



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10, 1200 6th Avenue, Suite 900, Seattle, Washington, 98101

EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO. CWA-10-2013-0103

On: October 31, 2012
At: Burkeshore Marina Facility in Big Lake, Alaska,
Owned or operated: Burkeshore Marina Enterprises, LLC. (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 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.

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 \$2,100.00

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 Form. 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

\$2,100.00, 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-10-2013-0103."

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.

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.

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.

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:
[Signature] Date: 5/9/2013
Edward J. Kowalski, Director
Office of Compliance and Enforcement

APPROVED BY RESPONDENT:
Name (print): Tom VITT
Title (print): General Manager
[Signature] Date: 7-1-13
Signature

Estimated cost for correcting the violation(s) is \$ 15,000

IT IS SO ORDERED:
[Signature] Date: 7/29/13
Thomas M. Jahnke
Regional Judicial Officer
EPA Region 10

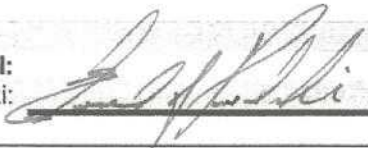
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HEARINGS CLERK
EPA--REGION 10



**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 10 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

<b>Company Name:</b> Burkeshore Marina Enterprises, LLC	<b>Docket Number:</b> CWA-10-2013-0103	
<b>Facility Name:</b> Burkeshore Marina	<b>Date:</b> 10/31/2012	
<b>Street Address:</b> 3610 North Burkeshore Drive	<b>Inspector's Name:</b> Robert Whittier/EPA	Carl Overpeck/START
<b>City:</b> Big Lake	<b>Enforcement Contacts:</b>	
<b>State:</b> Alaska	<b>Name</b> Kate Spaulding	<b>Phone Number</b> (206) 553-5429
<b>Zip Code:</b> 99652		
<b>Facility Contact:</b> Mr. Nick Gittlien	<b>EPA Approving Official:</b> Edward J Kowalski:	

**Summary of Findings  
(Bulk Storage Facilities)**

<b>General Topics</b>		
<input checked="" type="checkbox"/>	112.3 (a)	<b>No Spill Prevention Control and Countermeasure Plan.</b> <span style="float:right"><b>\$1,000</b></span>
<input type="checkbox"/>	112.3 (d)	Plan not certified by a professional engineer. <span style="float:right">\$300</span>
<input type="checkbox"/>	112.3 (d)	Amendment(s) not certified by a professional engineer. <span style="float:right">\$100</span>
<input type="checkbox"/>	112.7	No management approval of plan. <span style="float:right">\$300</span>
<input type="checkbox"/>	112.3 (a)	Plan not available for review. <span style="float:right">\$300</span>
<input type="checkbox"/>	112.3 (e)(1)	Plan not maintained on site (applies if facility is manned at least eight (8) hours per day). <span style="float:right">\$100</span>
<input type="checkbox"/>	112.5(b)	No evidence of (5) five year review of plan by owner/operator. <span style="float:right">\$50</span>
<input type="checkbox"/>	112.5(b)	No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential. <span style="float:right">\$50</span>
<input type="checkbox"/>	112.7(b)	Inadequate or no prediction of equipment failure which could result in discharges. <span style="float:right">\$100</span>
<input type="checkbox"/>	112.7(c)	Plan does not discuss appropriate containment/diversionary structures/equipment. <span style="float:right">\$100</span>



