



EXPEDITED SPCC SETTLEMENT AGREEMENT
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7, 11201 RENNER BOULEVARD, LENEXA, KANSAS 66219

2017 NOV 15 PM 2: 32

DOCKET NO. CWA-07-2017-0037

On: August 4, 2016

At: East Park Road and Hwy 169, Garnett, Kansas

Owned or operated by, Tailwater, Inc. – West Whiteside Lease (Respondent), an authorized representative of the U.S. Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act (33 U.S.C. § 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 SPILL PREVENTION CONTROL AND COUNTERMEASURE INSPECTION FINDINGS, ALLEGED VIOLATIONS, AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference.

This Expedited Settlement resolves Respondent's liability for Federal civil penalties for the violations of the SPCC regulations described in the Form. However, the EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by Respondent of the SPCC regulations or of any other federal statute or regulations. By its first signature, the EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

This proceeding and the Expedited Settlement are under the authority vested in the Administrator of the EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 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 \$300.

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

This Expedited Settlement is binding on the parties signing below, and is effective upon the Regional Judicial Officer's signature.

This settlement is subject to the following terms and conditions:

The EPA finds that Respondent is subject to the SPCC regulations, which are published at 40 C.F.R. Part 112, and has violated the regulations as further described in the Form. Respondent admits that he/she is subject to 40 C.F.R. Part 112 and that the EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections it may have to the EPA's jurisdiction.

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 \$300 payable to the "Environmental Protection Agency," via certified mail to:**

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, Missouri 63197-9000


and Respondent has noted on the penalty payment check Docket No. CWA-07-2017-0037 and "OSLTF - 311."
***The original, signed Settlement Agreement and copy of the penalty payment check must be sent via certified mail to:**

Christine Hoard
U.S. Environmental Protection Agency
Region 7, AWMD/CORP
11201 Renner Boulevard
Lenexa, Kansas 66219

APPROVED BY EPA:

 Date 11/8/17
Chief, Chemical & Oil Release Prevention Branch
Air & Waste Management Division

APPROVED BY RESPONDENT:

Name (print): CHRISTIAN L. MARTIN
Title (print): PRESIDENT
Signature: 
Date: 11/1/17

The estimated cost for correcting the violation(s) is:
\$ _____.


IT IS SO ORDERED:

 Date Nov. 15, 2017
Karina Borromeo
Regional Judicial Officer

**Spill Prevention Control and Countermeasure Inspection
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 7 under the authority vested in the Administrator of the EPA by Section 311(b)(6)(B)(l) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name Tailwater, Inc.	Docket Number CWA-07-2017-0037	
Facility Name West Whiteside Lease	Date 8/4/2016	
Address NW intersection of E Park Rd Hwy 169	Inspection Number N/A	
City Garnett	Inspector's Name Paul Doherty	
State KS	EPA Approving Official Scott Hayes	
Zip Code 66032	Enforcement Contacts: Christine Hoard	
Contact Dan Hutchinson		

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)
- Plan not certified by a professional engineer 112.3(d) (\$450)
- Certification lacks one or more required elements 112.3(d)(1) (\$100)
- No management approval of plan 112.7 (\$450)
- Plan not maintained on site (if facility is manned at least 4 hrs/day) or not available for review 112.3(e)(1) (\$300)
- No evidence of five-year review of plan by owner/operator 112.5(b) (\$75)
- 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)
- Amendment(s) not certified by a professional engineer 112.5(c) (\$150)
- Plan does not follow sequence of the rule and/or cross-reference not provided 112.7 (\$150)
- Plan does not discuss additional procedures/methods/equipment not yet fully operational 112.7 (\$75)

- Plan does not discuss alternative environmental protection to SPCC requirements 112.7(a)(2) (\$200)
- Plan has inadequate or no facility diagram 112.7(a)(3) (\$75)
- Inadequate or no listing of type of oil and storage capacity layout of containers 112.7(a)(3)(i) (\$50)
- Inadequate or no discharge prevention measures 112.7(a)(3)(ii) (\$50)
- Inadequate or no description of drainage controls 112.7(a)(3)(iii) (\$50)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup 112.7(a)(3)(iv) (\$50)
- Recovered materials not disposed of in accordance with legal requirements 112.7(a)(3)(v) (\$50)
- No contact list & phone numbers for response & reporting discharges 112.7(a)(3)(vi) (\$50)
- Plan has inadequate or no information and procedures for reporting a discharge 112.7(a)(4) (\$100)
- Plan has inadequate or no description and procedures to use when a discharge may occur 112.7(a)(5) (\$150)
- Inadequate or no prediction of equipment failure which could result in discharges 112.7(b) (\$150)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment (including truck transfer areas) 112.7(c) (\$400)

