# OECA and Regional Report

## Week Ending May 27, 2016

## Index:


**Office of Compliance**

- **OECA Clinical Legal Education Program Welcomes 70 Summer Law Clerks & Interns**
- **ECHO Outreach and Development**
- **OC and OPP Issue Joint Memorandum on FIFRA Certificates of Origin and/or Certificates of Establishment**
- **NetDMR Training for Permittees and Data Providers**
- **Testing the Migration of New Jersey's NPDES Data Into ICIS-NPDES**

**Office of Site Remediation Enforcement**

- **PFAS/Health Advisory**
- **OIG Report on Financial Assurance**
- **DOJ Files Amicus Brief in Montana State Court to Prevent Landowners Interference with CERCLA Remedial Action for Anaconda Smelter Superfund Site, [*Gregory Christian, et al v. Atlantic Richfield Company* – Cause No. DV-08-173 (Montana Second Judicial District Court, Silver Bow County)]**
- **RSD Participates in Annual Region 5 – DOJ Docket Review**
- **2016 Federal Asian Pacific American Council National Training Leadership Program Conference**

**Region 1**

- **EPA Enters into Order on Consent Regarding a Wastewater Treatment Facility with the Town of Whitefield, NH**
- **Consent Agreement and Final Order Resolves CAA Case Against Cherenzia Excavation, Inc. [Docket No. CAA-01-2016-0037]**

**Region 2**

- **Court Enters Consent Decree in *U.S. v. PRASA and Commonwealth of Puerto Rico***
- **Plea Agreement Relating to Village of Westfield, NY, POTW**

**Region 3**

- **Region III Issues Final Order Assessing Administrative Civil Penalties to Town of Bridgeville, DE for CWA NPDES Permit Violations at Bridgeville's Municipal Wastewater Treatment Plant [Docket No. CWA-03-2016-0096]**
- **Region III Enters into CAA Compliance Order with West Virginia Ice Manufacturer [Docket No. CAA-03-2016-0111DA]**
- **TSCA PCB Matter Consent Agreement and Final Order Filed Settling Alleged Violations with FCC Environmental, LLC n/k/a HCC Corp., LLC and Heritage-Crystal Clean, LLC of Alexandria, VA [Docket No. TSCA-03-2016-0029]**
- **Parties File Joint Status Report and Fifth Joint Motion for a Stay in *United States v. Anthony Spanos, Inc., George A. Spanos, Trustee, and Gus Dinos* [Civil Action No. 1:14-cv-01625]; Court Grants Motion**
- **Region III Meets with PA DEP and J.P. Orleans to Discuss Redevelopment of the AIW Frank/Mid-County Mustang Superfund Site in West Whiteland, PA**
- **Region III Participates in Meetings Concerning Reuse of Two Metal Bank Superfund Sites Located in Philadelphia, PA**
- **CAA Show Cause Letter Issued to Gelest, Inc. in Morrisville, PA**
- **Office of Regional Counsel Welcomes Nine Summer Interns**




ED_002780A_00000626-00001

**Region 4**

- **Region 4 Enters into a Consent Agreement and Final Order with Pilgrim's Pride Corp. for Alleged CWA Violations, Gainesville, GA [Docket No. CWA-04-2016-4501(b)]**

**Region 5**

- **Defendant Charged with Criminal CWA Violation, Bay City, MI**
- **Willowood USA, LLC, Roseburg, Oregon, FIFRA Section 12 Import Violation**
- **District Court Enters CAA Stipulated Order Modifying Consent Decree in the Matter of *United States v. Wisconsin Public Service Corp.***
- **Federal District Court Dismisses Marquette County Road Commissions' Lawsuit Challenging EPA and Corps of Engineers Actions Regarding a CWA Section 404 Wetlands Fill Permit for the County Road 595 Project in the Upper Peninsula of Michigan**
- **EPA Enters Administrative Consent Order with BNSF Railway for CERCLA Removal at Sangamon Corridor Site, Chicago, IL**
- **EPA Enters Consent Agreement and Final Order and Administrative Order to Resolve VOC Emissions Violations with POET Biorefining, Lake Crystal, MN**

**Region 6**

- **Region 6 Accepts Invitation to Speak about LRRP to Roofer's Conference, Grapevine, TX**
- **Region 6 Meets with Sewerage and Water Board of New Orleans**
- **Region 6 Provides MS4 Self-Assessment Training**
- **CAA Consent Agreement and Final Order Filed and Issued to Motiva Enterprises, LLC Norco Refinery, Norco, LA**
- **EPA, UTA Partner to Strengthen Environmental Science Education, and Workforce Development**
- **EPA Files CAA Consent Agreement and Final Order with TPC Group, Port Neches, TX**
- **EPA Signs Administrative Compliance Order with TPC Group, Port Neches, TX**
- **Owner of Southco Enterprises, Inc. Pleaded Guilty to Criminal RCRA Violations**

**Region 7**

- **Region 7 Settles RCRA Violations with Crestwood, Inc., Salina, KS**
- **Region 7 Enters into RCRA Consent Agreement and Final Order with PAS Technologies Inc.**
- **Region 7 Settles FIFRA RRP Rule Violations Against West Agro, Inc., d.b.a. DeLaval Manufacturing**
- **Region 7 Settles TSCA RRP Rule Violations Against Making America Better, Inc.**

**Region 8**

- **Region 8 Settles TSCA Lead-Based Paint Action Against L & S Construction, Inc.**

**Region 9**

- **Petition for Review Filed with the EAB Challenging a Minor New Source Review Permit Issued to Navajo Generating Station**

---



ED_002780A_00000626-00002

## Office of Compliance

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**OECA Clinical Legal Education Program Welcomes 70 Summer Law Clerks & Interns**
These law clerks and college students significantly enhance the ability of EPA professional staff to fulfill our important mission. They represent 35 Law Schools and 8 Undergraduate Schools. Undergraduate Achievements include *Summa cum laude*: 13, *Magna cum laude*: 9, *Cum laude*: 15, Phi Beta Kappa: 7. In addition, 18 Law Reviews are represented.

