

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Heather Thompson 2/23/15  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number OWA 01-2015-0016

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

City of South Portland  
Department of Public Works  
10 D'Neil Street  
South Portland, ME 04106

Total Dollar Amount of Receivable \$ 4,200 Due Date: 3/18/15

SEP due? Yes \_\_\_\_\_ No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:  
1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

Phone Number \_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

BY HAND

February 19, 2015

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency – Region 1  
5 Post Office Square, Suite 100  
Mail Code ORA18-1  
Boston, MA 02109-3912

RECEIVED  
FEB 19 2015  
EPA ORC  
Office of Regional Hearing Clerk

Re: In the Matters of City of South Portland, South Portland, Maine 04106; Docket Nos. CWA-01-2015-0016; CWA-01-2015-0017; and CWA-01-2015-0018

Dear Ms. Santiago,

Enclosed for filing, please find the following three (3) Expedited Settlement Agreements (ESAs) settling the matters referenced above:

- City of South Portland Public Works Department, Docket No. CWA-01-2015-0016;
- City of South Portland School Bus Maintenance Facility, Docket No. CWA-01-2015-0017; and
- City of South Portland Wastewater Pump Station, Docket No. CWA-01-2015-0018.

Pursuant to EPA Order Classification No. 2551.1A, dated June 7, 2006, the Regional Hearing Clerk (RHC) shall send a copy of the ESAs in any Clean Water Act (CWA) case assessing a penalty under the authority of Section 311 of the CWA to:

U.S. EPA  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-002)  
Cincinnati, OH 45268

In addition, the RHC must pass along the name and address of the regional attorney responsible for any collection recommendation if the civil debt becomes delinquent. For these matters, the responsible attorney is:

Tonia Bandrowicz  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency – Region 1  
5 Post Office Square, Suite 100  
Mail Code OES04-3  
Boston, MA 02109-3912  
Tel: (617) 918-1734

Thank you for your attention to this matter.

Sincerely,



*for* Heather L. Thompson  
OES Legal Office

Enclosure

**In the Matters of City of South Portland, South Portland, Maine 04106**  
**EPA Docket Nos. CWA-01-2015-0016; CWA-01-2015-0017; and CWA-01-2015-0018**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Expedited Settlement Agreements were transmitted to the following persons, in the manner specified, on the date below:

Original and one copy  
hand-delivered:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Copy by certified mail,  
Return receipt

James H. Gailey, City Manager  
City of South Portland  
25 Cottage Road  
South Portland, ME 04106

Suzanne T. Godin  
Superintendent of Schools  
130 Wescott Road  
South Portland, ME 04106

Dated: 2/19/15

  
\_\_\_\_\_  
Heather Thompson  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency,  
Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
Phone: (617) 918-1320  
Fax: (617) 918-0320





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1, 5 POST OFFICE SQUARE, BOSTON, MASSACHUSETTS 02109-3912

RECEIVED

EXPEDITED SPCC SETTLEMENT AGREEMENT

FEB 19 2015

Docket No. CWA-01-2015-0016

On July 25, 2014, the City of South Portland responded to the U.S. Environmental Protection Agency's ("EPA") request for information about Respondent's compliance with the Oil Pollution Prevention regulations promulgated at 40 C.F.R. part 112 under Section 311(j) of the Clean Water Act (the "Act"), 33 U.S.C. § 1321(j). Based on the City's response, EPA determined that Respondent, as owner or operator of the Department of Public Works Facility located at 10 O'Neil Street, South Portland, ME, 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 and Violations Form ("Violations Form") which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection Findings and 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 \$4,200. 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 the Respondent is subject to the Oil Pollution Prevention regulations, and has violated the regulations as further described in the Violations Form. Respondent admits it is subject to the Oil Pollution Prevention regulations and that EPA has jurisdiction over Respondent and Respondent's conduct as described in the Violations Form. Respondent admits to the facts in the first paragraph of this Settlement Agreement, and waives any objections it may have to EPA's jurisdiction. Respondent consents to the assessment of the penalty stated above.

Respondent 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 in full compliance with the Oil Pollution Prevention regulations within an alternative time frame agreed to by EPA in writing). Respondent has sent a certified check in the amount of \$4,200, payable to the Environmental Protection Agency, to: U.S. Environmental Protection Agency, Fines and Penalties, P.O. Box 979077, St. Louis, MO 63197-9000. This check shall reference the docket number of the case and the "Oil Spill Liability Trust Fund - 311." Respondent shall send a copy of the check to Heather Thompson, Environmental Protection Agency, Region 1, 5 Post Office Square (OES04-4), Boston, Massachusetts 02109-3912, and to the Regional Hearing Clerk, Environmental Protection Agency, Region 1, 5 Post Office Square (ORC-18), Boston, Massachusetts 02109-3912.

