



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

*In the Matter of McLaughlin Transportation Systems, Inc.*, Docket No. CWA-01-2023-0056

On February 21, 2023, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent’s facility known as McLaughlin Transportation Systems, Inc. at 20 Progress Avenue in Nashua, New Hampshire 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 Respondent, 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 \$11,746. 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 pursuant to Section 311(b)(6) of the Act, 33 U.S.C. § 1321(b) (6) and 40 C.F.R. Part 22. Respondent neither admits nor denies the specific factual allegations 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 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).

Respondent further agrees that within 10 days of the effective date of this ESA Respondent will make an electronic payment or will send a bank, cashier’s, or certified check in the amount of \$11,746, payable to the United States Treasury to: Environmental Protection Agency, Fines and Penalties, P.O. Box 979078, St. Louis,

MO 63197-9000. This check shall reference the case name and docket number (“In the Matter of McLaughlin Transportation Systems, Inc. Docket No. CWA-01-2023-0056”) and “Oil Spill Liability Trust Fund – 311.” If making an electronic payment Respondent shall follow the instructions available for making payments to EPA available at <https://www.epa.gov/financial/makepayment>

Respondent shall send an electronic copy of the check, or electronic proof of payment, to Diane Boudrot, at: [Boudrot.diane@epa.gov](mailto:Boudrot.diane@epa.gov) and to Wanda Santiago, Regional Hearing Clerk at: [R1\\_Hearing\\_Clerk\\_Filings@epa.gov](mailto:R1_Hearing_Clerk_Filings@epa.gov).

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, 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. Moreover, in entering into this Consent Agreement, the Respondent 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). Respondent agrees to acceptance of the Complainant’s: i. digital or an original signature on this Agreement; ii. service of the fully executed Agreement on the Respondent by mail or electronically by e-mail. Respondent understands that the mailing or e-mail address may be made public when the Agreement and Certificate of Service are filed and uploaded to a searchable database. Complainant agrees to acceptance of the Respondent’s digital or an original signature on this Agreement.

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

APPROVED BY EPA:

\_\_\_\_\_  
Date: \_\_\_\_\_  
James Chow, Acting Director,  
Enforcement and Compliance Assurance Division

6/13/23

Received by  
EPA Region 1  
Hearing Clerk

APPROVED BY RESPONDENT:

Name (print): MARISSA McLAUGHLIN

Title (print): MANAGER

Signature: \_\_\_\_\_ Date: 6.9.2023

*Marissa McLaughlin*

IT IS SO ORDERED:

\_\_\_\_\_  
LeAnn Jensen  
Regional Judicial Officer

Date: \_\_\_\_\_



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

Company Name:	Docket Number:
<b>McLaughlin Oil Company</b>	CWA-01-2023-0056
Facility Name:	Date of Inspection:
<b>McLaughlin Oil Company</b>	<b>February 21, 2023</b>
Corporate Address:	Facility Address:
<b>20 Progress Street</b>	<b>20 Progress Street</b>
City:	State and Zip Code:
<b>Nashua</b>	<b>NH 03062</b>
Facility Contact:	Inspector/Enforcement Contact:
<b>Marissa McLaughlin, Facility Manager</b> <a href="mailto:mrm@mcmoving.com">mrm@mcmoving.com</a> <b>Tel: 603-521-4335</b>	<b>Joseph Canzano, Inspector</b> <a href="mailto:canzano.joseph@epa.gov">canzano.joseph@epa.gov</a> <b>Tel: 617-918-1763</b>

### Summary of Findings

On February 21, 2023, EPA conducted an inspection at McLaughlin Oil Company oil storage terminal at 20 Progress Street in Nashua, New Hampshire (the "Facility"). The Facility has an aggregate aboveground oil storage capacity of 60,000-gallons. A spill has potential to discharge to a wetland which drains to Hale Brook, which flows into Hassells Brook. Hassells Brook flows to Salmon Brook, which flows into the Merrimack River. On March 7, 2023, the Facility notified EPA that it was taking steps to address issues listed in EPA's notice of deficiencies letter that followed the inspection. On April 11, 2023, the Facility submitted to EPA an amended SPCC plan. The violations below were detected on the day of the inspection and based on follow up information provided.