**ECHO Outreach and Development**
The OC Information Targeting and Access Branch (ITAB) has been increasing focus on training and outreach within EPA and for the public. 365 people viewed the April 19th webinar for the Enforcement and Compliance History Online webinar — 99 attendees were federal users, 96 were state users, and 170 were public users of the site. We have seen an increase in site visits after these webinars. The webinars provide an additional level of interaction with users in the form of feedback, comments, and questions about tools. As the team prepares to launch an enhanced search tool we are organizing testing and outreach with states and regions. In regard to recent changes to ECHO, this month the Discharge Monitoring Report (DMR) Data for Fiscal Year 2016 has been added to the Data Downloads page, offering more variety in enforcement and compliance data for ECHO consumers. Contact: Jessie Johnson, 202-564-4777; Rebecca Kane, 202-564-5960.

**OC and OPP Issue Joint Memorandum on FIFRA Certificates of Origin and/or Certificates of Establishment**
On May 11, OPP and the Office of Compliance issued a joint memorandum to regional offices recommending that regional offices stop issuing Certificates of Origin and/or Certificates of Establishment to exporters of pesticides. Reasons include: (1) FIFRA does not provide statutory authority for issuing either a COO or a COE; (2) regions do not have the information necessary to certify the origin of an exported pesticide, registered or unregistered, arriving at a foreign destination; and (3) COE letters, particularly for unregistered pesticides, may be misleading to foreign governments. OC is working to make FIFRA Section 7 establishment information (that which is not CBI) available on its website to assist exporters in obtaining establishment information. The memo is the result of discussions among OPP, OGC, OC, regional offices and CropLife America." Contact: Elizabeth Vizard, 202-564-5940.

**NetDMR Training for Permittees and Data Providers**
On Tuesday, May 17, OC's ICIS Customer Support provided a webinar training for 45 NetDMR permittee and data providers. Topics included: how to create an account, entering Discharge Monitoring Report (DMR) data, importing DMRs, downloading and reviewing Copy of Records (CORs), and system functionality. To date, in 2016 ICIS Customer Support has provided NetDMR training to an estimated 500 persons. Contact: Cathy Bius, 214-665-6456.



ED_002780A_00000626-00003

**Testing the Migration of New Jersey's NPDES Data Into ICIS-NPDES**

New Jersey's Department of Environmental Protection (NJDEP) has begun testing the process to generate data from their state database so that it can be migrated into ICIS-NPDES in the fall. EPA developed a custom spreadsheet for NJDEP's use in creating the XML transactions that will transmit the data from their computer system into ICIS-NPDES. According to a plan developed to meet a requirement in NJDEP's performance partnership agreement, NJDEP's testing is scheduled to be completed by 6/24/2016. To date, NJDEP has successfully loaded into an ICIS-NPDES test environment all the basic permit information for 24 of their Master General Permits. The ultimate goal of this joint NJDEP/EPA project is to load into the production version of ICIS-NPDES all of New Jersey's NPDES permits, Discharge Monitoring Reports (DMRs) for Majors, formal Enforcement Actions and inspections for the last five years, and to accomplish that sometime in early fall 2016. Contact: Steve Rubin, 202-564-7052.

---



ED_002780A_00000626-00004

## Office of Site Remediation Enforcement

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**PFAS/Health Advisory**
OSRE staff have been involved in the several activities surrounding the issue of PFASs. On Thursday, May 19, Office of Water issued health advisories on two of these chemicals, PFOA and PFOS, that lowered the health risk number to 70 parts per trillion. In preparation for these new numbers, OSRE staff have worked closely with OLEM, OSRTI, Water Enforcement, and OGC to start developing a consultation process when regions plan to take action to address PFASs, developing Qs and As, and participating in conference calls and workgroup calls to share information, coordinate on regional PFAS issues, and help regional colleagues assist their states. Contact: Elisabeth Freed, 202-564-5117.

**OIG Report on Financial Assurance**
On May 24, 2016, representatives from OECA (OSRE and OCE) and OLEM (ORCR and OSRTI) met with the OIG regarding the Agency's response to the Office of Inspector General (OIG)'s Management Alert Report: Significant Data Quality Deficiencies Impede EPA's Ability to Ensure Companies Can Pay for Cleanups, Report Number: 16-P-0126. The OIG sought clarifying remarks from OECA and OLEM regarding what actions have been taken to date and what actions are planned in response to the Report. The OIG will be taking the remarks under advisement and will be: (i) restating its understanding of OECA and OLEM's anticipated corrective actions; (ii) requesting OECA and OLEM's timelines on such corrective actions; and (iii) requesting additional information needed for OIG's investigation. The OIG may also potentially reconsider the material weakness finding. Contact: Jacquie Huynh-Linenberg, 202-564-0547.

**DOJ Files Amicus Brief in Montana State Court to Prevent Landowners Interference with CERCLA Remedial Action for Anaconda Smelter Superfund Site, [*Gregory Christian, et al v. Atlantic Richfield Company* – Cause No. DV-08-173 (Montana Second Judicial District Court, Silver Bow County)]**
On May 19, 2016, the Department of Justice on behalf of EPA filed an *amicus curiae* brief in *Gregory Christian, et al v. Atlantic Richfield Company* – Cause No. DV-08-173 (Montana Second Judicial District Court, Silver Bow County), in support of defendant Atlantic Richfield Company (ARCO) which is conducting an extensive and complicated cleanup under EPA's direction at the Anaconda Smelter Superfund Site (the Anaconda Site) in Montana pursuant to CERCLA. The *amicus* brief seeks to prevent plaintiff landowners from interfering with the cleanup, on the grounds that plaintiffs' claims for property restoration damages under state law are barred by sections 113(h) and 122(e)(6) of CERCLA. Plaintiffs are a group of individuals who own residential real property within the Anaconda Site. They are claiming damages for loss of use, enjoyment and value of their property. Most importantly for this lawsuit, plaintiffs are requesting expenses for and the costs of investigation and "restoration" of their property. The



ED_002780A_00000626-00005

proposed restoration involves actions that EPA believes may harm or interfere with the remedy selected under EPA's record of decision for the Anaconda Site. Contact: Clarence Featherson, 202-564-4234.

**RSD Participates in Annual Region 5 – DOJ Docket Review**

On May 17th, 2016, RSD participated in the annual Region 5 – DOJ review of referred and pre-referred cases hosted by the Region 5 Office of Regional Counsel. Over 40 Superfund cases involving approximately 30 sites were on the agenda. Contact: Doug Dixon, 202-564-4232.

