

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101
BEFORE THE ADMINISTRATOR

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)
)
Williams Midstream Natural Gas Liquids, Inc.) Docket No. CAA-07-2004-0205
)
)
Respondent)

CONSENT AGREEMENT

I. Preliminary Statement

A. Complainant, the United States Environmental Protection Agency (EPA) and Williams Midstream Natural Gas Liquids, Inc. (Respondent), having consented to the terms of this Consent Agreement (Agreement), and before the taking of any testimony and without the adjudication of issues of law or fact herein, agree to comply with the terms of this Agreement and attached proposed Final Order hereby incorporated by reference.

B. In August of 2002, pursuant to EPA's Policy on Incentives for Self-Policing (Audit Policy), 65 Fed. Reg. 19,618 (April 11, 2000), Respondent submitted a voluntary disclosure to EPA regarding alleged violations of Section 112 of the Clean Air Act, 42 U.S.C. § 7412. In this disclosure Respondent proposed to voluntarily enter the facilities listed in Attachment Number 1, hereby incorporated by reference, into the Risk Management Program. Respondent agrees that pursuant to this Agreement, it will submit Risk Management Plans for each of the facilities listed in Attachment Number 1, in accordance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r) and 40 C.F.R. Part 68.

II. Jurisdiction

A. The parties agree to the commencement and conclusion of this cause of action by issuance of this Agreement, as prescribed by EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, and more specifically by 40 C.F.R. § 22.18(b).

B. EPA has authority to order parties to comply with the provisions of Section 112 of the Clean Air Act and to collect penalties for non-compliance pursuant to the Clean Air Act Section 113(a)(3), 42 U.S.C. § 7413(a)(3).

C. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in this Agreement and its right to appeal the proposed Final Order accompanying this Agreement.

D. For purposes of this proceeding, Respondent admits that EPA has jurisdiction over the subject matter which is the basis of this Agreement.

E. Respondent neither admits nor denies the specific factual allegations set forth in this Agreement.

III. Parties

A. The Complainant, by delegation from the Administrator of the EPA, and the Regional Administrator, EPA, Region VII, is the Director, Air, RCRA, and Toxics Division, EPA, Region VII.

B. The Respondent is Williams Midstream Natural Gas Liquids, Inc. (Williams). Attached as Attachment Number 1 is a list of the Williams facilities that are subject to this Consent Agreement and Final Order. These facilities are located in Kansas. Each of these facilities listed in Attachment Number 1 store propane and/or natural gas liquid in tanks, vessels and/or caverns.

IV. Statutory and Regulatory Requirements

A. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Amendments added Section 112(r) to the Clean Air Act, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3), 42 U.S.C. § 7412(r)(3) mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection and correction requirements for these listed regulated substances, 42 U.S.C. § 7412(r)(7).

B. On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the Clean Air Act. These regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program and an emergency response program.

C. The regulations at 40 C.F.R. Part 68, set forth the requirements of a risk management program that must be established at each stationary source. The risk management program is described in a risk management plan (RMP) that must be submitted to EPA.

D. Pursuant to Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, the RMP must be submitted by an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process no later than the latter of

June 21, 1999; or the date on which a regulated substance is first present above the threshold quantity in a process.

E. The regulations at 40 C.F.R. § 68.3 define “stationary source” as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance under the provisions of this part. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading and unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulation under 49 C.F.R. Part 192, 193, or 195, or a state natural gas or hazardous liquid program. Properties shall not be considered contiguous solely because of railroad or gas pipeline right-of-way.

F. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the Clean Air Act, as amended, listed in 40 C.F.R. § 68.130, Tables 1, 2, 3 or 4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

G. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the Clean Air Act, as amended, in 40 C.F.R. § 68.130.

H. The regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

V. Alleged Violations

A. EPA alleges that Respondent is required under Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, to develop and implement a risk management program that includes a hazard assessment, a prevention program and an emergency response program; and EPA alleges that Respondent is required under 40 C.F.R. § 68.150, to file an RMP because:

1. Respondent is a person as defined by Section 302(e) of the Clean Air Act.
2. Respondent’s facilities listed in Attachment Number 1 are “stationary sources” pursuant to 40 C.F.R. § 68.3.
3. Natural gas liquid is a regulated substance pursuant to 40 C.F.R. § 68.115(a)(2), when present in certain amounts in a mixture.

