

# EXPEDITED SPCC SETTLEMENT AGREEMENT HIAL PROTECTION AGENCY UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7, 11201 RENNER BOULEVARD, LENEXA, KANSAS 662199: 11

### **DOCKET NO. CWA-07-2015-0082**

On: March 12, 2015

At: 11130 West 47th Street South, Clearwater, Kansas

Owned or operated by, Healy Biodiesel, Inc. (Respondent), an authorized representative of the U.S. Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (SPCC) regulations promulgated at 40 C.F.R. 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 SPILL PREVENTION CONTROL AND COUNTERMEASURES INSPECTION FINDINGS, ALLEGED VIOLATIONS, AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference.

This proceeding and the Expedited Settlement are under the authority vested in the Administrator of the 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 C.F.R. § 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 \$2050.

This settlement is subject to the following terms and conditions:

The EPA finds that Respondent is subject to the SPCC regulations, which are published at 40 C.F.R. Part 112, and has violated the regulations as further described in the Form. Respondent admits that he/she is subject to 40 C.F.R. Part 112 and that the EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections it may have to the 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 have been corrected and Respondent has sent a certified check in the amount of \$2050, payable to the "Environmental Protection Date: Agency," via certified mail to:

U.S. Environmental Protection Agency P.O. Box 979077 St. Louis, Missouri 63197-9000

and Respondent has noted on the penalty payment check Docket No. CWA-07-2015-0082 and "OSLTF - 311." The original, signed Settlement Agreement and copy of the penalty payment check must be sent via certified mail to:

Mark R. Aaron
U.S. Environmental Protection Agency
Region 7, AWMD/STOP
11201 Renner Boulevard
Lenexa, Kansas 66219

This Expedited Settlement resolves Respondent's liabilitor Federal civil penalties for the violations of the SPC regulations described in the Form. However, the EPA do not waive any rights to take any enforcement action for an other past, present, or future violations by Respondent the SPCC regulations or of any other federal statute regulations. By its first signature, the EPA ratifies to Inspection Findings and Alleged Violations set forth in the Form.

Upon signing and returning this Expedited Settlement to t EPA, Respondent waives the opportunity for a hearing appeal pursuant to Section 311 of the Act, and consents the EPA's approval of the Expedited Settlement withc further notice.

This Expedited Settlement is binding on the parties signibelow, and is effective upon the Regional Judicial Office signature.

APPROVED BY EPA: Acting Chief

Chief, Storage Tanks & Oil Pollution Branch (STOP)

Air & Waste Management Division (AWMD)

APPROVED BY RESPONDENT:

Name (print): Sen Healy

Title (print): Pres dept

Signature: 4-28-16

The estimated cost for correcting the violation(s) is:

\$ 2050.00

IT IS SO ORDERED:

Karina Borromeo Date June 6,2016

Regional Judicial Officer



## 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 7 under the authority vested in the Administrator of the EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

| Company Name  | Docket Number   | ATES  |
|---|---|-------|
| Healy Biodiesel, Inc.   | Date  March 12, 2015  Facility ID Number  R7-KS-00280   | *     |
| Facility Name   | Date  | 力量    |
| Healy Biodiesel, Inc.   | March 12, 2015  | N. A. |
| Address   | Facility ID Number  | ECIE  |
| 11130 West 47th Street South  | R7-KS-00280   |       |
| City  | Inspector's Name  |       |
| Clearwater  | Mark R. Aaron   |       |
| State Zip Code  | EPA Approving Official  |       |
| Kansas 67026  | Margaret E. Stockdale   |       |
| Contact   | Enforcement Contact   |       |
| Ben Healy   | Mark R. Aaron   |       |
| (When the SPCC Plan review penalty exc<br>No Spill Prevention Control and Countermeasure  | ceeds \$1,500 enter only the maximum allowable of \$1,500) e Plan/12.3 (\$1,500)                      |       |
| Plan not certified by a professional engineer/12.3  |   | \$450 |
| Certification lacks one or more required elements   | s112.3(d)(1) (\$100)  |       |
| Plan not maintained on site (if manned at least fo  | our hrs/day) or not available for review 12.3(e)(1) (\$300)   |       |
|   |   |       |
| No evidence of five-year review of plan by owne   | er/operator/12.5(b) (\$75)  |       |
| No evidence of five-year review of plan by owne  No plan amendment(s) if the facility has had a ch or maintenance which affects the facility's di       | nange in: design, construction, operation,  |       |
| No plan amendment(s) if the facility has had a ch   | nange in: design, construction, operation, lischarge potential 12.5(a) (\$75)                         |       |
| No plan amendment(s) if the facility has had a ch<br>or maintenance which affects the facility's di   | nange in: design, construction, operation, lischarge potential 12.5(a) (\$75)                         |       |
| No plan amendment(s) if the facility has had a ch<br>or maintenance which affects the facility's di<br>Amendment(s) not certified by a professional eng | nange in: design, construction, operation, lischarge potential 12.5(a) (\$75)  gineer 12.5(c) (\$150) | \$150 |