**2016 Federal Asian Pacific American Council National Training Leadership Program Conference**

OSRE staff attended the "Federal Asian Pacific American Council (FAPAC) National Training Leadership Program Conference," held in Orlando, Florida, during May 9-13, 2016. Some of the sessions/forums staff attended, or participated in, while at the conference include:

- "Game Changer," diversity training and inclusion led by OPM
- Religious accommodations in the workplace led by EEOC
- Executive coaching
- Discussion of key civil rights issues impacting the AAPI
- Heath and economic issues facing Pacific Islanders
- Various meetings with FAPAC leadership and other EPA AAPI SEPM representatives

The conference was very successful in providing the participants with a broad range of topics related to leadership and diversity, while providing EPA's AAPI SEPM representatives, from HQ and the regions, with opportunities to network and to discuss common themes and/or concerns. Approximately 14 EPA staff attended the conference. Contact: Zaheeda Abedin, 202-564-2946.

---



ED_002780A_00000626-00006

## Region 1

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**EPA Enters into Order on Consent Regarding a Wastewater Treatment Facility with the Town of Whitefield, NH**

On May 26, 2016, the Region entered into an order on consent (Order) with the Town of Whitefield, New Hampshire which owns a wastewater treatment facility (WWTF) that discharges to the Johns River. On September 26, 2014, EPA re-issued to the Town an NPDES permit that contained new water quality based limits for total ammonia, total phosphorus and total aluminum, in addition to the secondary treatment based limits for biochemical oxygen demand and total suspended solids. The Town was unable to consistently comply with the limits. The Order establishes a schedule for Whitefield to hire a licensed professional engineer to evaluate the current WWTF treatment system, identify necessary improvements to the WWTF, and establish written standard operation and maintenance procedures. The order also requires the Town to complete design of all necessary WWTF improvements within 24 months and to complete construction of all necessary improvements within 48 months. The Region worked in close coordination with the New Hampshire Department of Environmental Services in this matter. Contact: Dave Pincumbe, 617-918-1695; Jeffrey Kopf, 617-918-1796.

**Consent Agreement and Final Order Resolves CAA Case Against Cherenzia Excavation, Inc. [Docket No. CAA-01-2016-0037]**

On May 25, 2016, Region 1 and Cherenzia Excavation, Inc. (Cherenzia) finalized a Consent Agreement and Final Order (CAFO) to resolve Clean Air Act (CAA) violations at Cherenzia's two facilities in Westerly, Rhode Island. Under the CAFO, Cherenzia agrees to pay a penalty of $84,070 to settle alleged violations of certain provisions of the New Source Performance Standards for Nonmetallic Mineral Processing Plants found at 40 C.F.R. Part 60, Subpart OOO, and the National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, found at 40 C.F.R. Part 63, Subpart ZZZZ. Cherenzia Excavation operates stone crushing and gravel operations at the facilities. Contact: Tom McCusker, 617-918-1862; John Hultgren, 617-918-1761.

---



ED_002780A_00000626-00007

## Region 2

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Court Enters Consent Decree in *U.S. v. PRASA and Commonwealth of Puerto Rico***
On May 23, 2016, Judge Garcia-Gregory of the U.S. District Court for the District of Puerto Rico entered the consent decree in the matter of *U.S. v. PRASA and Commonwealth of Puerto Rico*. On May 10, 2016, DOJ had filed a Motion to Enter the Consent Decree between the U.S. and defendants Puerto Rico Aqueduct and Sewer Authority and the Commonwealth of Puerto Rico. The new Consent Decree supersedes three separate decrees, consolidating PRASA's CWA obligations into one decree that addresses CWA violations resulting from the operation of PRASA's island-wide waste water treatment plants, sludge treatment systems at water treatment plants, and the sewers and appurtenances that are part of PRASA's Puerto Nuevo Regional WWTP Sewer System (PRASA's single largest system in the island). The new decree provides for an estimated $1.5 billion in injunctive relief to be implemented over the next fifteen years, $700 million of which is "new" and thus will be entered in ICIS (the other $800 million is the cost carried over from earlier consent decrees). Contact: Eduardo Gonzalez, 212-637-3223; Evelyn Rivera-Ocasio, 787-977-5859.

**Plea Agreement Relating to Village of Westfield, NY, POTW**
On May 18, 2016, Andrew Thompson, the Director of Public Works of the Village of Westfield, New York, pleaded guilty to a one-count Information charging him with a violation of 33 U.S.C. Sections 1311(a) and 1319(c)(1)(A) (negligent violation of the Clean Water Act) for the intentional discharge of raw sewage from a pump station into a tributary that flows into Lake Erie. Sentencing is scheduled for August 16, 2016. Contact: Patricia Hick, 212-637-3137.

---



ED_002780A_00000626-00008

## Region 3

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Region III Issues Final Order Assessing Administrative Civil Penalties to Town of Bridgeville, DE for CWA NPDES Permit Violations at Bridgeville's Municipal Wastewater Treatment Plant [Docket No. CWA-03-2016-0096]**

On May 20, 2016, Region III issued a Final Order to Bridgeville, resolving CWA violations of Bridgeville's NPDES permit. During an EPA investigation and review of Delaware Natural Resources and Environmental Control (DNREC) records of Delaware inspections of Bridgeville's municipal wastewater treatment plant, EPA determined that Bridgeville was violating its NPDES permit by failing to maintain wastewater treatment facility operations in good working order and operation, failing to implement a storm water plan in accordance with the NPDES permit requirements, and failing to meet total nitrogen and BOD5 effluent limits on multiple occasions from 2011 through 2015. In the Consent Agreement and Final Order (CAFO) which initiated and resolved this matter, Bridgeville agreed to pay a $12,000 civil penalty for the permit violations. The CAFO received no comments during the required 40-day public comment period. Contact: Bob Smolski, 215-814-2691; Chad Harsh, 215-814-2633.

**Region III Enters into CAA Compliance Order with West Virginia Ice Manufacturer [Docket No. CAA-03-2016-0111DA]**

On May 19, 2016, EPA filed an Administrative Settlement Agreement and Order on Consent (ASAOC), which it entered into with Louis Niebergall Ice Company, Inc. (Niebergall), the owner and operator of an ice manufacturing facility located at 4419 Eoff Street, Wheeling, West Virginia, 26003. The ASAOC, which becomes effective upon Respondent's receipt, provides that Niebergall will commence work at its facility to address alleged violations of CAA 112(r)(1) and adhere to relevant industry standards pertaining to conducting hazard analyses, maintaining standard operating procedures, conducting regular inspections and maintenance logs, installing and utilizing ammonia detectors and adequate sources of ventilation, and training employees about emergency responses at the facility where 100-pound cylinders of ammonia are stored and used to manufacture ice. Contact: Lauren Ziegler, 215-814-2623; Mary Hunt, 215-814-3425.