4. Propane is a regulated substance pursuant to 40 C.F.R. § 68.3. The threshold quantity for propane, as listed in 40 C.F.R. § 68.130, Table 3, is 10,000 pounds.
5. Each of Respondent's facilities listed in Attachment Number 1 has greater than 10,000 pounds of propane in a process and/or greater than 10,000 pounds of a flammable mixture containing natural gas liquid in a process.
6. Respondent is subject to the requirements of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, Subpart G, because it is an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.
7. Respondent failed to submit an RMP to EPA, as required by 40 C.F.R. § 68.150, for each of the facilities listed in Attachment Number 1.
8. Respondent's failure to submit an RMP for each of the facilities listed in Attachment Number 1 is a violation of Section 112(r) of the Clean Air Act and of the requirements of 40 C.F.R. Part 68.

VI. Civil Penalty

A. EPA agrees, based upon the facts and information submitted by Respondent and upon Respondent's certification herein to the veracity of this information, that Respondent has satisfied all of the conditions set forth in the Audit Policy and thereby qualifies for a 100% reduction of the gravity component of the civil penalty. EPA alleges that a gravity component is assessable against Respondent for the alleged violations that are the basis of this Agreement.

B. Under the Audit Policy, EPA has discretion to assess a penalty equivalent to the economic benefit Respondent gained as a result of its noncompliance. Based on information provided by Respondent, and use of the Economic Benefit (BEN) computer model, EPA has determined that Respondent obtained an economic benefit of \$10,000 as a result of their alleged noncompliance in this matter. Accordingly, the civil penalty agreed upon by the parties for settlement purposes is \$10,000.

VII. Terms of Settlement

A. Pursuant to the EPA's Audit Policy, Respondent hereby certifies and warrants as true the facts referenced in this Section, and EPA accepts Respondent's certification. As such, Respondent specifically certifies to the following facts upon which this Agreement is based:

1. The alleged violations were discovered through an audit or through a compliance management system reflecting due diligence in preventing, detecting and correcting violations;
2. The alleged violations were discovered voluntarily;

3. The initial alleged violations were disclosed to EPA promptly and in writing; subsequent disclosures were also prompt and in writing;
4. The alleged violations were disclosed prior to commencement of an agency inspection or investigation, notice of a citizen suit, filing of a complaint by a third party, reporting of alleged violations by a "whistle blower" employee, or imminent discovery by a regulatory agency;
5. The alleged violations have been corrected and the Respondent is, to the best of its knowledge and belief, in full compliance with Section 112 of the Clean Air Act, 42 U.S.C. § 7412; and the implementing regulations with respect to the alleged violations set forth in this Agreement, except for facilities located listed in Attachment 1, that shall implement a Risk Management Program and submit an RMP within one hundred and eighty (180) days of entry of the Final Order;
6. Appropriate steps have been taken to prevent a recurrence of the alleged violations;
7. Respondent has no knowledge that violations other than those alleged violations covered in this Agreement (or closely related violations), have occurred within the past three years at the same facilities; nor are the specific alleged violations that are the subject of this Agreement, part of a pattern of violations by the entity's parent organization which have occurred over the past five years;
8. The alleged violations have not resulted in serious actual harm nor presented an imminent and substantial endangerment to human health or the environment and they did not violate the specific terms of any judicial or administrative Final Order or Agreement; and
9. Respondent has cooperated as requested by EPA.

B. Respondent agrees to pay TEN THOUSAND DOLLARS (\$10,000), in satisfaction of the civil penalty.

C. For payment of the civil penalty, Respondent shall send, within thirty (30) days of issuance of the Final Order, a cashier's check or certified check in the amount of TEN THOUSAND DOLLARS (\$10,000), made payable to the "Treasurer of the United States of America," to the following address:

Mellon Bank
EPA, Region VII
Regional Hearing Clerk
P.O. Box 360748M
Pittsburgh, PA 15251

The check should indicate that it is for In re: Williams Midstream Natural Gas Liquids, Inc., Docket No. CAA-07-2003-0202.

D. Respondent shall forward copies of the check to EPA, within five (5) days of payment, to the attention of:

Julie M. Van Horn
EPA-Region VII
Office of Regional Counsel
901 North Fifth Street
Kansas City, Kansas 66101

E. Respondent shall implement a Risk Management Program and submit an RMP within one hundred and eighty (180) days of entry of this Final Order for each of the facilities listed in Attachment Number 1.

F. Respondent shall submit to EPA a certification that it has submitted its RMP for the facilities identified in Attachment 1, within five (5) days after the 180th day of entry of this Final Order or within five days after submission of the last RMP plan required pursuant to (E) above, whichever occurs sooner. Respondent should submit such certification to Ms. Julie M. Van Horn at the address noted above.

