is a "person" under section 302(e) of the Act. 42 U.S.C. § 7602(e).
6. Respondent is the owner or operator of Lone Tree Industrial Waste Water Treatment Plant (LTIWWTP) a stationary source, located at 24750 WCR 62 ½, Greeley, Colorado 80631 (facility).

ALLEGED VIOLATIONS

7. On March 10 – April 12, 2022, an authorized representative of the EPA conducted an off-site compliance monitoring activity of Respondent's facility to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. part 68 under section 112(r)(7) of the Act. Based on the off-site monitoring activity, the EPA has determined that Respondent failed to review and update their RMP submission as required.

8. Respondent was sent a notification letter by the EPA on or around 60 days before the RMP submission due date. The letter notified Respondent of upcoming due date for the RMP submission. Respondent was sent an overdue notification letter by the EPA no more than 30 days after the RMP submission due date. The letter notified Respondent the RMP update was past due. The latest RMP submission that the EPA has on file is dated April 1, 2022. The five-year update was due July 1, 2020. Respondent failed to submit an updated RMP to the EPA at least once every five years as required by § 68.190(a) and (b)(1).
9. The owner or operator must update the facility RMP emergency contact information required under § 68.160(b)(6) within one month of any change. Respondent failed to correct the RMP emergency contact information as required by 40 C.F.R. § 68.195(b).

SETTLEMENT

10. In consideration of the factors contained in section 113(d)(1) of the Act and the entire record, the parties enter into this ESA in order to settle the violations referenced above for the total penalty amount of \$1,200.
11. This settlement is subject to the following terms and conditions with respect to the violations referenced above:
 - a. Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in this ESA, and consents to the assessment of the penalty as stated above.
 - b. 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.
 - c. Each party to this action shall bear its own costs and attorney fees, if any.
 - d. Respondent waives any and all available rights to judicial or administrative review or other remedies that the Respondent may have with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
12. By signing this ESA Respondent certifies that (1) the alleged violations listed in paragraphs 8 and 9 have been corrected, and (2) Respondent is submitting payment of the civil penalty as described below:
 - a. Within 21 calendar days of receipt of this ESA, Respondent must pay the civil penalty using any method provided on the following website <https://www.epa.gov/financial/makepayment>;
 - b. **The following payment tracking number for this ESA must be included on either the check or as directed where to notate the EPA document number: ESA-R8-CAA**
 - c. Within 24 hours of payment, email proof of payment to Steven A. Ramirez at Ramirez.StevenA@epa.gov (“proof of payment” means, as applicable, an electronic copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate

payment has been made according to the EPA requirements, in the amount due, and identified with the docket number that appears on the final order).

13. The signed ESA must be received by EPA, no later than 21 calendar days after Respondent's receipt of the ESA. The signed ESA must be sent by certified mail to:

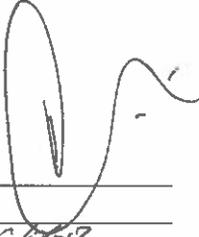
Steven A. Ramirez, 8ENF-AT-P
US EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Immediately after signing the ESA email a copy to Steven A. Ramirez at Ramirez.StevenA@epa.gov.

14. Respondent agrees that the penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.
15. Once the Respondent receives a copy of the final order and pays in full the penalty as instructed above, the EPA agrees not to take any further civil administrative penalty action against Respondent for the violations alleged in this ESA.
16. This ESA does not pertain to any matters other than those expressly specified herein. The EPA reserves, and this ESA is without prejudice to, all rights against Respondent with respect to all other matters including, but not limited to, the following:
 - a. Claims based on a failure by Respondent to meet a requirement of this ESA including any claims for costs that are caused by the Respondent's failure to comply with this Agreement
 - b. Claims based on criminal liability
 - c. Claims based on any other violations of the Act or federal or state law
17. If the signed original ESA and proof of payment is not returned to the EPA Region 8 office at the above address in correct form by Respondent within 21 calendar days of the date of Respondent's receipt of this ESA, the proposed ESA is withdrawn, without prejudice to the EPA's ability to file an enforcement action for the violations identified in this ESA.
18. This ESA, upon incorporation into the final order, applies to and is binding upon the EPA and Respondent and Respondent's successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this ESA. This ESA contains all terms of the settlement agreed to by the parties.
19. Nothing in this ESA shall relieve Respondent of the duty to comply with the Act and its implementing regulations.
20. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this ESA and to bind Respondent to the terms and conditions of this ESA.

- 21. The parties consent to service of this ESA and final order by email at the following valid email addresses: weiner.marc@epa.gov (for Complainant), and edder.torreschavez@jbssa.com (for Respondent).
- 22. The EPA agrees to submit this ESA to the regional judicial officer with a request that it be incorporated into a final order.

For Respondent, JBS USA Food Company



CELIO FRITCHE
Name (Print)
GENERAL MANAGER
Title (Print)

Date: 5/4/23

For Complainant, United States Environmental Protection Agency, Region 8:

Scott Patefield, Branch Manager
Air and Toxics Enforcement Branch
Enforcement and Compliance Assurance Division

Date: _____