**TSCA PCB Matter Consent Agreement and Final Order Filed Settling Alleged Violations with FCC Environmental, LLC n/k/a HCC Corp., LLC and Heritage-Crystal Clean, LLC of Alexandria, VA [Docket No. TSCA-03-2016-0029]**

On May 24, 2016, Region III filed a Consent Agreement with FCC Environmental, LLC, now known as HCC Corporation LLC, and Heritage-Crystal Clean, LLC, that alleges violations of the TSCA and its regulations, forth at 40 C.F.R. Part 761. The Consent Agreement simultaneously initiated and resolved the matter. Respondents have agreed to pay a penalty of One Hundred Eight Thousand, Four Hundred Ninety-six Dollars ($108,496.00) to settle the matter concerning distribution in commerce of PCBs; failure to manifest shipments of PCB waste; and failure to notify as a transporter and generator of PCB waste at their facility located at 5800 Farrington



ED_002780A_00000626-00009

Ave., Alexandria, Virginia 22304. Contact: Jeffrey Nast, 215-814-2652; Kelly Bunker, 215-814-2177.

**Parties File Joint Status Report and Fifth Joint Motion for a Stay in *United States v. Anthony Spanos, Inc., George A. Spanos, Trustee, and Gus Dinos* [Civil Action No. 1:14-cv-01625]; Court Grants Motion**

On May 18, 2016, the United States and the three Defendants in civil litigation concerning the Georgia Avenue PCE Site, which is located in Washington, DC, filed a Joint Status Report and Fifth Joint Motion for a Stay, requesting that the Court stay the litigation to allow the parties to finalize their mediated settlement negotiations. Federal District Court Judge Richard Leon has granted four earlier Motions for a Stay and required the parties to file a Joint Status Report by May 27, 2016. The current Joint Motion requests that the Court extend the Stay until July 27, 2016. In a Minute Order dated May 23, 2016, Judge Leon granted the parties' motion and ordered them to file a joint status report, including a proposed schedule for further proceedings, no later than July 27, 2016. The parties currently have reached two separate settlements in principle, facilitated by a mediator, who was retained through EPA's Conflict Prevention and Resolution Center. The parties will use the additional time granted by Judge Leon to complete negotiations of the two Consent Decrees. The United States filed this case on September 26, 2014, to recover past response costs under Section 107(a) of CERCLA and for penalties and injunctive relief under Section 104(e)(5) of CERCLA. The defendants are owners and operators of the Site. At the request of DDOE, the predecessor to the District of Columbia's Department of Energy and Environment (DOEE), EPA performed a removal action at the Site from 2009 to 2011 to address elevated levels of perchloroethylene (PCE) in indoor air and soil gas. Defendants owned and operated a dry-cleaning facility at the Site. In 2009, releases of PCE at the Site caused the temporary closure of a day-care center operating next to the dry-cleaning facility. EPA has incurred more than $1.75 million in response costs for the Site. Contact: Robert Hasson, 215-814-2672; Carlyn Prisk, 215-814-2625; Rich Rupert, 215-814-3463.

**Region III Meets with PA DEP and J.P. Orleans to Discuss Redevelopment of the AIW Frank/Mid-County Mustang Superfund Site in West Whiteland, PA**

On May 12, 2016, the Office of Regional Counsel accompanied the head of the Region's Site Revitalization Team and a Remedial Project Manager to a meeting with several parties, including PA DEP, the owner of a portion of the AIW Frank/Mid-County Mustang Superfund Site, and representatives of the developer and builder J.P. Orleans. The Site is located in West Whiteland Township in Chester County, Pennsylvania. EPA completed construction of a remedial action at the Site in November 2000. This remedial action, which was selected in a 1995 ROD, addressed the release of trichloroethylene (TCE) into soils and groundwater at the Site. PA DEP has taken over operation and maintenance of the remedial action in accordance with a Superfund State Contract. Under a 1998 Consent Decree, the predecessor to the current owner performed soil remediation at the 15-acre AIW Frank portion of the Site, where a Styrofoam manufacturer previously operated. J.P. Orleans, a leading residential developer and builder, is considering purchasing and developing into a residential community the AIW Frank portion of the Site, as well as two adjacent parcels. At the May 12th meeting, EPA and PA DEP addressed questions raised by J.P. Orleans and the Site's owner about institutional controls, potential vapor intrusion,

EPA's "Policy Toward Owners of Residential Property at Superfund Sites," and the "reasonable steps" any future owner of Site property would have to take to enjoy the limitation on liability offered a bona fide prospective purchaser under CERCLA. Contact: Robert Hasson, 215-814-2672; Christopher Thomas, 215-814-5555.

**Region III Participates in Meetings Concerning Reuse of Two Metal Bank Superfund Sites Located in Philadelphia, PA**

On April 28 and May 11, 2016, the Office of Regional Counsel accompanied the head of the Region's Site Revitalization Team and a Remedial Project Manager to meetings with representatives of the Four Sites Union Trust, the owner of the Metal Bank (Cottman Avenue) and the Metal Bank of America, Inc. (State Road) Superfund Sites, to discuss the potential resale and reuse of the Sites, both of which are located in the City of Philadelphia. EPA completed construction of a remedial action at the Cottman Avenue Site in 2008 after more than three decades of enforcement and clean-up activities there. This remedial action, which was performed by a group of PRPs under a Consent Decree, addressed the release of PCBs at the Site into the Delaware River and a tidal mudflat adjacent to the Metal Bank property. EPA will be performing a removal action at the State Road Site this summer. Both Sites were used for transformer-reclamation operations and as metal scrap yards. The Cottman Avenue Site has been identified as one of only ten properties of 20 or more acres in the City that are zoned industrial and currently available for the expansion or establishment of industry. A prospective purchaser for the Cottman Avenue Site, Revolution Recovery, operates a recycling facility next door to the Site and would like to expand its operations. In addition, another prospective purchaser, the Delaware River City Corporation, would like to construct a trail through the Cottman Avenue Site as part of the City's Urban Greenway project. At the meetings, EPA described for the attendees the response actions conducted and to be conducted at the two Sites, the operation-and-maintenance requirements for the two response actions, and the future use restrictions on the real property at the Sites. EPA also discussed the "reasonable steps" a future owner of the Sites would have to take to enjoy the liability protections available to bona fide prospective purchasers under CERCLA's Brownfields Amendments. Contact: Robert Hasson, 215-814-2672; Christopher Thomas, 215-814-5555.

