



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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FILED
12/12/2023
4:58 PM
U.S. EPA REGION 8
HEARING CLERK

In the Matter of:

Bailey Enterprises, Inc.

Respondent

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EXPEDITED PENALTY ACTION
AND CONSENT AGREEMENT

Docket No.: CWA-08-2024-0003

On June 2, 2022, authorized representatives of the United States Environmental Protection Agency (EPA) conducted an inspection of Bailey Enterprises facility at 755 - 927 South Federal Boulevard, Riverton, Wyoming 82501. The convenience store, tire and auto service, and bulk plant are owned and/or operated by Bailey Enterprises, Inc. (Respondent). The purpose of the inspection was to evaluate Respondent's compliance with the Spill Prevention Control and Countermeasure (SPCC) regulations at 40 C.F.R. part 112, subparts A-C. The SPCC regulations were promulgated under section 311(j) of the Clean Water Act (Act), 33 U.S.C. § 1321(j).

As a result of the inspection, the EPA has found that Respondent, a "person" as defined in section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7), violated the SPCC regulations as described in attached Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form (Violations Form).

Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the violations set forth in the Violations Form have been corrected.

The purpose of this Expedited Penalty Action and Consent Agreement (Consent Agreement) is to settle Respondent's federal civil penalty liability for the violations set forth in the Violations Form. The Violations Form is incorporated into this Consent Agreement by reference.

Respondent consents to the assessment of a penalty in the amount of \$3,656. Respondent agrees that it shall, no later than 30 calendar days after an EPA Regional Judicial Officer or Regional Administrator issues a final order (Final Order) ratifying this Consent Agreement, make payment in this amount by any of the methods provided on the website <https://www.epa.gov/financial/makepayment>." A printout of this website is attached and entitled "Payment Instructions." The Respondent's payment shall indicate it is payable to "Environmental Protection Agency." In the check or other instrument of payment, the Respondent shall also reference the "Oil Spill Liability Trust Fund-311" and the docket number that appears on the Final Order. Within 24 hours of payment, Respondent shall also e-mail proof of payment to each of the following:

Darla Hohman (8ENF-RO-O)

U.S. EPA Region 8
RCRA/OPA
Enforcement Branch
and

R8_Hearing_Clerk@epa.gov

The term "proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements.

Consistent with Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), Respondent will not deduct penalties paid under this Consent Agreement for federal tax purposes.

This Consent Agreement and the Final Order will commence and conclude this proceeding pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the Final Order will resolve only the federal civil penalty claims for the specific violations alleged in the Violations Form. This settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal statutes or regulations, to enforce the provisions of this Consent Agreement and the Final Order. This Consent Agreement and the Final Order do not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and they do not affect the right of the EPA or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

Respondent neither admits nor denies the allegations set forth in the Violations Form, but Respondent admits that the EPA has jurisdiction over this matter under section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and 40 C.F.R. part 22. For the purposes of this proceeding, Respondent waives any right to contest the allegations in the Violations Form and its right to appeal the Final Order. Respondent agrees to bear its own costs and attorney's fees related to this Consent Agreement.

The Complainant and Respondent consent to service of this Consent Agreement and the Final Order at the following valid e-mail addresses: livingston.peggy@epa.gov (for Complainant), and mbailey@gowithbailey.com (for Respondent).

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Consent Agreement and to bind Respondent to it.

SIGNATURE BY RESPONDENT:

Signature  Date 9/17/23

Name and Title (print): Michael V. Bailey

Mailing Address: 755-927 South Federal Boulevard
Riverton, Wyoming 82501

E-mail Address: mbailey@gowithbailey.com
Telephone: 307-851-5171

SIGNATURE BY EPA COMPLAINANT:

Janice Pearson, Chief
RCRA and OPA Enforcement Branch
Region 8, U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202
pearson.janice@epa.gov
303-312-6354

Date: _____

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) and (c), the Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is hereby ORDERED to comply with all terms of the Consent Agreement, effective upon the date of signature of this Final Order.

Regional Judicial Officer

Date