- If claiming impracticability of appropriate containment/diversionary structures:

- Impracticability has not been clearly denoted and demonstrated in plan 112.7(d) (\$100)
- No contingency plan 112.7(d)(1) (\$150)
- No written commitment of manpower, equipment, and materials 112.7(d)(2) (\$150)
- No periodic integrity and leak testing, if impracticability is claimed 112.7(d) (\$150)
- Plan has no or inadequate discussion of general requirements not already specified 112.7(a)(1) (\$75)

QUALIFIED FACILITY REQUIREMENTS: 112.6

- Qualified Facility: No Self certification 112.6(a) (\$450)
- Qualified Facility: Self certification lacks required elements 112.6(a) (\$100)
- Qualified Facility: Technical amendments not certified 112.6(b) (\$150)
- Qualified Facility: Un-allowed deviations from requirements 112.6(c) (\$100)
- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE 112.6(d) (\$350)

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 112.7(e) (\$75)

Inspections and tests required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility 112.7(e) (\$75)

No Inspection records were available for review 112.7(e) (\$200)

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)

Are not maintained for three years 112.7(e) (\$75)

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)

No training on discharge procedure protocols 112.7(f)(1) (\$75)

No training on the applicable pollution control laws, rules and regulations 112.7(f)(1) (\$75)

Training records not maintained for three years 112.7(f) (\$75)

No training on the contents of the SPCC Plan 112.7(f)(1) (\$75)

No designated person accountable for spill prevention 112.7(f)(2) (\$75)

Spill prevention briefings are not scheduled and conducted periodically 112.7(f)(3) (\$75)

Plan has inadequate or no discussion of personnel and spill prevention procedures 112.7(f) (\$75)

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)

Inadequate secondary containment, and/or rack drainage does not flow to catchment basin treatment system, or quick drainage system 112.7(h)(1) (\$750)

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)

There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake (\$300) interlock system to prevent vehicular departure before complete disconnect from transfer lines- 112.7(h)(2)

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)

Plan has no or inadequate discussion of general requirements not already specified 112.7(j) (\$75)

QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)

Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge 112.7(k)(2)(i) (\$150)

Failure to provide an oil spill contingency plan 112.7(k)(2)(ii)(A) (\$150)

No written commitment of manpower, equipment, and materials 112.7(k)(2)(ii)(B) (\$150)

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)
- 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)
- 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)
- 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)
- Inadequate or no records maintained for drainage events *112.7* (\$75)
- Plan has inadequate or no discussion or procedures for facility drainages *112.7(a)(1)* (\$75)

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)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture *112.7(i)* (\$300)
- Container material and construction are not compatible with the oil stored and the conditions of storage *112.9(c)(1)* (\$450)
- Size of secondary containment appears to be inadequate for containers and treating facilities *112.9(c)(2)* (\$750)
- Excessive vegetation which affects the integrity of the containment *112.9(c)(2)* (\$150)
- Walls of containment system are slightly eroded or have low areas *112.9(c)(2)* (\$300) \$300
- Secondary containment materials are not sufficiently impervious to contain oil *112.9(c)(2)* (\$375)
- Visual inspections of containers, foundation and supports are not conducted periodically for deterioration and maintenance needs *112.9(c)(3)* (\$450)
- Tank battery installations are not in accordance with good engineering practice because none of the following are present *112.9(c)(4)* (\$450)
 - (1) Adequate tank capacity to prevent tank overflow- *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)

FACILITY TRANSFER OPERATIONS, OIL PRODUCTION FACILITY 112.9(D)

- 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)

- Brine and saltwater disposal facilities are not examined often- 112.9(d)(2) (\$450)
- Inadequate or no flowline maintenance program (includes: examination, corrosion protection, flowline replacement)- 112.9(d)(3) (\$450)
- Plan has inadequate or no discussion of oil production facilities- 112.7(a)(1) (\$75)

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- 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)

(Do not use this if FRP subject; go to traditional enforcement)

TOTAL	\$300.00
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CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

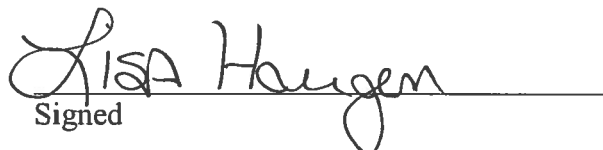
Copy via Email to Complainant:

Erin Weekley, Office of Regional Counsel
weekley.erin@epa.gov

Copy via Email to Respondent:

Christian Martin
martinoilproperties@coxinet.net

Dated this 15 day of November, 2017.


Signed _____