

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Suite 155, Seattle, Washington 98101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2023-0021

Spill Prevention Control and Countermeasure Regulations



The United States Environmental Protection Agency (EPA) assessed the facility owned and/or operated by Ryan Smith and Noah Smith (Respondents) located at Section #, T. 9 N/., R. 14 E., Fairbanks Meridian; USGS Quad Map Central C-2 SW; Latitude 65.57033° N., Longitude 144.85272° W.; at Mile Post 126.2 of the Steese Highway, near Central, Alaska 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, as amended, (33 U.S.C. § 1321(j)), (the "Act" or "CWA"). EPA determined that Respondents, as owners or operators 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 ("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 **\$1,313**. 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 Respondents are subject to the Oil Pollution Prevention regulations and have violated the regulations as further described in the Violations Form. Respondents admit it is subject to the Oil Pollution Prevention regulations and that EPA has jurisdiction over Respondents and Respondents' conduct as described in the Violations Form. Respondents admit to the facts in the first paragraph of this Settlement Agreement and waives any objections it may have to EPA's jurisdiction. Respondents consent to the assessment of the penalty stated above.

Respondents further certify, 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). Respondents, in accordance with the attached Payment Instructions, have 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, Respondent

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, Respondents waive the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consent to EPA's approval of the Expedited Settlement without further notice. Moreover, in entering into this Consent Agreement, the Respondents agree 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: andrews.raymond@epa.gov (for Complainant), and alaskaconstructionl@gmail.com (for Respondents).

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 emailed to the Respondents.

If Respondents do 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 Respondents 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 Respondents of the Oil Pollution Prevention regulations or of any other federal statute or regulations.

Attachments:

1. Violations Form
2. Payment Instructions

APPROVED BY EPA:


EDWARD KOWALSKI Digitally signed by EDWARD
KOWALSKI
Date: 2023.02.23 10:07:15 -08'00'

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENTS:

Name
(print): Ryan Smith

Title
(print): operator-owner

 Date: 2-8-23
Signature

Estimated cost for correcting the violation(s) is: \$ 0.00

Having determined that this Agreement is authorized by law,
IT IS SO ORDERED:

RICHARD MEDNICK Digitally signed by RICHARD
MEDNICK
Date: 2023.03.01 14:32:23 -08'00'

Richard Mednick
Regional Judicial Officer, Region 10