**CAA Show Cause Letter Issued to Gelest, Inc. in Morrisville, PA**

On May 19, 2016, EPA issued a show cause letter to Gelest, Inc., the owner and operator of a chemical manufacturing plant located at 11 East Steel Road, Morrisville, Pennsylvania 19067, for alleged violations of Section 112(r)(1) and (7) of the CAA. The letter sought penalties of $51,190 in connection with the facility's failure to comply with the obligation under the CAA's general duty clause to design and maintain a safe facility, stemming from its improper storage and handling of various extremely hazardous substances such as chlorine, anhydrous ammonia, and anhydrous hydrogen chloride, and its failure to timely submit a risk management plan after using and storing dimethyldichlorosilane at the facility in quantities greater than the 5,000 pound threshold quantity. The facility also allegedly violated the risk management program's regulation, 40 C.F.R. § 68.65(d)(2), requiring facilities at which a regulated substance is present in more than a threshold quantity to document that equipment complies with generally accepted good engineering practices by failing to adhere to industry standards and storing its tanks of

dimethyldichlorosilane too closely together. Contact: Lauren Ziegler, 215-814-2623; Mary Hunt, 215-814-3425.

## Management and Policy Issues

### Office of Regional Counsel Welcomes Nine Summer Interns

On May 24, 2016, the Office of Regional Counsel (ORC) welcomed nine summer law student interns for its annual ten-week summer program. The interns will be assigned to the various branches in ORC and will work closely with staff attorneys on case work, legal research and writing, drafting legal documents, and other important work. The program has an educational component which will include at least ten seminars taught by ORC attorneys on various aspects of ORC's legal practice. The interns include both first-year and second-year law students, most of whom have connections to Region 3 through their law schools or home states. Contact: Mark Bolender, 215-814-2642; Robert Hasson, 215-814-2672.

---



ED_002780A_00000626-00012

## Region 4

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Region 4 Enters into a Consent Agreement and Final Order with Pilgrim's Pride Corp. for Alleged CWA Violations, Gainesville, GA [Docket No. CWA-04-2016-4501(b)]**
On April 19, 2016, the Regional Administrator of Region 4 approved a Consent Agreement and Final Order (CAFO) between Region 4 and Pilgrim's Pride Corporation (Respondent) Docket No. CWA-04-2016-4501(b). The CAFO resolved the EPA's allegations that the Respondent violated sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), by failing to comply with the Georgia Environmental Protection Division's (GAEPD) *Authorization to Discharge Under the National Pollutant Discharge Elimination System Stormwater Discharges Associated with Industrial Activity* permit. The Respondent owns and/or operates a poultry processing plant in Gainesville, Georgia. On August 27, 2014, Region 4 performed an inspection of the Respondent's facility and noted several violations of the NPDES permit. The Respondent entered into an Administrative Order on Consent with the EPA in 2015 agreeing to update its facility and come into compliance with the permit. The EPA assessed an administrative penalty pursuant to 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B) of $68,850. Under the terms of the CAFO, the Respondent will pay the penalty within 30 days of the date of the CAFO. Contact: Wilda Cobb, 404-562-9530; Tara Houda, 404-562-9762.

---



ED_002780A_00000626-00013

## Region 5

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Defendant Charged with Criminal CWA Violation, Bay City, MI**
On May 25, 2016, a federal grand jury in Bay City, Michigan, returned a one-count indictment against Jeffrey Patrick alleging a knowing violation of the Clean Water Act. According to the indictment, from approximately the middle of May, 2014, to on or about June 30, 2014, Patrick knowingly caused the discharge of oil into Lake Huron in quantities that caused a film or sheen upon the water, in violation of 33 U.S.C. §§1321(b)(3) and 1319(c)(2)(A). If convicted, Patrick faces up to 3 years in prison, and a maximum fine of $250,000, twice the gross gain or loss, or $50,000 per day of violation, whichever is greater. Contact: James Cha, 312-886-0512.

**Willowood USA, LLC, Roseburg, Oregon, FIFRA Section 12 Import Violation**
On May 23, 2016, EPA filed a Consent Agreement and Final Order (CAFO) commencing and concluding a proceeding with Willowood USA, LLC (Willowood), to resolve violations of Section 12(a)(1)(E) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136j(a)(1)(E) and Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S). Willowood registers and imports active ingredients in pesticides for distribution within the United States. Willowood's office is located in Roseburg, Oregon. On April 19, 2016, Respondent submitted a Notice of Arrival of Pesticides or Devices to Region 5 for the import shipment of the pesticide "Willowood Imidacloprid Technical," EPA Registration Number (EPA Reg. No.) 88544-2 from China. In reviewing the Notice of Arrival and supplemental documentation, EPA found that the labels affixed to the 55-pound bags of "Willowood Imidacloprid Technical," EPA Reg. No. 88544-2 were false or misleading as they substantially and materially differed from the EPA-accepted label approved on March 20, 2013. Since being contacted by Region 5, Willowood has relabeled all of the improperly labeled bags of "Willowood Imidacloprid Technical," EPA Reg. No. 88544-2 and has agreed to pay a civil penalty of $7,500 for the violations. Contact: Abigail Wesley, 312-886-0810; Mary McAuliffe, 312-886-6237.

**District Court Enters CAA Stipulated Order Modifying Consent Decree in the Matter of *United States v. Wisconsin Public Service Corp.***
On May 20, 2016, the U.S. District Court for the Eastern District of Wisconsin entered a Stipulated Order amending the Consent Decree in the matter of *United States v. Wisconsin Public Service Corp.* (Case 1:13-cv-00010-WCG). The Consent Decree was originally entered on March 17, 2013, resolving alleged Clean Air Act violations at two Wisconsin coal-fired power plants (the Pulliam and Weston plants) owned and operated by Wisconsin Public Service Corporation (WPSC).

The amended Consent Decree includes two substantive modifications. The first modification revises the Consent Decree's particulate matter (PM) provisions to remove a requirement for the continuous operation of the Electrostatic Precipitator on units that are converted from coal to



ED_002780A_00000626-00014

natural gas and thus emit very little PM. This provision is also being modified to add an enforceable emissions limit to ensure a very low PM emissions rate and a one-time requirement to conduct a PM stack test to verify the rate.