**(Bulk Storage Facilities)**

**GENERAL TOPICS: 40 CFR §112.3(a), (d), (e); §112.5(a), (b), (c); §112.7 (a), (b), (c), (d)**

<input type="checkbox"/>	No Spill Prevention Control and Countermeasure Plan - <i>112.3</i>
<input type="checkbox"/>	Plan not certified by a professional engineer - <i>112.3(d)</i>
<input checked="" type="checkbox"/>	Certification lacks one or more required elements - <i>112.3(d)(1)</i>
<input type="checkbox"/>	Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - <i>112.3(e)(1)</i>
<input type="checkbox"/>	No plan amendment(s) if the facility has had a change in design, construction, operation, or maintenance which affects the facility's discharge potential - <i>112.5(a)</i>
<input checked="" type="checkbox"/>	No evidence of five-year review of plan by owner/operator - <i>112.5(b)</i>
<input type="checkbox"/>	Amendment(s) not certified by a professional engineer - <i>112.5(c)</i>
<input type="checkbox"/>	No management approval of plan - <i>112.7</i>
<input type="checkbox"/>	Plan does not follow sequence of the rule and/or cross-reference not provided - <i>112.7</i>
<input type="checkbox"/>	Plan does not discuss additional procedures/methods/equipment not yet fully operational - <i>112.7</i>
<input type="checkbox"/>	Plan does not discuss conformance with SPCC requirement - <i>112.7(a)(1)</i>
<input type="checkbox"/>	Plan does not discuss alternative environmental protection to SPCC requirements - <i>112.7(a)(2)</i>
<input checked="" type="checkbox"/>	Plan has inadequate or no facility diagram, - <i>112.7(a)(3)</i>
<input checked="" type="checkbox"/>	Inadequate or no listing of type of oil and storage capacity of containers - <i>112.7(a)(3)(i)</i>
<input type="checkbox"/>	Inadequate or no discharge prevention measures - <i>112.7(a)(3)(ii)</i>
<input type="checkbox"/>	Inadequate or no description of drainage controls - <i>112.8(b)(3)</i>
<input type="checkbox"/>	Inadequate or no description of countermeasures for discharge discovery, response and cleanup - <i>112.7(a)(3)(iv)</i>
<input type="checkbox"/>	Methods of disposal of recovered materials not in accordance with legal requirements - <i>112.7(a)(3)(v)</i>
<input type="checkbox"/>	No contact list & phone numbers for response & reporting discharges - <i>112.7(a)(3)(vi)</i>
<input type="checkbox"/>	Plan has inadequate or no information and procedures for reporting a discharge - <i>112.7(a)(4)</i>
<input type="checkbox"/>	Plan has inadequate or no description and procedures to use when a discharge may occur - <i>112.7(a)(5)</i>
<input type="checkbox"/>	Inadequate or no prediction of equipment failure which could result in discharges - <i>112.7(b)</i>
<input type="checkbox"/>	Plan does not discuss, and facility does not implement appropriate containment/diversionary structures/equipment - <i>112.7(c)</i>
<input type="checkbox"/>	Inadequate containment or drainage for Loading Area - <i>112.7(c)</i>
<input type="checkbox"/>	Plan has no or inadequate discussion of any applicable more stringent State regulations, and guidelines - <i>112.7(j)</i>
<input type="checkbox"/>	Plan did not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e). <i>40 CFR 112.20(f)</i>
<input type="checkbox"/>	<b>- If claiming impracticability of appropriate containment/diversionary structures</b>
<input type="checkbox"/>	Impracticability has not been clearly denoted and demonstrated in plan - <i>112.7(d)</i>

<input type="checkbox"/>	No periodic integrity and leak testing - <a href="#">112.7(d)</a>
<input type="checkbox"/>	No contingency plan - <a href="#">112.7(d)(1)</a>
<input type="checkbox"/>	No written commitment of manpower, equipment, and materials - <a href="#">112.7(d)(2)</a>
<input type="checkbox"/>	Plan has no or inadequate discussion of general requirements not already specified - <a href="#">112.7(j)</a>

