

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 SEP -4 AM 9:47

In the Matter of:

Sugar Daddy's, LLC
d/b/a Sugar Shack
22495 Highway 385
Deadwood, SD 57732

Respondent.

)
)
)
)
)
)
)
)
)
)

EXPEDITED CONSENT AGREEMENT

DOCKET NO. : CWA-08-2012-0027

REGION 8
EPA REGION 8
WARNING ON EPR

1. Pursuant to 40 C.F.R. § 22.13(b), Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Sugar Daddy's, LLC, by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasure (SPCC) Plan regulations, and agree as follows:
2. The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.
3. Respondent owns and/or operates Sugar Shack (Facility) located at 22495 Highway 385, Deadwood, South Dakota, in Pennington County.
4. The Facility is located adjacent to Jim Creek, a tributary to Boxelder Creek, a tributary to the Cheyenne River, which is a tributary to the Missouri River, a traditional navigable water. Discharges of harmful quantities of oil from the Facility could reasonably be expected to reach navigable waters of the United States or adjoining shorelines.
5. The Facility has a total storage capacity of approximately 2,000 gallons of oil and is subject to the SPCC regulations.

6. Respondent admits its Facility is subject to the SPCC regulations.
7. On September 22, 2010, Respondent replied to EPA's request for information and admitted that there was no SPCC Plan for the Facility.
8. On May 31, 2012, Respondent submitted an SPCC Plan for the Facility dated May 13, 2012, which was compliant with the SPCC regulations.
9. Respondent admits that from the date of purchase on September 22, 2010, until May 13, 2012, the Facility did not have an SPCC Plan in compliance with the SPCC regulations found at 40 C.F.R. § 112.3.
10. Respondent admits that EPA has jurisdiction in this proceeding.
11. Respondent waives its right to a hearing before any civil tribunal to contest any issue of law or fact set forth in this Agreement.
12. This Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement.
13. This Agreement contains all terms of the settlement agreed to by the parties.
14. Respondent consents and agrees to the assessment of a civil penalty of \$1,500.00 for violations of Section 311(j) of the Act, which shall be paid no later than thirty (30) days after the effective date of the Final Order by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF – 311" and the title and docket number of this case. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

If the Respondent sends payment by overnight mail, the payment shall be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire transfers shall be directed to:

Federal Reserve Bank of New York
ABA: 021030004
Account: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

15. The Respondent shall submit copies of the check (or, in the case of a wire transfer, copies of the confirmation) to the following persons:

Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

and

Cynthia Peterson
Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

16. Respondent will implement and maintain an SPCC plan for the Facility in accordance with 40 C.F.R. § 112.
17. Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this Agreement once incorporated into the Final Order, this Agreement is null and void, and EPA may pursue any applicable enforcement options.
18. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this Agreement and to bind Respondent to the terms and conditions of this Agreement.
19. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
20. Each party shall bear its own costs and attorneys fees in connection with this matter.
21. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this Agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By : [Signature]

Date: 8/17/12

Darcy O'Connor, Acting Director
UIC/FIFRA/OPA Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Sugar Daddy's, LLC, Respondent.

By : [Signature]

Date: 8/14/12

Name: Terri Johnston

Title: President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT AND FINAL ORDER** in the matter of **SUGAR DADDY'S LLC, d/b/a SUGAR SHACK; DOCKET NO.: CWA-08-2012-0027**, was filed with the Regional Hearing Clerk on September 4, 2012.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail on September 4, 2012, to:

Kerri Johnston, President
Sabrina M. Johnston
Sugar Daddy's LLC.
d/b/a Sugar Schack
22495 Highway 385
Deadwood, SD 57732

And emailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

September 4, 2012


Tina Artemis
Paralegal/Regional Hearing Clerk