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.

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).

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-002), Cincinnati, OH 45268. A copy of the Expedited Settlement will also be mailed to the Respondent.

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 Violations Form.

After this Expedited Settlement becomes effective, EPA will take no further civil penalty action against Respondent for the 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 Respondent of the Oil Pollution Prevention regulations or of any other federal statute or regulations.

APPROVED BY EPA:

Joanna Jerison Date: 1/8/15  
Joanna Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship

APPROVED BY RESPONDENT:

Name (print): JAMES H. GAILEY  
Title (print): CITY MANAGER  
Signature: James H. Gailey Date: 1/12/15

IT IS SO ORDERED:

LeAnn Jensen Date: 2/18/15  
LeAnn Jensen  
Acting Regional Judicial Officer



## Spill Prevention Control and Countermeasure Inspection Findings and Violations Form

Company Name: City of South Portland		Docket Number: CWA - 01-2015-0016	
Facility Name: Public Works Department		Date of Inspection: n/a (308 Letter 6/27/14)	
Address: 10 O'Neil Street			
City: South Portland		Inspector's Name: Alex Rosenberg	
State: ME	Zip Code: 04106	Enforcement Contact: Alex Rosenberg, Spill Prevention Compliance Officer Tel: 617-918-1709	
Facility Contact:		207-772-4457	



### Summary of Findings

*EPA sent an information request letter to the City of South Portland ("City") on June 27, 2014 related to the City's compliance with the Oil Pollution Prevention regulations. In response, the City acknowledged that the SPCC regulations apply to the City's Public Works Facility located at 10 O'Neil Street, and that the City did not have an SPCC plan nor adequate secondary containment for all of its above-ground oil storage tanks ("ASTs") at the facility.*

*EPA received an updated plan and confirmation of adequate secondary containment for all ASTs at the Facility by August 31, 2014.*

*General Address of the City of South Portland is 25 Cottage Street, South Portland ME, 04106*

#### GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

- No Spill Prevention Control and Countermeasure Plan-112.3
- Plan not certified by a professional engineer- 112.3(d)
- Certification lacks one or more required elements - 112.3(d)(1)
- No management approval of plan- 112.7
- Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1)
- No evidence of five-year review of plan by owner/operator- 112.5(b)
- No plan amendment(s) if the facility has had a change in: design, construction, operation,

**WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)**

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- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - 112.7(e)
- Inspections and tests required are not in accordance with written procedures developed for the facility- 112.7(e)
- No Inspection records were available for review - 112.7(e)
  - Written procedures and/or a record of inspections and/or customary business records:
- Are not signed by appropriate supervisor or inspector- 112.7(e)
- Are not maintained for three years- 112.7(e)

**PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)**

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- No training on the operation and maintenance of equipment to prevent discharges and or facility operations - 112.7(f)(1)
- No training on discharge procedure protocols- 112.7(f)(1)
- No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- 112.7(f)(1)
- Training records not maintained for 3 years- 112.7(f)(1)
- No designated person accountable for spill prevention- 112.7(f)(2)
- Spill prevention briefings are not scheduled and conducted at least annually- 112.7(f)(3)
- Plan has inadequate or no discussion of personnel and spill prevention procedures-112.7(a)(1)

**SECURITY (excluding Production Facilities) 112.7(g)**

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- Master flow and drain valves that permit direct outward flow to the surface are not secured in closed position when in a non-operating or standby status- 112.7(g).
- Starter controls on pumps are not locked in the "off" position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status- 112.7(g)
- Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- 112.7(g)
- Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- 112.7(g)
- Plan has inadequate or no discussion of facility security-112.7(a)(1), (g)

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

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- Containment systems, including walls and floors are not sufficiently impervious to contain oil- *112.8(c)(2)*
- Excessive vegetation which affects the integrity
- Walls of containment system slightly eroded or have low areas
- Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- *112.8(c)(4)*
- Partially buried tanks do not have buried sections protected from corrosion- *112.8(c)(5)*
- Aboveground tanks are not subject to visual inspections- *112.8(c)(6)*
- Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- *112.8(c)(6)*
- Records of inspections (or customary business records) do not include inspections of tank supports/foundation, deterioration, discharges and/or accumulations of oil inside diked areas- *112.8(c)(6)*
- Steam return /exhaust of internal heating coils which discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system- *112.8(c)(7)*
- Tank battery installations are not in accordance with good engineering practice because none of the following are present- *112.8(c)(8)*
- No testing of liquid level sensing devices to ensure proper operation- *112.8(c)(8)(v)*
- Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- *112.8(c)(9)*
- Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- *112.8(c)(10)*
- Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- *112.8(c)(11)*
- Secondary containment inadequate for mobile or portable storage tanks- *112.8(c)(11)*
- Plan has inadequate or no discussion of bulk storage tanks-*112.7(a)(1)*

**FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)**

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- Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -*112.8(d)(1)*
  - Corrective action is not taken on exposed sections of buried piping when deterioration is found- *112.8(d)(1)*
  - Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- *112.8(d)(2)*
  - Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- *112.8(d)(3)*
  - Aboveground valves, piping and appurtenances are not inspected regularly- *112.8(d)(4)*
  - Periodic integrity and leak testing of buried piping is not conducted- *112.8(d)(4)*



**MANAGEMENT APPROVAL & REVIEW – [112.5 & 112.7(d)(2)]**

**MANAGEMENT APPROVAL**

The South Portland Public Works Department (hereafter referred to as “the City”) is committed to the prevention of discharges of oil to navigable waters or the environment, and maintains the highest standards for spill prevention control and countermeasures through periodic review, updating, and implementation of this Spill Prevention Control and Countermeasure (SPCC) Plan. The City will provide the human resources, equipment and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful.

Authorized Facility Representative: Douglas Howard      Signature: 

Title: Public Works Director

**MANAGEMENT REVIEW**

A review and evaluation of this SPCC Plan is conducted at least once every five years. As a result of this review and evaluation, the City will amend the SPCC Plan within six months of the review to include more effective prevention and control technology if:

- (1) such technology will significantly reduce the likelihood of a spill event from the facility, and
- (2) if such technology has been field-proven at the time of review.

This SPCC Plan will also be amended within six months after a change in the facility design, construction, operation, or maintenance occurs which materially affects the facility’s potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines.

Any technical amendment to the SPCC Plan shall be certified by a Professional Engineer.

<u>Review Dates</u>	<u>Signature</u>	<u>Amendment Required? (Y/N)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

## SELF-CERTIFICATION STATEMENT – [§112.6(a)(1)]

The owner or operator of the facility certifies that each of the following is true in order to comply with the SPCC requirements:

I Douglas Howard certify that the following is accurate:

1. I am familiar with the applicable requirements of 40 CFR part 112;
2. I have visited and examined the facility;
3. This Plan was prepared in accordance with accepted and sound industry practices and standards;
4. Procedures for required inspections and testing have been established in accordance with industry inspection and testing standards or recommended practices;
5. I will fully implement the Plan;
6. This facility meets the following qualification criteria (under §112.3(g)(1)):
  - a. The aggregate aboveground oil storage capacity of the facility is 10,000 U.S. gallons or less; and
  - b. The facility has had no single discharge as described in §112.1(b) exceeding 1,000 U.S. gallons and no two discharges as described in §112.1(b) each exceeding 42 U.S. gallons within any twelve month period in the three years prior to the SPCC Plan self-certification date, or since becoming subject to 40 CFR part 112 if the facility has been in operation for less than three years (not including oil discharges as described in §112.1(b) that are the result of natural disasters, acts of war, or terrorism); and
  - c. There is no individual oil storage container at the facility with an aboveground capacity greater than 5,000 U.S. gallons.
7. This Plan does not deviate from any requirement of 40 CFR part 112 as allowed by §112.7(a)(2) (environmental equivalence) and §112.7(d) (impracticability of secondary containment) or include any measures pursuant to §112.9(c)(6) for produced water containers and any associated piping;
8. This Plan and individual(s) responsible for implementing this Plan have the full approval of management and I have committed the necessary resources to fully implement this Plan.


I also understand my other obligations relating to the storage of oil at this facility, including, among others:

1. To report any oil discharge to navigable waters or adjoining shorelines to the appropriate authorities. Notification information is included in this Plan.



2. To review and amend this Plan whenever there is a material change at the facility that affects the potential for an oil discharge, and at least once every five years. Reviews and amendments are recorded in attached Five Year Review and Technical Amendment logs (Appendix J).

I certify that I have satisfied the requirement to prepare and implement a Plan under §112.3 and all of the requirements under §112.6(a). I certify that the information contained in this Plan is true.

Signature 

Title: Public Works Director

Name Douglas Howard

Date: July 18, 2014