UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET, SAN FRANCISCO, CALIFORNIA 94105
EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO.: SPCC-09-2008-0018

On: March 4, 2008

At: 421 Payran St.
Petaluma, CA 94952

Owned & Operated by: Toby's Trucking, Inc. (Respondent)

An authorized representative of the United States Environmental Protection Agency ("EPA") conducted an inspection to determine compliance with the Oil Pollution Prevention ("SPCC") 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 failed to comply with the SPCC regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM ("Form"), which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection findings and Alleged Violations set forth in the Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further described in the Form. The Respondent admits to being subject to 40 CFR § 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections Respondent may have to EPA's jurisdiction.

EPA is 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 $1,400.00. The Respondent consents to the assessment of this penalty.

This Expedited Settlement also is subject to the following terms and conditions: 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 $1,400.00, payable to the "Treasurer, United States of America" with the notation "Spill Fund - 311" and the Docket Number stated above.

This Expedited Settlement must be returned by certified mail to: OPA Enforcement Coordinator, U.S. Environmental Protection Agency, Region 9 (SFD-9-4), 75 Hawthorne Street, San Francisco, California 94105-3901. The certified check for payment must be sent by certified mail to: U. S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

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.

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 immediately on the date filed with the Regional Hearing Clerk. 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 noncompliance identified in the Form.

APPROVED BY EPA:

Stacket for Date: 4/24/08
Keith Takata, Director
Superfund Division

APPROVED BY RESPONDENT:

Name (print): Toby GiAdomini

Title (print): Owner

Date 3-31-08
Signature

IT IS SO ORDERED:

Steven Jawgiel Date 04/25/08
Steven Jawgiel
Regional Judicial Officer

FILED
2008 APR 25 PM 2:19
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CLERK

R9 REV. 11/3/2003

Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 9 under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name Toby's Trucking, Inc.	Docket Number: SPCC-09-2008-0018
Facility Name Toby's Trucking, Inc.	Date 3/4/08
Address 421 Payran St.	Inspection Number **08-4035**
City: Petaluma	Inspector: Elizabeth M. Cox
State: CA Zip Code: 94952	EPA Approving Official: Keith Takata
Contact: Toby Giacomini Jr.	Enforcement Contacts: Mark Samolis Phone 415-947-4273

Summary of Inspection Findings

(Bulk Storage Facilities)

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

(When the SPCC Plan review penalty exceeds $1,000.00 enter only the minimum allowable of $1,000.00.)

- [X] No Spill Prevention Control and Countermeasure Plan- *112.3* $1,000.00
- [ ] Plan not certified by a professional engineer- *112.3(d)* 400.00
- [ ] No management approval of plan- *112.7* 300.00
- [ ] Plan not maintained on site (applies if facility is manned at least four (4) hours per day)- *112.3(e)(1)* 100.00
- [ ] Plan not available for review- *112.3(e)(1)* 300.00
- [ ] No evidence of five-year review of plan by owner/operator- *112.5(b)* 50.00
- [ ] No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential- *112.5(a)* 50.00
- [ ] Amendment(s) not certified by a professional engineer- *112.5(c)* 100.00
- [ ] Plan does not follow sequence of the rule and/or cross-reference not provided- *112.7* 100.00

☐ Plan does not discuss additional procedures/methods/equipment not yet fully operational- *112.7* 50.00

☐ Plan does not discuss conformance with SPCC requirement- *112.7(a)(1)* 50.00

☐ **Plan does not discuss alternative environmental protection to SPCC requirements-** ***112.7(a)(2)*** **. 50.00**

☐ **Plan has inadequate or no facility diagram-** ***112.7(a)(3)*** **. 50.00**

☐ **Plan has inadequate or no description of the physical layout of the facility-** ***112.7(a)(3)(i-vi)*** **. 100.00**

☐ **Plan has inadequate or no information and procedures for reporting a discharge-** ***112.7(a)(4)*** **. 100.00**

☐ Plan has inadequate or no description and procedures to use when a discharge may occur- *112.7(a)(5)* 100.00

☐ Inadequate or no prediction of equipment failure which could result in discharges- *112.7(b)* 100.00

☐ Plan does not discuss appropriate containment/diversionary structures/equipment- *112.7(c)* 100.00

- If claiming impracticability of appropriate containment/diversionary structures:

☐ Impracticability has not been clearly denoted and demonstrated- *112.7(d)* 400.00

☐ No contingency plan- *112.7(d)(1)* 100.00

☐ No written commitment of manpower, equipment, and materials- *112.7(d)(2)* 100.00

☐ Plan has inadequate or no discussion of conformance with SPCC rules or applicable State rules, regulations and guidelines- *112.7(j)* 50.00

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

☐ Inspections and tests required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility- *112.7(e)* 50.00

- Written procedures and/or a record of inspections and/or customary business records:

☐ Are not signed by appropriate supervisor or inspector- *112.7(e)* 50.00

☐ Are not kept with the plan- *112.7(e)* 50.00

☐ Are not maintained for three years- *112.7(e)* 50.00

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

☐ No training on the operation and maintenance of equipment to prevent discharges- *112.7(f)(1)* 50.00

☐ **No training on discharge procedure protocols-** ***112.7(f)(1)*** **. 50.00**

☐ No training on the applicable pollution control laws, rules, and regulations- *112.7(f)(1)* 50.00

☐ No training on general facility operations- *112.7(f)(1)* 50.00

☐ No training on the contents of the SPCC Plan- *112.7(f)(1)* 50.00

☐ No designated person accountable for spill prevention- *112.7(f)(2)* 50.00

☐ Spill prevention briefings are not scheduled and conducted periodically- *112.7(f)(3)* 50.00

