UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6, 1445 ROSS AVENUE, DALLAS, TEXAS 75202-2733

FILED

EXPEDITED SPCC SETTLEMENT AGREEMENT

2016 OCT 11 AM 9:01

REGIONAL HEARING CLERK
EPA REGION VI

DOCKET NO. CWA-06-2016-4321

On: June 13, 2016

At: Circle 9 Resources, LLC, School Land 66 SWD Facility, Off of E0950 Road (Main Street), Quay, Pawnee County, OK, 74085. Owned or operated by: Circle 9 Resources, LLC, P. O. Box 18734, Oklahoma City, OK 73116 (Respondent).

An authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Spill Prevention, Control and Countermeasure (SPCC) regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act (33 USC § 1321(j)) (the Act), and found that Respondent had violated regulations implementing Section 311(j) of the Act by failing to comply with the regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference.

The parties are authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b) (6) (B) (i) of the Act, 33 USC § 1321(b) (6) (B) (i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of $2,225.00.
This settlement is subject to the following terms and conditions:

EPA finds the Respondent is subject to the SPCC regulations, which are published at 40 CFR Part 112, and has violated the regulations as further described in the Form. The Respondent admits he/she is subject to 40 CFR Part 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections it may have to EPA's jurisdiction. The Respondent consents to the assessment of the penalty stated above. Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected and Respondent has sent a certified check in the amount of
$2,225.00, payable to the "Environmental Protection Agency," to: "USEPA, Fines & Penalties, P.O. Box 979077, St. Louis, MO 63197-9000," and Respondent has noted on the penalty payment check "Spill Fund-311" and the docket number of this case, "CWA-06-2016-4321."

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

Failure by the Respondent to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 USC §1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for the violations of the SPCC regulations described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulations. By its first signature, EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

This Expedited Settlement is binding on the parties signing below, and is effective upon EPA's filing of the document with the Regional Hearing Clerk.

APPROVED BY EPA:

for J. Chris Peterson Date: 8/4/16
Ronald D. Crossland
Associate Director
Emergency Management Branch
Superfund Division

APPROVED BY RESPONDENT:

Name (print): JAY WHIPPLE

Title (print): MANAGER

Date: 24 AUG 16
Signature

Estimated cost for correcting the violation(s) is $10,000

IT IS SO ORDERED:

Date: 10/6/16
Carl E. Edlund, P.E.
Director
Superfund Division

Findings, Alleged Violations, and Proposed Penalty Form

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 6 under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name: Circle 9 Resources, LLC	Docket Number: **CWA-06-2016-4321**
Facility Name: School Land 66 SWD Facility	Date: 6/13/2016
Address: P. O. Box 18734	Inspection Number: **SPCC-OK-2016-00106**
City: Oklahoma City	Inspectors Name: Tom McKay
State: OK Zip Code: 73116	EPA Approving Official: Chris Ruhl
Contact: Mr. Jon Crosby (405) 286-1910	Enforcement Contacts: Misty Ward (214)665-6418

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Summary of Findings

(Onshore Oil Production Facilities)

GENERAL TOPICS: 112.3(a),(d),(e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)
(When the SPCC Plan review penalty exceeds $1,500.00 enter only the maximum allowable of $1,500.00.)

- [ ] No Spill Prevention Control and Countermeasure Plan- *112.3* $1,500.00
- [ ] Plan not certified by a professional engineer- *112.3(d)* 450.00
- [ ] Certification lacks one or more required elements- *112.3(d)(1)* 100.00
- [ ] No management approval of plan- *112.7* 450.00
- [ ] Plan not maintained on site (if facility is manned at least 4 hrs/day) or not available for review- *112.3(e)(1)* 300.00
- [ ] No evidence of five-year review of plan by owner/operator- *112.5(b)* 75.00
- [ ] No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential- *112.5(a)* 75.00
- [ ] Amendment(s) not certified by a professional engineer- *112.5(c)* 150.00