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|          | Plan does not discuss alternative environmental protection to SPCC requirements 12.7(a)(2) (\$200)  |       |
|----------|---|-------|
| <b>J</b> | Plan has inadequate or no facility diagram 112.7(a)(3) (\$75)   | \$75  |
| ~        | Inadequate or no listing of type of oil and storage capacity layout of container \$12.7(a)(3)(i) (\$50)   | \$50  |
|          | Inadequate or no discharge prevention measures 12.7(a)(3)(ii) (\$50)  |       |
|          | Inadequate or no description of drainage controls/12.7(a)(3)(iii) (\$50)  |       |
|          | Inadequate or no description of countermeasures for discharge discovery, response   |       |
|          | and cleanup $112.7(a)(3(iv))$ (\$50)<br>Recovered materials not disposed of in accordance with legal requirements $12.7(a)(3)(v)$ (\$50)                                      |       |
|          | No contact list & phone numbers for response & reporting discharges 12.7(a)(3)(vi) (\$50)   |       |
|          | Plan has inadequate or no information and procedures for reporting a discharge 12.7(a)(4) (\$100)   |       |
|          | Plan has inadequate or no description and procedures to use when a discharge may occur 12.7(a)(5) (\$150)   |       |
| <b>V</b> | Inadequate or no prediction of equipment failure which could result in discharges 12.7(b) (\$150)   | \$150 |
|          | Plan does not discuss and facility does not implement appropriate containment/diversionary stuctures/<br>equipment 112.7 (\$400)  |       |
|          | If claiming impracticability of contiainment and appropriate diversionary structures: Impracticability has not been clearly denoted and demonstrated in plant 12.7(d) (\$100) |       |
|          | No contingency plan $1/2.7(d)(1)$ (\$150)   |       |
|          | No written commitment of manpower, equipment, and materials 12.7(d)(2) (\$150)  |       |
|          | No periodic integrity and leak testing, if impracticability is claimed/12.7(d) (\$150)  |       |
|          | Plan has no or inadequate discussion of general requirements not already specified 12.7(j) (\$75)   |       |
|          | QUALIFIED FACILITY REQUIREMENTS: 112.6  | =     |
|          | Qualified Facility: No Self certification 112.6(a) (\$450)  |       |
|          | Qualified Facility: Self certification lacks required elements/12.6(a) (\$100)  |       |
|          | Qualified Facility: Technical amendments not certified/12.6(b) (\$150)  |       |
|          | Qualified Facility: Un-allowed deviations from requirements/12.6(c) (\$100)   |       |
|          | Qualified Facility: Environmental Equivalence or Impracticability not certified by PE12.6(d) (\$350)  |       |
|          | WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)  |       |
|          | Plan does not include inspections and test procedures in accordance with 40 CFR Part 112/12.7(e) (\$75)   |       |
|          | Inspections and tests required are not in accordance with written procedures developed for the facility 112.7(e) (\$75)   |       |