**QUALIFIED FACILITY REQUIREMENTS: §112.6**

<input type="checkbox"/>	Qualified Facility: No Self certification - <a href="#">112.6(a)</a>
<input type="checkbox"/>	Qualified Facility: Self certification lacks required elements - <a href="#">112.6(a) or (b)</a>
<input type="checkbox"/>	Qualified Facility: Technical amendments not certified - <a href="#">112.6(a) or (b)</a>
<input type="checkbox"/>	Qualified Facility: Qualified Facility Plan includes alternative measures not certified by licensed Professional Engineer - <a href="#">112.6(b)</a>
<input type="checkbox"/>	Facility: Environmental Equivalence or Impracticability not certified by licensed Professional Engineer - <a href="#">112.6(b)(4)</a>

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

<input checked="" type="checkbox"/>	Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - <a href="#">112.7(e)</a>
<input type="checkbox"/>	Inspections and tests required are not in accordance with written procedures developed for the facility. - <a href="#">112.7(e)</a>
<input checked="" type="checkbox"/>	No Inspection records were available for review - <a href="#">112.7(e)</a>
<input type="checkbox"/>	Are not signed by appropriate supervisor or inspector- <a href="#">112.7(e)</a>
<input checked="" type="checkbox"/>	Are not maintained for three years - <a href="#">112.7(e)</a>

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

<input checked="" type="checkbox"/>	No training documentation on the operation and maintenance of equipment to prevent discharges and for facility operations - <a href="#">112.7(f)(1)</a>
<input type="checkbox"/>	No training on discharge procedure protocols - <a href="#">112.7(f)(1)</a>
<input type="checkbox"/>	No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan - <a href="#">112.7(f)(1)</a>
<input type="checkbox"/>	No designated person accountable for spill prevention - <a href="#">112.7(f)(2)</a>
<input type="checkbox"/>	Spill prevention briefings are not scheduled and conducted at least once a year - <a href="#">112.7(f)(3)</a>
<input type="checkbox"/>	Plan has inadequate or no discussion of personnel training and spill prevention procedures - <a href="#">112.7(a)(1)</a>

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

<input type="checkbox"/>	Plan does not describe how the facility secures and controls access to the oil handling, processing and storage areas - <a href="#">112.7(g)</a>
<input type="checkbox"/>	Master flow and drain valves not secured - <a href="#">112.7(g)</a>

<input type="checkbox"/>	Starter controls on oil pumps not secured to prevent unauthorized access - <i>112.7(g)</i>
<input type="checkbox"/>	Out-of-service and loading/unloading connections of oil pipelines not adequately secured - <i>112.7(g)</i>
<input type="checkbox"/>	Plan does not address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges - <i>112.7(g)</i>

**FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING RACK: §112.7(h)**

<input type="checkbox"/>	Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system - <i>112.7(h)(1)</i>
<input checked="" type="checkbox"/>	Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck - <i>112.7(h)(1)</i>
<input type="checkbox"/>	There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before completing disconnect from transfer lines - <i>112.7(h)(2)</i>
<input type="checkbox"/>	There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck - <i>112.7(h)(3)</i>
<input type="checkbox"/>	Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack- <i>112.7(a)(1)</i>

**QUALIFIED OIL OPERATIONAL EQUIPMENT: §112.7(k)**

<input type="checkbox"/>	Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge - <i>112.7(k)(2)(i)</i>
<input type="checkbox"/>	Failure to provide an oil spill contingency plan - <i>112.7(k)(2)(ii)(A)</i>
<input type="checkbox"/>	No written commitment of manpower, equipment, and materials - <i>112.7(k)(2)(ii)(B)</i>

**FACILITY DRAINAGE: §112.8(b) & (c) and/or §112.12(b) & (c)**

<input type="checkbox"/>	Two “lift” pumps are not provided for more than one treatment unit - <i>112.8(b)(5)</i>
<input type="checkbox"/>	Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge - <i>112.8(b)(1)&amp;(2) and 112.8(c)(3)(i)</i>
<input type="checkbox"/>	Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision - <i>112.8(c)(3)(ii) &amp; (iii)</i>
<input checked="" type="checkbox"/>	Adequate records (or NPDES permit records) of drainage from diked areas not maintained - <i>112.8(c)(3)(iv)</i>
<input type="checkbox"/>	Drainage from un-diked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility - <i>112.8(b)(3)&amp;(4)</i>
<input checked="" type="checkbox"/>	Plan has inadequate or no discussion of facility drainage - <i>112.7(a)(1)</i>

