

THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK PRINTED ON THE BACK, THE FRONT OF THE DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE. ABSENCE OF THESE FEATURES WILL INDICATE A COPY.



First Interstate Bank
(406) 255-5000
401 N. 31st St. P.O. Box 30918
Billings, Montana 59116
AGENT FOR MONEYGRAM

EPA Docket #CWA-10-2019-0107

5071891611

93-541/820

DATE Jul 25, 2019

REMITTER JACKSON COUNTY

PAY TO THE ORDER OF OIL SPILL LIABILITY TRUST FUND

\$ 2,825.00

PAY EXACTLY \$2,825 DOL 00 CTS

OFFICIAL CHECK

3455

DRAWER: MONEYGRAM PAYMENT SYSTEMS, INC.
P.O. BOX 9476, MINNEAPOLIS, MN 55480
DRAWEE: FIRST INTERSTATE BANK
BILLINGS, MT

Kathleen M. Lund

⑆092005411⑆0050? 18916116⑈

RECEIVED

19 SEP 16 AM 10:29

HEARINGS CLERK
EPA - REGION 10

RECEIVED

SEP - 6 2019

EPA - REGION 10

Enforcement & Compliance Assurance Division

014813 / M 3735731



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 10, 1200 6th Avenue, Suite 155, Seattle, Washington, 98101
EXPEDITED SPCC SETTLEMENT AGREEMENT

RECEIVED
 SEP 16 AM 10:29
 HEARINGS CLERK
 EPA - REGION 10

DOCKET NO. CWA-10-2019-0107

On: **October 3, 2018**
 At: Rogue Valley International Airport - Rental Car Facility
 Owned or operated: Jackson County Airport Authority (Respondent)


After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for the violations of the SPCC regulations described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulations. By its first signature, EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

An authorized representative of the United States Environmental Protection Agency (EPA) conducted a Spill Prevention, Control, and Countermeasures (SPCC) inspection on the above referenced date. Later, an EPA authorized representative used the inspection report to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 CFR 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 SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference.

This Expedited Settlement is binding on the parties signing below, and is effective upon EPA's filing of the document with the Regional Hearing Clerk.

APPROVED BY EPA: 
 Date: 7/10/2019
 Edward J. Kowalski, Director
 Enforcement and Compliance Assurance Division

The parties are authorized to enter into this Expedited Settlement under the authority vested in the Administrator of 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 CFR § 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 \$2,825.


APPROVED BY RESPONDENT:
 Name (print): DANNY JORDAN
 County Administrator
 Title (print): _____
 Signature:  Date: 9/24/19

This settlement is subject to the following terms and conditions:

EPA finds the Respondent is subject to the SPCC regulations, which are published at 40 CFR Part 112, and has violated the regulations as further described in the Form. The Respondent admits he/she is subject to 40 CFR Part 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Respondent does not contest the Inspection Findings, and waives any objections it may have to EPA's jurisdiction. The 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 \$2,825, payable to the "Oil Spill Liability Trust Fund" to: "U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000". Respondent has noted on the penalty payment check "EPA" and the docket number of this case, "CWA-10-2019-0107."

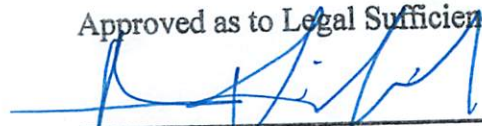
Estimated cost for correcting the violation(s) is \$ 5,600

Form. IT IS SO ORDERED:


 Date: 9/12/19
 Richard Mednick
 Regional Judicial Officer
 EPA Region 10

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.

Approved as to Legal Sufficiency:


 Peter Philbrick
 SR Assistant County Counsel

If the 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 Form.

Certificate of Service

The undersigned certifies that the original signed by the Regional Judicial Officer of the attached **EXPEDITED SPCC SETTLEMENT AGREEMENT, In the Matter of: Rogue Valley Airport – Rental Car Facility, Docket No.: CWA-10-2019-0107**, was filed with the Regional Hearing Clerk, and that true and correct copies of the original were served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Jason Rodriguez, Compliance Officer
U.S. Environmental Protection Agency
1200 Sixth Avenue, ECAD 20-C04
Suite 155
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mr. Jerry Brienza
Airport Director
Rogue Valley International Airport
1000 Terminal Loop Parkway, Suite 201
Medford, Oregon 97504

DATED this 16 day of September, 2019



Signature

Teresa Young
Regional Hearing Clerk
EPA Region 10

To: EPA Region 10 Regional Judicial Officer

From: Jason Rodriguez, NPDES Case Officer

Date: June 17, 2019

Subj: Rogue Valley Airport – Rental Car Facility – CWA-10-2019-0107

This memo addresses whether penalty factors stated at 33 USC 1319(g)(3) (copied below) were considered during case development for the above referenced case:

In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

EPA HQ's Office of Enforcement and Compliance Assurance developed iterations of the SW Construction General Permit Expedited Settlement Offer (ESO) documents and released the documents with accompanying memos dated, August 21, 2003 and May 19, 2006. A link to the May 19, 2006 Memorandum for the "Revised Expedited Settlement Offer Program for Storm Water (Construction)" is below:

<https://www.epa.gov/enforcement/expedited-settlement-offer-eso-program-storm-water-construction-may-19-2006>

Recognizing that the ESO documents were developed through a national process with frontloaded legal review allowing case officers to issue penalty orders without case-specific legal review – the program hesitates to alter the documents. Fortunately, OECA is now in the process of revising the ESO documents creating the opportunity to add the language you suggested. We have forwarded your recommended language to Susan Bruce, the workgroup chair.

Immediate Demonstrations that ESO Process Considered CWA Statutory Penalty Factors:

The ESO consists of templates allowing a case officer to match up identified field violations with permit requirements and penalty amounts. I attempted to look under the hood of this process created by national workgroups to see if there is explicit consideration of penalty factors stated at 33 USC 1319(g)(3). The May 19, 2006 Memorandum does discuss several of the penalty factors stated at 33 USC 1319(g)(3). In addition, an explicit premise in the use of the SW CGP ESO is the following: "Regions implementing the ESO program should also use traditional administrative and judicial enforcement mechanisms to ensure a well-balanced enforcement program. Traditional enforcement actions should be pursued for violations where an expedited settlement offer does not adequately address the level of noncompliance or the nature of the violator (e.g., where there is evidence of significant environmental harm, large economic benefit or a recalcitrant violator) (5/19/2006)."

In short, the penalty factors at 33 USC 1319(g)(3) were considered when developing this SW ESA case.