The second modification replaces a hydroelectric environmental mitigation project with a new land acquisition and restoration project and an expansion of an existing wood stove replacement project. The original Consent Decree required WPSC to spend at least $6 million to implement various environmental mitigation projects, including up to $2 million on a "Hydro Boost" project. EPA determined WPSC's proposed Hydro Boost project could not be approved. The amended Consent Decree requires WPSC to spend up to $2 million on a project to acquire or restore ecologically significant lands that are part of or near the Barkhausen Water Fowl Preserve in Brown County, Wisconsin. In addition, the amended Consent Decree expands the scope of one of the other mitigation projects required by the original Consent Decree by authorizing WPSC to spend an additional $600,000 on a "Wood Stove Change Out" project designed to reduce PM emissions from wood-burning appliances. Contact: Eaton Weiler, 312-886-6041; Ethan Chatfield, 312-886-5112.

**Federal District Court Dismisses Marquette County Road Commissions' Lawsuit Challenging EPA and Corps of Engineers Actions Regarding a CWA Section 404 Wetlands Fill Permit for the County Road 595 Project in the Upper Peninsula of Michigan**

On May 18, 2016, the U.S. District Court for the Western District of Michigan entered an Order granting the government's Motion to Dismiss a Complaint filed by the Marquette County Road Commission (MCRC) against EPA and the Corps of Engineers regarding the MCRC's failed attempt to obtain a permit under Section 404 of the Clean Water Act to fill 25 acres of wetlands for the County Road (CR) 595 project in the Upper Peninsula of Michigan. In addition to dismissing the Complaint for failure to state a claim, the Court denied as moot the MCRC's motion for discovery. The MCRC has not indicated whether it will file an appeal.

The CWA and federal regulations provide that authority to issue a Section 404 wetlands fill permit transfers to the Corps when a delegated state fails to timely satisfy an EPA objection to a proposed permit. The MCRC did not seek a permit from the Corps. Instead, in July 2015, the MCRC filed a five-count declaratory judgment action in U.S. District Court, claiming that EPA's objections to the MCRC's permit application were arbitrary and capricious; that EPA exceeded its delegated authority by issuing objections based on requirements allegedly not mandated by the CWA; that EPA's objections failed to list the conditions necessary for a permit to issue, as required by Section 404(j) of the CWA; that EPA did not follow the procedural requirements of Section 404(j) of the CWA; and that the Corps improperly denied MCRC's permit application by failing to act on it.

The Court ruled that EPA's action sustaining its objection to the proposed CWA Section 404 permit was not final agency action reviewable under the Administrative Procedures Act; that EPA did not act arbitrarily or otherwise exceed its authority under the CWA; that EPA fully complied with the requirements of CWA Section 404(j); and that the MCRC failed to state a

claim against the Corps because the Corps was not required to act until the MCRC filed a proper application with the Corps.

The Court's decision includes a thorough analysis of final agency action under the two-prong test set out in *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (the action must mark the "consummation" of the agency's decision-making process, and the action must be one by which "rights or obligations
have been determined," or from which "legal consequences will flow."). The Court also discussed the exception to the finality requirement provided in *Leedom v. Kyne*, 358 U.S. 184 (1958) (a statutory bar to judicial review would not apply where an agency acted "in excess of its delegated powers and contrary to a specific prohibition" in a statute). Contact: Reginald Pallesen, 312-886-0555; Peter Swenson, 312-886-0236.

**EPA Enters Administrative Consent Order with BNSF Railway for CERCLA Removal at Sangamon Corridor Site, Chicago, IL**

On March 17, 2016, the Region 5 Superfund Division Director signed an administrative consent order under which BNSF Railway will perform a time- critical removal to address lead contamination in an out-of-service railroad corridor in Chicago's Pilsen neighborhood. The Site is immediately adjacent to the Loewenthal Smelter Site, which was the subject of several news articles addressing the phenomenon of lead contamination in former industrial areas that have become residential; Region 5 conducted a time critical removal there in 2013. As with Loewenthal Smelter, area residents were using the railroad corridor as a short-cut to a neighborhood elementary school, with a resultant risk of exposure to lead in surface soils. EPA has also conferred with the City of Chicago regarding plans to convert the corridor to an "El Paseo" recreational path and green space when the removal action is complete. Contact: Steve Faryan, 312 353-9351; Tom Williams, 312-886-0814.

**EPA Enters Consent Agreement and Final Order and Administrative Order to Resolve VOC Emissions Violations with POET Biorefining, Lake Crystal, MN**

On May 12, 2016 the Acting Regional Administrator signed a Consent Agreement and Final Order resolving a claim for violations of Northstar Ethanol, LLC's federally-enforceable state operating permit (FESOP) and Title V permit limits on volatile organic compound emissions, and operations and recording practices. In the CAFO, the Respondent agrees to pay a penalty of $150,000. The Air and Radiation Division Director also signed an Administrative Consent Order on May 10, 2016, pursuant to which the Respondent agrees to modify its facility to control VOC emissions.

Northstar Ethanol, LLC, doing business as POET Biorefining- Lake Crystal (POET), operates an ethanol production facility in Lake Crystal, Minnesota, which includes a fermentation and distillation process line. The facility employs 42 people. The permits generally require that all emissions be vented to a fermentation scrubber and a regenerative thermal oxidizer (RTO), except under alternative scenarios, in which the RTO, but not the scrubber, can be bypassed. The FESOP and Title V permits also require that POET record the hours and reasons for bypass events, impose a minimum water flow rate to the scrubber, and require corrective action and



ED_002780A_00000626-00016

documentation of such action if the flow rate is not equal to or greater than the minimum value. In addition, the permits limit the maximum beer feed rate at the dryer units. At times between March 1, 2010 and May 12, 2015, POET intermittently operated its fermentation and distillation units during scrubber downtime, resulting in VOC emissions to the atmosphere, and failed to meet the other operational and record-keeping requirements of the permits.

In the settlement, POET agrees to modify its facility by installing ductwork so that emissions from the ethanol fermentation process will be controlled by a thermal oxidizer during scrubber down time. EPA anticipates this modification could result in VOC emissions reductions of up to 8 tons annually. The parties agreed to a penalty of $150,000 following application of the Stationary Source Penalty Policy and consideration of other relevant factors. Contact: Eleanor Kane, 312-353-4840; Dakota Prentice, 312-886-6761; Tom M. Williams, 312-886-0814.