| ✓        | No Inspection records were available for review/12.7(e) (\$200)  (Written procedures and/or a record of inspections and/or customary business records)  | \$200     |
|----------|---|-----------|
|          | Inspection records are not signed by appropriate supervisor or inspector 12.7(e) (\$75)   |           |
|          | Inspection records are not maintained for three years 12.7(e) (\$75)  |           |
|          | PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)   |           |
| V        | No training on the operation and maintenance of equipment to prevent discharges and/or facility operations 112.7(f)(1) (\$75)   | —<br>\$75 |
| <b>V</b> | No training on discharge procedure protocols/12.7(f)(1) (\$75)  | \$75      |
| <b>V</b> | No training on the applicable pollution control laws, rules and regulations, and/or SPCC plan 12.7(f)(1) (\$75)   | \$75      |
|          | Training records not maintained for three years $12.7(f)(1)$ (\$75)   |           |
|          | No designated person accountable for spill prevention/12.7(f)(2) (\$75)   |           |
| 7        | Spill prevention briefings are not scheduled and conducted at least annually 12.7(f)(3) (\$75)  | \$75      |
|          | Plan has inadequate or no discussion of personnel and spill prevention procedures 12.7(a)(1) (\$75)   |           |
|          | 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) (\$150)   |           |
|          | unattended or not in production/12.7(g)(1) (\$150)  Master flow and drain valves that permit direct outward flow to the surface are not secured in a closed when in a non-operating or standby status/12.7(g)(2) (\$300)  |           |
|          | Master flow and drain valves that permit direct outward flow to the surface are not secured in a closed   |           |
|          | Master flow and drain valves that permit direct outward flow to the surface are not secured in a closed when in a non-operating or standby status/12.7(g)(2) (\$300)  Starter controls on pumps are not locked in the "off" position or located at a site accessible only to  |           |
|          | Master flow and drain valves that permit direct outward flow to the surface are not secured in a closed when in a non-operating or standby status/12.7(g)(2) (\$300)  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/12.7(g)(3) (\$75)  Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in  |           |
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| There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake (\$300) interlock system to prevent vehicular departure before complete disconnect from transfer lines 12.7(h)(2) |  |  |  |  |
|---|--|--|--|--|
| 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) (\$150)   |  |  |  |  |
| Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack 12.7(a)(1) (\$75)   |  |  |  |  |
| QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)  |  |  |  |  |
| Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge 112.7(k)(2)(i) (\$150)  |  |  |  |  |
| Failure to provide an oil spill contingency plan 12.7(k)(2)(ii)(A) (\$150)  |  |  |  |  |
| No written commitment of manpower, equipment, and materials 12.7(k)(2)(ii)(B) (\$150)   |  |  |  |  |
| FACILITY DRAINAGE 112.8(b) & (c)  |  |  |  |  |
| Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge 12.8(b)(1)and(2), and 112.8(c)(3)(i) (\$600)                        |  |  |  |  |
| Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision 112.8(c)(3)(ii)and(iii) (\$450)  |  |  |  |  |
| Adequate records (or NPDES permit records) of drainage from diked areas not maintained 12.8(c)(3)(iv) (\$75)  |  |  |  |  |
| Drainage from undiked areas do not flow into catchment basins ponds or lagoons, or no diversion system to retain or return a discharge to the facility 112.8(b)(3) and (4) (\$450)  |  |  |  |  |
| Two "lift" pumps are not provided for more that one treatment unit 12.8(b)(5) (\$50)  |  |  |  |  |
| Plan has inadequate or no discussion of facility drainage 12.7(a)(1) (\$75)   |  |  |  |  |
| 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) (\$75)   |  |  |  |  |
| Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture 12.7(i) (\$300)   |  |  |  |  |
| Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature $112.8(c)(1)$ (\$450)  |  |  |  |  |
| Secondary containment appears to be inadequatel 12.8(c)(2) (\$750)  |  |  |  |  |
| Containment systems, including walls and floors, are not sufficiently impervious to contain oil 12.8(c)(2) (\$375)  |  |  |  |  |
| Excessive vegetation which affects the integrity (\$150)  |  |  |  |  |
| Walls of containment system slightly eroded or have low areas (\$300)   |  |  |  |  |
| Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing 112.8(c)(4) (\$150)   |  |  |  |  |

|          | Partially buried tanks do not have buried sections protected from corrosion 12.8(c)(5) (\$150)  |       |
|----------|---|-------|
|          | Aboveground tanks are not subject to visual inspections 12.8(c)(6) (\$450)  |       |
| ~        | Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc. 112.8(c)(6) (\$450)  | \$450 |
|          | 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 12.8(c)(6) (\$75)        |       |
|          | 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 12.8(c)(7) (\$150)                 |       |
|          | Tank battery installations are not in accordance with good engineering practice because none of the following are present 112.8(c)(8) (\$450)   |       |
|          | No testing of liquid level sensing devices to ensure proper operation $12.8(c)(8)(v)$ (\$75)  |       |
|          | Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills 112.8(c)(9) (\$150)   |       |
|          | Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected 12.8(c)(10) (\$450)   |       |
|          | Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water 112.8(c)(11) (\$150)   |       |
|          | Secondary containment inadequate for mobile or portable storage tanks 12.8(c)(11) (\$500)   |       |
|          | Plan has inadequate or no discussion of bulk storage tanks/12.7(a)(1) (\$75)  |       |
|          | FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)  |       |
|          | Buried piping is not corrosion protected with protective wrapping, coating or cathodic protection protection 112.8(d)(1) (\$150)  |       |
|          | Corrective action is not taken on exposed sections of buried piping when deterioration is found/2.8(d)(1) (\$450)   |       |
|          | Not-in-service or standby piping is not capped or blank-flanged and marked as to original 12.8(d)(2) (\$75)   |       |
|          | Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction 112.8(d)(3) (\$75)  |       |
|          | Aboveground valves, piping and appurtenances are not inspected regularly 12.8(d)(4) (\$300)   |       |
|          | Periodic integrity and leak testing of buried piping is not conducted 12.8(d)(4) (\$150)  |       |
|          | Vehicle traffic is not warned of aboveground piping or other oil transfer operation \$12.8(d)(5) (\$150)  |       |
|          | Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process 12.7(a)(1) (\$75)   |       |
| <b>✓</b> | Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e) (\$150)  (Do not use this if FRP subject; go to traditional enforcement) | \$150 |
|          | TOTAL \$2,050   |       |
|          |   |       |

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## IN THE MATTER Of Healy Biodiesel, Inc., Respondent Docket No. CWA-07-2015-0082

#### CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

aaron.mark@epa.gov

Copy by First Class Mail to Respondent:

Ben Healy, President Healy Biodiesel, Inc. 11130 West 47<sup>th</sup> Street South Clearwater, Kansas 67026

Dated: 10/0/10

Kathy Robinson

Hearing Clerk, Region 7