☐ Plan has inadequate or no discussion of personnel and spill prevention procedures 50.00

SECURITY (excluding Production Facilities) 112.7(g)

☒ Facility not fully fenced and entrance gates are not locked and/or guarded when plant is unattended or not in production- *112.7(g)(1).* 100.00

☐ 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)(2).* 200.00

☐ 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)(3).* 50.00

☐ Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- *112.7(g)(4).* 50.00

☐ Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- *112.7(g)(5).* 100.00

☐ Plan has inadequate or no discussion of facility security 50.00

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

☐ Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- *112.7(h)(1).* 500.00

☐ Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck- *112.7(h)(1).* 300.00

☐ There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before complete disconnect from transfer lines- *112.7(h)(2).* . . 200.00

☐ There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck- *112.7(h)(3).* 100.00

☐ Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack. 50.00

FACILITY DRAINAGE FROM DIKED AREAS 112.8(b) & (c)

☐ Valves used for drainage from diked storage areas to drainage system, watercourse, or effluent treatment system not controlled to prevent a discharge- *112.8(b)(2).* 200.00

☐ **Run-off rainwater from diked areas is not inspected-** ***112.8(c)(3)(ii)*** **. 300.00**

☐ **Valves not opened and resealed under responsible supervision-** ***112.8(c)(3)(iii)*** **. 100.00**

☐ **Adequate records (or NPDES permit records) of drainage from diked areas not maintained-** ***112.8(c)(3)(iv)*** **50.00**

FACILITY DRAINAGE FROM UNDIKED AREAS 112.8(b)

☐ Drainage from undiked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility- *112.8(b)(3)&(4).* 400.00

☐ **Two "lift" pumps are not provided for more that one treatment unit-** ***112.8(b)(5)*** **. 100.00**

☐ Plan has inadequate or no discussion of facility drainage 50.00

BULK STORAGE CONTAINERS 112.8(c)

- ☐ **Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture-** *112.7(i)* **50.00**
- ☐ Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature- *112.8(c)(1).* 300.00
- ☐ Secondary containment appears to be inadequate- *112.8(c)(2)* 500.00
- ☐ Containment systems, including walls and floors are not sufficiently impervious to contain oil- *112.8(c)(2)* 250.00
- ☐ Excessive vegetation which affects the integrity and/or walls slightly eroded 200.00
- ☐ Containment bypass valves are not sealed closed when not draining rainwater- *112.8(c)(3)(i)* 400.00
- ☐ Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- *112.8(c)(4).* 100.00
- ☐ Partially buried tanks do not have buried sections protected from corrosion- *112.8(c)(5).* 100.00
- ☐ Aboveground tanks are not subject to visual inspections- *112.8(c)(6)* 200.00
- ☐ Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- *112.8(c)(6).* 300.00
- ☐ 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).* 100.00
- ☐ **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).* **100.00**

Container installations are not engineered if:

- ☐ No audible or visual high liquid level alarm- *112.8(c)(8)(i)*, **or** 300.00
- ☐ No high liquid level pump cutoff devices- *112.8(c)(8)(ii)*, **or** 300.00
- ☐ No audible or code signal communications between tank gauger and pumping station- *112.8(c)(8)(iii)*, **or** 300.00
- ☐ No fast response system for determining liquid levels, such as computers, telepulse or direct vision gauges- *112.8(c)(8)(iv).* 300.00
- ☐ No testing of liquid level sensing devices to ensure proper operation- *112.8(c)(8)(v)* 50.00
- ☐ Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- *112.8(c)(9)* 100.00
- ☒ Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- *112.8(c)(10)* 300.00
- ☐ Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- *112.8(c)(11)* 100.00
- ☐ Secondary containment inadequate for mobile or portable storage tanks- *112.8(c)(11)* 500.00
- ☐ Plan has inadequate or no discussion of bulk storage tanks 50.00

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

- ☐ Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -*112.8(d)(1)*. 100.00
- ☐ Corrective action is not taken on exposed sections of buried piping when deterioration is found- *112.8(d)(1)* . . . 300.00
- ☐ Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- *112.8(d)(2)* 50.00
- ☐ Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- *112.8(d)(3)*. 50.00
- ☐ Aboveground valves, piping and appurtenances are not inspected regularly- *112.8(d)(4)* 200.00
- ☐ Periodic integrity and leak testing of buried piping is not conducted- *112.8(d)(4)* 100.00
- ☐ Vehicle traffic is not warned of aboveground piping or other oil transfer operations- *112.8(d)(5)*. 100.00
- ☐ Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process. 50.00

TOTAL $ 1,400.00

Area of Concern:

1. The interstitial spaces of the double-walled aboveground oil storage tanks are not regularly inspected, thus, the integrity of the inner tanks is unknown. 40 C.F.R. section 112.8(c)(6) requires that each aboveground container be inspected for integrity on a regular schedule. The facility should inspect the interstice of these tanks on a regular schedule, such as during regular visual inspections, to maintain the integrity of the inner tanks.

CERTIFICATION OF SERVICE

I certify that the original and the foregoing Expedited SPCC Settlement Agreement in the matter of **Toby's Trucking, Inc., SPCC-09-2008-0018** has been filed with the Region 9 Hearing Clerk and that copies were sent return receipt requested to the following:

Mr. Toby Giacomini
Toby's Trucking Inc.
421 Payran St.
Petaluma, CA 94952

Certified Mail No.:
7006 0810 0003 9306 0911

Date: 4-25-08

Danielle E Carr

Danielle Carr
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105