---



ED_002780A_00000626-00017

## Region 6

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Region 6 Accepts Invitation to Speak about LRRP to Roofer's Conference, Grapevine, TX**
Last week the Compliance Assurance and Enforcement Division accepted an invitation to speak at the Texas Roofing Contractor's conference on October 13, 2016, in Grapevine, Texas. The presentation will address the laws and regulations regarding lead based paint and how roofing contractors can achieve and maintain compliance. Contact: Guy Tidmore, 214- 665-3142; Chuck Barnes, 214-665-6535.

**Region 6 Meets with Sewerage and Water Board of New Orleans**
On May 24, 2016, representatives of sewerage and Water board of New Orleans met with representatives of Region 6 to present its Annual Report to comply with the requirements of Third Modified Consent Decree (CD). The CD was originally entered in June 1998, in the U.S. District Court for the Eastern district of Louisiana, New Orleans Division for violations due to sewer system overflows and effluent limits of its National Pollutant Discharge Elimination System permit. Since Hurricane Katrina, the CD has been modified and the Board is under the jurisdiction of its Third Modified Consent Decree entered on July 17, 2014. Ted Palit, 214-665-8061; Ellen Chang-Vaughan, 214-665-7328.

**Region 6 Provides MS4 Self-Assessment Training**
On May 19, Water Enforcement Staff provided Municipal Separate Storm Sewer System (MS4) Self-Assessment Training for EPA Headquarters and several Regions which focused on collecting information electronically from permit holders, using the MS4 Self- Assessment Modules. The assessment methodology was the result of a Lean Project to streamline EPA's MS4 auditing process and reduce transaction costs. Permittees under a Phase I or Phase II MS4 permit are required to complete and submit the assessment pursuant to issuance of a 308 Information Request. EPA then reviews and evaluates this information to determine program performance and extent of implementation of an effective storm water management program before conducting a focused inspection. The training generated significant interest from EPA Headquarters, Region 7 and Region 9. Contact: Thea Lomax, 214-665-8098; Linda Smith, 214-665-6641.

**CAA Consent Agreement and Final Order Filed and Issued to Motiva Enterprises, LLC Norco Refinery, Norco, LA**
On May 24, 2016, the Environmental Protection Agency Region 6 filed a Consent Agreement and Final Order (CAFO) in regard to Motiva Enterprises, LLC's Norco Refinery in Norco, Louisiana, for violations discovered during an on-site Risk Management Plan & CAA 112(r) inspection of the facility that took place on March 31 - April 3, 2014. Under the terms of the CAFO, Motiva will take necessary measures to ensure that its operations are in compliance with



ED_002780A_00000626-00018

all relevant CAA and Risk Management Plan provisions, and pay a civil penalty of $165,750. Motiva was presented with the option to mitigate a portion of this civil penalty through the completion of a Supplemental Environmental Project, however Motiva declined. Contact: Carlos Flores, 214-665-7113; Jacob Gallegos, 214-665-9798.

**CAA Consent Agreement and Final Order Filed and Issued to Shell Chemical, L.P. in Norco, LA**

On May 24, 2016, the Regional Judicial Officer entered a Consent Agreement and Final Order (CAFO) issued to Shell Chemical, L.P. in Norco, Louisiana for violations discovered during an on-site Risk Management Plan & Clean Air Act 112(r) inspection of the facility that took place on September 8-11, 2014. Under the terms of the CAFO, Shell will take necessary measures to ensure that its operations are in compliance with all relevant Clean Air Act and Risk Management Plan provisions, and pay a civil penalty of $91,800. Shell was presented with the option to mitigate a portion of this civil penalty through the completion of a Supplemental Environmental Project, however Shell declined. Contact: Carlos Flores, 214-665-7113; Jacob Gallegos, 214-665-9798.

**EPA, UTA Partner to Strengthen Environmental Science Education, and Workforce Development**

On May 24, 2016, the Region 6 Administrator, Ron Curry, and the University of Texas at Arlington (UTA) President, Dr. Vistasp Karbhari, participated in a Memorandum of Understanding (MOU) signing ceremony announcing a new partnership designed to increase academic and research collaboration, expanding the number of highly skilled graduates prepared to lead in the areas of environmental programs, policies and research. Under the MOU, UTA will enhance research, teaching, outreach, career development and stewardship in environmental and mathematical sciences. EPA will contribute to the University's environmental policy and science curricula, offering opportunities for students interested in environmental careers. The goal of the MOU is to develop skilled individuals who are better able to protect the environment and develop sound policy. This MOU also marks the first step toward establishing an EPA Collaborative Center of Excellence at UTA, the only such center in Texas. Contact: Samuel Tates, 214-665-2243; Tony Robledo, 214-665-8182.

**EPA Files CAA Consent Agreement and Final Order with TPC Group, Port Neches, TX**

On May 24, 2016, EPA and TPC Group filed a CAFO with the regional hearing clerk resolving a violation of section 113(r)(1) of the Clean Air Act. The violation stemmed from an incident at TPC's Port Neches, Texas facility where chlorine was released from a leak in piping running from a cooling tower. A root cause analysis showed that the leak resulted from external corrosion on the chlorine pipe. TPC has paid $30,750 to resolve the matter. Contact: James Murdock, 214-665-7302; Justin McDowell, 214-665-6557.

**EPA Signs Administrative Compliance Order with TPC Group, Port Neches, TX**

On May 19, 2016, EPA and TPC Group signed a consensual Administrative Compliance Order. The order requires TPC to implement a number of improvements at the Port Neches facility, including: revising cooling tower operating procedures, inspecting and replacing cooling tower

components, marking chlorine piping, and increasing inspections on chlorine lines. Additionally, TPC will hold a site-wide meeting to raise awareness of toxic chemicals present at the facility. Contacts: James Murdock, 214-665-7302; Justin McDowell, 214-665-6557.

**Owner of Southco Enterprises, Inc. Pleaded Guilty to Criminal RCRA Violations**
On May 3, 2016, the owner of Southco Enterprises, Inc., appeared in U.S. District Court for the Northern District of Texas and pleaded guilty to one (1) felony count under the Resource Conservation and Recovery Act, 42 U.S.C § 6928(d)(2) for the illegal storage of a hazardous waste. Southco Enterprises, Inc., is scheduled for sentencing on June 1, 2016. This case was investigated by the Dallas Area Office of the Criminal Investigation Division. Contact: Russell Murdock, 214-665-3189.