**BULK STORAGE CONTAINERS: § 112.7(i), §112.8(c) and/or §112.12(c)**

<input type="checkbox"/>	Failure to conduct evaluation of field-constructed aboveground containers for risk of discharge or failure due to brittle fracture or another catastrophe - <i>112.7(i)</i>
--------------------------	---

<input checked="" type="checkbox"/>	Material and construction of containers not compatible with the oil stored and the conditions of storage such as pressure and temperature - <i>112.8(c)(1)</i>
<input type="checkbox"/>	Secondary containment capacity is inadequate - <i>112.8(c)(2)</i>
<input type="checkbox"/>	Secondary containment systems are not sufficiently impervious to contain oil - <i>112.8(c)(2)</i>
<input type="checkbox"/>	Completely buried metallic tanks are not protected from corrosion or are not subjected to regular pressure testing - <i>112.8(c)(4)</i>
<input type="checkbox"/>	Buried sections of partially buried metallic tanks are not protected from corrosion - <i>112.8(c)(5)</i>
<input type="checkbox"/>	Above ground containers are not subject to periodic integrity testing techniques such as visual inspections, hydrostatic testing, or other nondestructive testing methods - <i>112.8(c)(6)</i>
<input type="checkbox"/>	Above ground tanks are not subject to visual inspections - <i>112.8(c)(6)</i>
<input type="checkbox"/>	Records of inspections (or customary business records) do not include inspections of container supports/foundation, signs of container deterioration, discharges and/or accumulations of oil inside diked areas - <i>112.8(c)(6)</i>
<input type="checkbox"/>	Steam return /exhaust of internal heating coils that discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system - <i>112.8(c)(7)</i>
<input type="checkbox"/>	Container installations are not engineered or updated in accordance with good engineering practice because <u>none</u> of the following are present - <i>112.8(c)(8)</i>  - high liquid level alarm with audible or visual signal, or audible air vent - <i>112.8(c)(8)(i)</i>  - high liquid level pump cutoff devices set to stop flow at a predetermined level - <i>112.8(c)(8)(ii)</i>  - direct audible or code signal communication between container gauger and pumping station - <i>12.8(c)(8)(iii)</i>  - fast response system for determining liquid level of each bulk storage container, or direct vision gauges with a person present to monitor gauges and the overall filling of bulk storage containers - <i>112.8(c)(8)(iv)</i>
<input type="checkbox"/>	No testing of liquid level sensing devices to ensure proper operation - <i>112.8(c)(8)(v)</i>
<input type="checkbox"/>	Effluent treatment facilities not observed frequently to detect possible system upsets that could cause a discharge as described in §112.1(b) - <i>112.8(c)(9)</i>
<input checked="" type="checkbox"/>	Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected - <i>112.8(c)(10)</i>
<input checked="" type="checkbox"/>	Mobile or portable storage containers are not positioned or located to prevent discharged oil from reaching navigable water, or have inadequate secondary containment - <i>112.8(c)(11)</i>
<input checked="" type="checkbox"/>	Secondary containment inadequate for mobile or portable storage tanks - <i>112.8(c)(11)</i>
<input type="checkbox"/>	Plan has inadequate or no discussion of bulk storage tanks - <i>112.7(a)(1)</i>

**FACILITY TRANSFER OPERATIONS, PUMPING, AND  
FACILITY PROCESS: §112.8(d) and §112.12(d)**

<input type="checkbox"/>	Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection - <i>12.8(d)(1)</i>
<input type="checkbox"/>	Corrective action is not taken on exposed sections of buried piping when deterioration is found - <i>112.8(d)(1)</i>
<input type="checkbox"/>	Not-in-service or standby piping is not capped or blank-flanged and marked as to origin - <i>112.8(d)(2)</i>

<input type="checkbox"/>	Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction - <a href="#">112.8(d)(3)</a>
<input type="checkbox"/>	Above ground valves, piping and appurtenances are not inspected regularly- <a href="#">112.8(d)(4)</a>
<input type="checkbox"/>	Periodic integrity and leak testing of buried piping is not conducted at time of installation, modification, construction, relocation, or replacement - <a href="#">112.8(d)(4)</a>
<input type="checkbox"/>	Vehicle traffic is not warned of aboveground piping or other oil transfer operations - <a href="#">112.8(d)(5)</a>
<input type="checkbox"/>	Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process - <a href="#">112.7(a)(1)</a>

End of Citations