



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7
 11201 Renner Blvd, Lenexa, Kansas 66219
EXPEDITED SETTLEMENT AGREEMENT

FILED
 September 21, 2023
 8:18AM
 U.S. EPA REGION 7
 HEARING CLERK

IN THE MATTER OF:) **DOCKET NO.:** CWA-07-2022-0129
)
 Barkley Asphalt, Inc.,)
)
 Respondent)
)
)
)
)
)

On March 22, 2022, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of the Barkley Asphalt, Inc. (Respondent) facility located at 3320 Rustin Street, Sioux City, Iowa (the Facility), to determine compliance with the Spill Prevention, Control, and Countermeasure (SPCC) regulations promulgated at 40 C.F.R. Part 112 under the Clean Water Act (CWA) § 311(j), 33 U.S.C. § 1321(j). Based on that inspection, the EPA finds that Respondent has failed to comply with the SPCC regulations as identified on the attached "Spill Prevention, Control, and Countermeasure Inspection, Findings, Alleged Violations and Proposed Penalty Form" (Violations Form), which is incorporated by reference.

The EPA finds Respondent's activities are subject to the SPCC regulations and Respondent has violated the SPCC regulations as identified on the Violations Form. Respondent admits being subject to the CWA § 311(b)(3) and 40 C.F.R. Part 112. Respondent also admits that the EPA has jurisdiction over Respondent and Respondent's activities as described in the Violations Form. Respondent does not contest the inspection findings, and neither admits nor denies the allegations in the Violations Form.

The EPA is authorized to enter into this Expedited Settlement Agreement (ESA) under the authority vested in the Administrator of the EPA by CWA § 311(b)(6)(B)(i), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 22.13(b) and § 22.18(b)(2)-(3). The parties enter into this ESA to settle the civil violations described in the Violations Form for a penalty of \$4,775. Respondent consents to the assessment of this penalty.

This ESA is also subject to the following terms and conditions: Respondent certifies, subject to civil and/or criminal penalties for making a false submission to the United States Government, that the violations have been corrected and Respondent is in compliance with 40 C.F.R. Part 112. Respondent agrees to pay the penalty assessed within thirty (30) calendar days of the effective date. Instructions for making the penalty payment are enclosed with this ESA.

After the parties sign this ESA and Respondent pays the civil penalty, the EPA will take no further action against Respondent

for the violations of the SPCC regulations described in the Violations Form. However, the EPA does not waive any rights to take enforcement action for any other violations by Respondent of the SPCC regulations or of any other federal statute or regulation. Upon signing and returning this ESA to the EPA, Respondent waives any right to judicial review under CWA § 311(b)(6)(G), 33 U.S.C. § 1321(b)(6)(G), any right to appeal or request a hearing to contest any fact or allegation, and consents to the EPA's approval of the ESA without further notice. Failure by Respondent to pay the penalty assessed by this ESA in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to CWA § 311(b)(6)(H), 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

This ESA is binding on the parties signing below. Each person signing this ESA certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA is effective upon the EPA's filing of the ESA with the Regional Hearing Clerk. If Respondent does not sign and return this ESA as presented within thirty (30) calendar days of the date of its receipt, the proposed ESA will be withdrawn without prejudice to the EPA's ability to file any other enforcement action for the noncompliance identified in the Violations Form, unless an extension has been granted by EPA. Respondent agrees to service of this ESA at the email address provided herein.

APPROVED BY RESPONDENT:

Name (print): Matthew Barkley

Title (print): V.P.

Email address: Matt@barkleyasphalt.com

Matthew Barkley Date: 1.9.23
 Signature

Respondent's estimated cost for correcting the violation(s)

is:
\$ 2,125.00.

APPROVED BY EPA:

_____ Date _____
David Cozad
Director
Enforcement and Compliance Assurance Division

FINAL ORDER
IT IS SO ORDERED:

_____ Date _____
Karina Borromeo
Regional Judicial Officer

Effective Date: See Notice of Filing for Effective Date