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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CLERK
EPA--REGION 10

In the Matter of:

WILLIAM ROSENAU,

Respondent.

)
) DOCKET NO. CAA-10-2014-0069
)
)

)
) **CONSENT AGREEMENT AND**
) **FINAL ORDER**
)
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I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and William Rosenau (“Respondent”) agrees to issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. On March 4, 2014, EPA initiated this proceeding against Respondent pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), by issuing an Administrative Complaint.

2.2. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference.

2.3. The Director of the Office of Compliance and Enforcement, EPA Region 10, (“Complainant”) has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), to sign consent agreements between EPA and the party against whom an administrative penalty is proposed to be assessed.

III. CONSENT AGREEMENT

3.1 Respondent admits the jurisdictional allegations contained in the Complaint and Part III of this CAFO.

3.2. Respondent neither admits nor denies the specific factual allegations set forth in the Complaint and in Part III of this CAFO.

3.3. As required by Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), EPA has taken into consideration the size of the business, the economic impact of the penalty on the business, Respondent’s full compliance history and good faith efforts to comply, the duration of the violations as established by any credible evidence, the economic benefit of noncompliance, and the seriousness of the violations, as well as other relevant factors. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$5,700.

3.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 3.3 within thirty (30) days of the effective date of the Final Order contained in Part IV of this CAFO.

3.5. Payment under this CAFO must be made by cashier’s check or certified check payable to the order of “Treasurer, United States of America” and delivered to one of the following addresses based on the method of delivery:

By U.S. Postal Mail:

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

By UPS, Federal Express, or overnight mail:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
St. Louis, MO 63101
Phone No.: 314-418-1028

Respondent must note on the check Respondent's name and address, the case name and the docket number of the case.

3.6. Respondent must deliver photocopies of the check described in Paragraph 3.5 via United States mail to the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Rindy Ramos
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-184
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

3.7. If Respondent fails to pay the penalty assessed by this CAFO in full by the due date, the entire unpaid balance of the penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect the assessed penalty under the CAA. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. If Respondent fails to pay any portion of the penalty assessed by this CAFO in full by its due date, Respondent shall also be responsible for payment of the following amounts:

3.7.1. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

3.7.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the assessed penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten

percent of the aggregate amount of Respondent's outstanding penalties accrued from the beginning of such quarter.

3.8. The penalty described in Paragraph 3.3, including any additional costs incurred under Paragraph 3.7 above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

3.9. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

3.10. Except as described in Subparagraph 3.7.2 above, each party shall bear its own fees and costs in bringing or defending this action.

3.11. Respondent expressly waives any right to contest the allegations contained in this CAFO and to appeal the Final Order set forth in Part V of this CAFO. Respondent expressly waives the notice requirement and its opportunity to request a hearing on the order pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A).

3.12. The provisions of this CAFO shall bind Respondent and its officers, directors, agents, servants, employees, successors, and assigns.

3.13. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

FOR RESPONDENT:

March 10, 2014

William Rosenau

Signature

Print Name: WILLIAM ROSENAU

Title: OWNER

DATED:

3/14/2014

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement

IV. FINAL ORDER

4.1. The terms of the foregoing Parts I-III are hereby ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with these terms of settlement.

4.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CAA for the violations alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CAA and regulations promulgated or permits issued thereunder.

4.3. Respondent shall pay a civil penalty in the amount of \$5,700 as provided in Part III above.

4.4. This Final Order is effective upon filing.

SO ORDERED this 20th day of March, 2014.



M. SOCORRO RODRIGUEZ
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of : William Rosenau, Docket No.: CAA-10-2014-0069**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Kris Leefers, Esquire
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, Washington 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 to:

Mr. William Rosenau
404 Thorn Springs Road
Kamiah, Idaho 83536

DATED this 21st day of March, 2014

Sharon Emy
Signature

dr Candace H. Smith
Regional Hearing Clerk
EPA Region 10