- [ ] Plan does not follow sequence of the rule and/or cross-reference not provided- *112.7* 150.00
- [ ] Plan does not discuss additional procedures/methods/equipment not yet fully operational- *112.7* 75.00
- [ ] Plan does not discuss alternative environmental protection to SPCC requirements- *112.7(a)(2)* 200.00
- [ ] Plan has inadequate or no facility diagram- *112.7(a)(3)* 75.00
- [ ] Inadequate or no listing of type of oil and storage capacity layout of containers- *112.7(a)(3)(i)* 50.00
- [ ] Inadequate or no discharge prevention measures- *112.7(a)(3)(ii)* 50.00
- [ ] Inadequate or no description of drainage controls- *112.7(a)(3)(iii)* 50.00
- [ ] Inadequate or no description of countermeasures for discharge discovery, response and cleanup- *112.7(a)(3)(iv)* ... 50.00
- [ ] Recovered materials not disposed of in accordance with legal requirements- *112.7(a)(3)(v)* 50.00
- [ ] No contact list & phone numbers for response & reporting discharges- *112.7(a)(3)(vi)* 50.00
- [ ] Plan has inadequate or no information and procedures for reporting a discharge- *112.7(a)(4)* 100.00
- [ ] Plan has inadequate or no description and procedures to use when a discharge may occur- *112.7(a)(5)* 150.00
- [ ] Inadequate or no prediction of equipment failure which could result in discharges- *112.7(b)* 150.00
- [ ] Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- (including truck transfer areas) *112.7(c)* 400.00

- If claiming impracticability of appropriate containment/diversionary structures:

- [ ] Impracticability has not been clearly denoted and demonstrated in plan- *112.7(d)* 100.00
- [ ] No contingency plan- *112.7(d)(1)* 150.00
- [ ] No written commitment of manpower, equipment, and materials- *112.7(d)(2)* 150.00
- [ ] No periodic integrity and leak testing , if impracticability is claimed - *112.7(d)* 150.00
- [ ] Plan has no or inadequate discussion of general requirements not already specified- *112.7(a)(1)* 75.00

QUALIFIED FACILITY REQUIREMENTS: 112.6

- [ ] Qualified Facility: No Self certification- *112.6(a)* 450.00
- [ ] Qualified Facility: Self certification lacks required elements- *112.6(a)* 100.00
- [ ] Qualified Facility: Technical amendments not certified- *112.6(b)* 150.00
- [ ] Qualified Facility: Un-allowed deviations from requirements- *112.6(c)* 100.00
- [ ] Qualified Facility: Environmental Equivalence or Impracticability not certified by PE- *112.6(d)* 350.00

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

- [ ] The Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - *112.7(e)* 75.00
- [ ] Inspections and tests required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility- *112.7(e)* 75.00
- [x] No Inspection records were available for review - *112.7(e)* 200.00

Written procedures and/or a record of inspections and/or customary business records:

- [ ] Are not signed by appropriate supervisor or inspector- *112.7(e)* 75.00
- [ ] Are not maintained for three years- *112.7(e)* 75.00

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

- [ ] No training on the operation and maintenance of equipment to prevent discharges- *112.7(f)(1)* 75.00
- [ ] No training on discharge procedure protocols- *112.7(f)(1)* 75.00
- [ ] No training on the applicable pollution control laws, rules, and regulations- *112.7(f)(1)* 75.00
- [x] Training records not maintained for three years- *112.7(f)* 75.00
- [ ] No training on the contents of the SPCC Plan- *112.7(f)(1)* 75.00
- [ ] No designated person accountable for spill prevention- *112.7(f)(2)* 75.00
- [ ] Spill prevention briefings are not scheduled and conducted periodically- *112.7(f)(3)* 75.00
- [ ] Plan has inadequate or no discussion of personnel and spill prevention procedures- *112.7(f)* 75.00

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING 112.7(c) and/or (h-j)

- [ ] Inadequate containment for Loading Area (not consistent with 112.7(c)) - *112.7(c)* 400.00
- [ ] Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- *112.7(h)(1)*. 750.00
- [ ] Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck- *112.7(h)(1)*. 450.00
- [ ] There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before complete disconnect from transfer lines- *112.7(h)(2)*. 300.00
- [ ] There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck- *112.7(h)(3)*. 150.00
- [ ] Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack -*112.7(j)*. 75.00

QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)

- ☐ Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure d/or a discharge- *112.7(k)(2)(i)* 150.00
- ☐ Failure to provide an oil spill contingency plan- *112.7(k)(2)(ii)(A)* 150.00
- ☐ No written commitment of manpower, equipment, and materials- *112.7(k)(2)(ii)(B)* 150.00

OIL PRODUCTION FACILITY DRAINAGE 112.9(b)

- ☐ Drains for the secondary containment systems at tank batteries **and** separation **and** central treating areas are not closed and sealed at all times except when uncontaminated rainwater is being drained- *112.9(b)(1)* 600.00
- ☐ Prior to drainage of diked areas, rainwater is not inspected, valves opened and resealed under responsible supervision and records kept of such events- *112.9(b)(1)* 450.00
- ☐ Accumulated oil on the rainwater is not removed and returned to storage or disposed of in accordance with legally approved methods- *112.9(b)(1)* 300.00
- ☒ Field drainage system (drainage ditches and road ditches), oil traps, sumps and/or skimmers are not regularly inspected and/or oil is not promptly removed- *112.9(b)(2)* 300.00
- ☐ Inadequate or no records maintained for drainage events- *112.7* 75.00
- ☐ Plan has inadequate or no discussion or procedures for facility drainages- *112.7(a)(1)* 75.00

OIL PRODUCTION FACILITY BULK STORAGE CONTAINERS 112.9(c)

- ☐ Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture- *112.7(i)* 75.00
- ☐ Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture- *112.7(i)* 300.00
- ☐ Container material and construction are not compatible with the oil stored and the conditions of storage- *112.9(c)(1)* 450.00
- ☒ Size of secondary containment appears to be inadequate for containers and treating facilities- *112.9(c)(2)* 750.00
- ☐ Excessive vegetation which affects the integrity of the containment- *112.9(c)(2)* 150.00
- ☐ Walls of containment system are slightly eroded or have low areas- *112.9(c)(2)* 300.00
- ☐ Secondary containment materials are not sufficiently impervious to contain oil- *112.9(c)(2)* 375.00
- ☐ Visual inspections of containers, foundation and supports are not conducted periodically for deterioration and maintenance needs- *112.9(c)(3)* 450.00

- [ ] Bank battery installations are not in accordance with good engineering practice because <u>none</u> of the following are present- *112.9(c)(4)* 450.00

  (1) Adequate tank capacity to prevent tank overfill- *112.9(c)(4)(i)*, **or**
  (2) Overflow equalizing lines between the tanks- *112.9(c)(4)(ii)*, **or**
  (3) Vacuum protection to prevent tank collapse- *112.9(c)(4)(ii)*, **or**
  (4) High level alarms to generate and transmit an alarm signal where facilities are part of a computer control system- *112.9(c)(4)(iv)*.

- [ ] Plan has inadequate or no discussion of bulk storage tanks- *112.7(a)(1)* 75.00

FACILITY TRANSFER OPERATIONS, OIL PRODUCTION FACILITY 112.9(D)

- [x] Above ground valves and pipelines are not examined periodically on a scheduled basis for general condition (includes items, such as: flange joints, valve glands 2nd bodies, drip pans, pipeline supports, bleeder and gauge valves, polish rods/stuffing box.)- *112.9(d)(1)* 450.00

- [x] Brine and saltwater disposal facilities are not examined often- *112.9(d)(2)* 450.00

- [ ] Inadequate or no flowline maintenance program (includes: examination, corrosion protection, flowline replacement)- *112.9(d)(3)* 450.00

- [ ] Plan has inadequate or no discussion of oil production facilities- *112.7(a)(1)* 75.00

- [ ] Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part- *112.20(e)* 150.00
  (Do not use this if FRP subject, go to traditional enforcement)

TOTAL <u>$2225.00</u>

Docket No. CWA-06-2016-4321

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on 10/12, 2016, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

NAME: Jon Crosby
ADDRESS: P. O. Box 18734
Oklahoma City, OK 73116

Frankie Markham

Frankie Markham
OPA Enforcement Administrative Assistant