## OGC Issues

**Region 6 Rescinds Second Energy Transfer Partners' "Step 2" GHG Permit**
On April 16, 2014, Region 6 issued a prevention of significant deterioration (PSD) permit for greenhouse gases (GHGs) to Energy Transfer Partners, LP (ETP) for unit FRAC III at its Lone Star NGL Mont Belvieu Gas Plant located in Chambers County, Texas. The facility is a "Step 2" source, meaning that it was classified as a major source, and required to obtain a PSD permit, solely based on its GHG emissions. In *Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427 (2014), the United States Supreme Court held that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit, and thus invalidated regulations implementing that approach. On April 29, 2016, ETP submitted a request for rescission, along with supporting documentation. On May 23, 2016, Region 6 approved the request, and will public notice in the *Baytown Sun* on May 31, 2016. The rescission will become effective 60 days after publication of the public notice. On May 12, 2016, Region 6 approved a GHG permit rescission request for units FRAC I and II at the facility. Contact: Josh Olszewski, 214-665-2178.

---



ED_002780A_00000626-00020

## Region 7

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Region 7 Settles RCRA Violations with Crestwood, Inc., Salina, KS**
On May 18, 2016, EPA Region 7 entered an Expedited Settlement Agreement and Final Order in the matter of Crestwood, Inc., in settlement of Resource Conservation and Recovery Act violations. The Respondent is a cabinet manufacturer located in Salina, Kansas. During the inspection it was discovered that Respondent failed to comply with hazardous waste container management requirements, satellite accumulation container management requirements, weekly inspection requirements, emergency coordination requirements, and training requirements. Terms of the expedited settlement agreement required Respondent return to compliance and pay a mitigated civil administrative penalty of $13,000. Contact: Kelley Catlin, 913-551-7110.

**Region 7 Enters into RCRA Consent Agreement and Final Order with PAS Technologies Inc.**
On May 23, 2016, a Consent Agreement and Final Order was filed memorializing a settlement between EPA and PAS Technologies Inc. of North Kansas City, Missouri. In the CAFO, PAS Technologies agreed to pay a mitigated penalty of $23,500 in settlement of violations of the Resource Conservation and Recovery Act. Specifically, the CAFO alleges that PAS Technologies failed to conduct hazardous waste determinations, operated as a treatment, storage or disposal facility without a RCRA permit or interim status for failing to comply with various generator requirements (including storage over ninety days), and failed to comply with universal waste requirements. As part of the agreement, PAS Technologies will submit: 1) a copy of its SOP which explains how it will ensure all wastes undergo an appropriate hazardous waste determination, 2) a compete inventory of all current waste streams with corresponding hazardous waste determinations on each waste stream, and 3) documentation showing universal waste management training was completed. Contact: Kelley Catlin, 913-551-7110.

**Region 7 Settles FIFRA RRP Rule Violations Against West Agro, Inc., d.b.a. DeLaval Manufacturing**
On May 10, 2016, EPA Region 7 entered a Complaint and Consent Agreement/Final Order in the matter of West Agro, Inc., d.b.a. DeLaval Manufacturing, in settlement of an alleged violation of the Federal Insecticide, Fungicide, and Rodenticide Act. West Agro, Inc., a division of DeLaval, Inc., is a manufacturer and supplier of cleaning and sanitizing products to the dairy, food, and beverage processing industries. This settlement resolves an alleged FIFRA misbranding violation resulting from an under-formulated iodine distributor product produced and held for sale by West Agro, Inc.'s supplemental distributor Kunkel Enterprises, Inc., at its Lee's Summit, Missouri, production facility. The Complaint and Consent Agreement/Final Order simultaneously commences and concludes this enforcement action and obligates West Agro,



ED_002780A_00000626-00021

Inc., to pay a mitigated civil administrative penalty of $2,860. Contact: Jared Pessetto, 913-551-7793.

**Region 7 Settles TSCA RRP Rule Violations Against Making America Better, Inc.**
On May 18, 2016, EPA Region 7 entered a Consent Agreement and Final Order (CAFO) in the matter of Making America Better, Inc., in settlement of TSCA Renovation, Repair, and Painting Rule violations. The respondent is a company performing renovations and is based in St. Louis, Missouri. A work site inspection on August 6, 2014 revealed that Making America Better performed regulated renovation activities on target housing. The EPA inspection revealed the following violations: failure to close windows and doors in the work area or cover with plastic sheeting or impermeable material to allow workers to pass through, failure to prevent releases of dust and debris before the waste is removed from the work area, and failure to use precautions to ensure that all personnel, tools and other items including exteriors of containers of waste are free of dust and debris before leaving the work area. This CAFO simultaneously commences and concludes this enforcement action and obligates Making America Better to pay a mitigated civil administrative penalty of $500. Contact: Bob Richards, 913-551-7502.

---



ED_002780A_00000626-00022

## Region 8

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Region 8 Settles TSCA Lead-Based Paint Action Against L & S Construction, Inc.**
On May 12, 2016, Regional Judicial Officer Elyana Sutin issued a final order approving a Combined Complaint and Consent Agreement (CCCA) between the EPA and L & S Construction, Inc. In the CCCA, the EPA alleged that L & S Construction, Inc. violated the Lead-Based Paint Renovation, Repair, and Painting (RRP) Rule and the Toxic Substances Control Act (TSCA) during a renovation on a home in Arvada, Colorado. The EPA alleged that L & S Construction, Inc. failed to ensure that waste from the renovation was contained to prevent releases of dust and debris before waste was removed from the work area and failed to ensure that the work area was cleaned until no dust, debris or residue remained, in violation of the RRP Rule and section 409 of TSCA, 15 U.S.C. § 2689. L & S Construction, Inc. agreed to pay an administrative penalty of $12,000 to settle the matter. Contact: Jessica Portmess, 303-312-7026.

---



ED_002780A_00000626-00023

## Region 9

**Regular Highlights:**

### Enforcement and Compliance Assurance Issues

**Petition for Review Filed with the EAB Challenging a Minor New Source Review Permit Issued to Navajo Generating Station**

On May 23, 2016, a Petition for Review was filed with the Environmental Appeals Board challenging the tribal minor new source review permit Region 9 issued to allow construction of the Refined Coat Treatment System (RCTS) at the Navajo Generating Station. The RCTS consists of new and modified equipment for adding cement kiln dust and calcium bromide to the coal before it is pulverized for combustion, causing a minor increase in emissions of particulate matter. Petitioner (an individual) contends that Region 9 erred in requiring Method 9 rather than Method 082 in the permit for monitoring opacity. Region 9's response is due on June 13, 2016. Contact: Ann Lyons, 415-972-3883.

---



ED_002780A_00000626-00024