G. Respondent's obligation under this Agreement shall end when it has paid the civil penalties as required by this Agreement and the Final Order, and in accordance with Section VII. (C), and complied with its obligations under Sections VII. (D), (E) and (F), in this Agreement.

H. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to the Final Order. Any attempt by Respondent to deduct any such payments shall constitute a violation of the Agreement.

I. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of the Final Order, if the penalty is not paid by the date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of twelve (12) percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

VIII. Reservation of Rights and Settlement

A. This Agreement and the Final Order, when issued by the Regional Judicial Officer, EPA, Region VII, and upon payment by Respondent of civil penalties, implementation of a Risk Management Program, and submission of RMPs, in accordance with Section VII., shall resolve only the civil claims for the alleged violations set forth in Section V. of this Agreement, against the facilities listed in Attachment 1. Nothing in this Agreement and the Final Order shall be construed to limit the authority of EPA and/or the United States to undertake any action against Respondent, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. Furthermore, issuance of the Final Order does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil or criminal, against Respondent for any other alleged violation of any federal or state statute, regulation or permit.

IX. Other Matters

A. Each party shall bear its own costs and attorney fees in this matter.

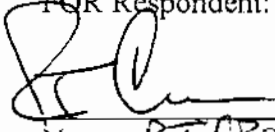
B. The provisions of this Agreement and the Final Order, when issued by the Regional Judicial Officer, EPA, Region VII, shall apply to and be binding on the Complainant, and the Respondent, as well as Respondent's officers, agents, successors and assigns. Any change in ownership or corporate status of the Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement, including the obligation to pay the civil penalty referred to in Paragraph VII. (C).

C. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act or other federal state or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit.

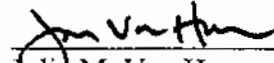
D. Respondent waives any rights it may have to contest the allegations contained herein and its right to appeal the proposed Final Order accompanying this Agreement by reference.

E. The undersigned representatives of each party to this Agreement certify that each is duly authorized by the party whom he represents to enter into these terms and bind that party to it.

FOR Respondent:


 Name RT Crowl Date 04/08/04
 Title VP
 Williams Midstream
 Natural Gas Liquids, Inc.

FOR Complainant:


 Julie M. Van Horn Date 18 Aug 04
 Senior Assistant Regional Counsel
 EPA, Region VII

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101
BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
Williams Midstream Natural Gas Liquids, Inc.) Docket No. CAA-07-2004-0205
)
)
Respondent)

FINAL ORDER

Whereas Complainant, the United States Environmental Protection Agency, and Respondent, Williams Midstream Natural Gas Liquids, Inc., the Parties herein, represented by counsel, have consented to the entry of this Final Order, and agree to comply with the Consent Agreement signed by the parties and incorporated herein; and

The Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with the terms of the Consent Agreement, effective immediately.

SO ORDERED.

By: *Karina Bonomeo*

Date: *Sept. 1, 2004*

ATTACHMENT 1

WILLIAMS MIDSTREAM NATURAL GAS LIQUIDS, INC.

Conway East, McPherson, Kansas

Conway Station Storage Facility, McPherson, Kansas

ATTACHMENT 2

Facilities listed in Attachment 1 that are located in Region 5 (Illinois, Indiana, Michigan, Ohio, Wisconsin and Minnesota) shall send a copy of the RMP and a copy of the certification required by Paragraphs VI, B and C of the Consent Agreement to:

Mark J. Horwitz, Chief
Office of Chemical Emergency Preparedness
and Prevention
EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Facilities listed in Attachment 1 that are located in Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma and Texas) shall send a copy of the RMP and a copy of the certification required by Paragraphs VI, B and C of the Consent Agreement to:

Bob Goodfellow
EPA, Region 6
Superfund Division
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Facilities listed in Attachment 1 that are located in Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming) shall send a copy of the RMP and a copy of the certification required by Paragraphs VI, B and C of the Consent Agreement to:

Cheryl A. Turcotte
EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

IN THE MATTER OF Williams Midstream Natural Gas Liquids, Inc., Respondent
Docket No. CAA-07-2004-0205

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Julie Van Horn
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

Michael D. Graves
Hall Estill
320 S. Boston Avenue, Suite 400
Tulsa, Oklahoma 74103-3708

Dated: 9/1/09



Kathy Robinson
Kathy Robinson
Regional Hearing Clerk