



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9, 75 Hawthorne Street, San Francisco, CA 94105



EXPEDITED SPILL PREVENTION, CONTROL, AND COUNTERMEASURE  
SETTLEMENT AGREEMENT

In the matter of Marborg Industries, Liquid Waste Division  
Docket No. SPCC-09-2022-0079

On November 16, 2021, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Marborg's facility known as Marborg Industries, Liquid Waste Division (Marborg), located at 23 N. Quarantina Street, Santa Barbara, California, to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, as amended, (33 U.S.C. §1321(j)), (the "Act" or "CWA"). EPA determined that Marborg, as owner or operator of the facility, violated regulations implementing Section 311(j) of the Act by failing to comply with the Oil Pollution Prevention regulations as noted on the attached Spill Prevention Control and Countermeasure Plan ("SPCC") Inspection Findings, Alleged Violations, and Proposed Penalty Form ("Violations Form") which is hereby incorporated by reference. By its signature below, EPA ratifies the inspection findings and alleged violations set forth in the Violations Form.

The parties enter into this Expedited Settlement in order to settle the civil violations described in the Violations Form for a penalty of \$1,075.00. The parties are authorized to enter into this Expedited Settlement under the authority of Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), and by 40 C.F.R. § 22.13(b).

This settlement is subject to the following terms and conditions:

EPA finds that Marborg is subject to the Oil Pollution Prevention regulations, and has violated the regulations as further described in the Violations Form. Marborg admits it is subject to the Oil Pollution Prevention regulations and that EPA has jurisdiction over Marborg and Marborg's conduct as described in the Violations Form. Marborg admits to the facts in the first paragraph of this Settlement Agreement, and waives any objections it may have to EPA's jurisdiction. Marborg consents to the assessment of the penalty stated above.

Marborg further certifies, subject to civil and criminal penalties for making a false submission to the United

States Government, that the violations identified in the Violations Form have been corrected and the facility is now in full compliance with the Oil Pollution Prevention regulations (or that the violations will be corrected and the facility brought into full compliance with the Oil Pollution Prevention regulations within an alternative time frame agreed to by EPA in writing). Marborg, in accordance with the attached Payment Instructions, has provided payment of the civil penalty.

The payment made pursuant to this Consent Agreement is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. §162(f), and, therefore, Marborg shall not claim it as a tax-deductible expenditure for purposes of federal, state or local law.

Upon signing and returning this Expedited Settlement to EPA, Marborg 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. Moreover, in entering into this Consent Agreement, Marborg agrees to bear its own costs and attorney's fees related to this Consent Agreement.

This Expedited Settlement is binding on the parties signing below and is effective upon filing with the Regional Hearing Clerk pursuant to 40 C.F.R. § 22.31(b). The parties consent to service of this Expedited Settlement Agreement and Final Order by e-mail at the following valid e-mail addresses: [reich.peter@epa.gov](mailto:reich.peter@epa.gov) and [helmlinger.andrew@epa.gov](mailto:helmlinger.andrew@epa.gov) (for Complainant), and [jrampton@marborg.com](mailto:jrampton@marborg.com) (for Marborg).

Once the Expedited Settlement is signed by the Regional Judicial Officer, the original Expedited Settlement will be filed with the Regional Hearing Clerk and a copy will be mailed to: U.S. EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive (MS-WG32B), Cincinnati, OH 45268. A copy of the Expedited Settlement will also be mailed to Marborg.

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

After this Expedited Settlement becomes effective, EPA will take no further civil penalty action against Marborg for the

alleged violations of the Oil Pollution Prevention regulations described in the Violations Form through the order date of this Expedited Agreement. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by Marborg of the Oil Pollution Prevention regulations or of any other federal statute or regulations.

APPROVED BY EPA:

ROBERTO RODRIGUEZ  
Digitally signed by ROBERTO RODRIGUEZ  
Date: 2023.01.31 15:25:24 -08'00' Date: \_\_\_\_\_  
Delegated Official

APPROVED BY MARBORG:

Name (print): Brian Borgatello  
Title (print): President  
Signature: Brian Borgatello Date: 1-25-2023

IT IS SO ORDERED:

STEVEN JAWGIEL  
Digitally signed by STEVEN JAWGIEL  
Date: 2023.02.01 12:43:39 -08'00'  
\_\_\_\_\_  
Steven L. Jawgiel Date  
Regional Judicial Officer  
U.S. EPA - Region IX

**CERTIFICATE OF SERVICE**

I hereby certify that on the date below, the original copy of the foregoing Expedited Settlement Agreement in the matter of Marborg Industries, Liquid Waste Division, Docket No. SPCC-09-2022-0079, was filed with the Regional Hearing Clerk, Region IX, and that copies were sent by electronic mail to:

**RESPONDENT**

Brian Borgatello  
President  
23 N. Quarantina Street  
Santa Barbara, CA 93103  
Jrampton@marborg.com

**COMPLAINANT**

Andrew Helmlinger  
Assistant Regional Counsel  
U.S. EPA – Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
Helmlinger.Andrew@epa.gov

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Ponly J. Tu                      Date  
Regional Hearing Clerk  
U.S. EPA – Region 9