<b>Claiming installation of appropriate containment/diversionary structures is impractical but:</b>		\$100
<input type="checkbox"/>	112.7(d) No contingency plan.	\$100
<input type="checkbox"/>	112.7(d) No written commitment of manpower, equipment, and materials.	
<b>Written Procedures and Inspection Records</b>		\$50
✓	112.7(e) Inspections required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility.	\$50
✓	112.7(e) Written procedures and a record of inspections are not signed by facility supervisor.	\$50
<input type="checkbox"/>	112.7(e) Written procedures and a record of inspections are not made part of the plan.	\$50
✓	112.7(e) Written procedures and a record of inspections are not maintained for (3) three years.	\$50
<b>Personnel Training and Spill Prevention Procedures</b>		\$50
✓	112.7(f)(1) No training on the operation and maintenance of equipment to prevent discharges.	\$50
✓	112.7(f)(1) No training on the applicable laws, rules, and regulations.	\$50
<input type="checkbox"/>	112.7(f)(2) No designated person responsible for spill prevention.	\$50
✓	112.7(f)(3) Spill prevention briefings are not scheduled and conducted periodically.	\$50
<input type="checkbox"/>	112.7(f) Plan has inadequate or no discussion of personnel and spill prevention procedures.	
<b>Facility Drainage, Onshore (excluding Production Facilities)</b>		\$200
<input type="checkbox"/>	112.8(b)(2) Valves used to drain diked areas are not of manual, open-and-closed design (note: flapper-type valves should not be used).	\$100
<input type="checkbox"/>	112.8(b)(1) Pumps or ejectors not manually activated when diked storage areas drained.	\$300
<input type="checkbox"/>	112.8(b)(3) Drainage from undiked areas not into ponds, lagoons, or catchment basins, or no diversion systems to return spills to the facility.	\$50
<input type="checkbox"/>	112.8(b) Plan has inadequate or no discussion of facility drainage.	
<input type="checkbox"/>	112.12(b)	
<b>Bulk Storage Tanks (excluding Production Facilities)</b>		\$300
<input type="checkbox"/>	112.8(c)(1) Material and construction of tanks not compatible to the material stored and the conditions of storage such as pressure and temperature.	\$500
✓	112.8(c)(2) Secondary containment appears to be grossly inadequate.	\$250
<input type="checkbox"/>	112.12(c)(2) Materials of construction are not sufficiently impervious.	\$100
<input type="checkbox"/>	112.8(c)(2) Excessive vegetation which affects the integrity of the containment system.	\$200
<input type="checkbox"/>	112.12(c)(2) Walls of containment system are slightly eroded or have low areas.	
<input type="checkbox"/>	112.8(c)(2) 112.12(c)(2)	
<b>When drainage from diked areas is to a storm drain, open water course, or lake or pond:</b>		
<input type="checkbox"/>	112.8(c)(3) Bypass valve not normally sealed closed.	\$300
<input type="checkbox"/>	112.12(c)(3) Runoff rain water not inspected and/or will cause a harmful discharge as defined in 40 CFR 110.	\$100
<input type="checkbox"/>	112.8(c)(3) Bypass valve is not opened and resealed under responsible supervision.	
<input type="checkbox"/>	112.12(c)	

<input type="checkbox"/>	112.8(c)(3) 112.12(c)(3)	Adequate records of drainage events are not maintained.	\$50
<input type="checkbox"/>	112.8(c)(4) 112.12(c)(4)	Underground tanks are not protected from corrosion or are not subjected to regular pressure testing.	\$100
<input type="checkbox"/>	112.8(c)(5) 112.12(c)(5)	Partially buried tanks do not have buried sections protected from corrosion.	\$100
<input checked="" type="checkbox"/>	112.8(c)(6) 112.12(c)(6)	<b>Above ground tanks not subject to periodic integrity testing, such as visual, hydrostatic, and nondestructive methods, etc.</b>	<b>\$300</b>
<input type="checkbox"/>	112.8(c)(6) 112.12(c)(6)	Outside of tank not frequently observed for signs of deterioration, leaks which might cause a spill, or accumulation of oil inside diked area.	\$300
<input type="checkbox"/>	112.8(c)(7) 112.12(c)(7)	Steam return /exhaust of internal heating coils which discharge into an open water course not monitored, passed through a settling tank, skimmer, or other separation system.	\$100
<input type="checkbox"/>	112.7(c)(6) 112.8(c)(6)	Records of inspections of aboveground tanks are not maintained.	\$50

**Tanks are not "fail-safe" engineered:**

<input type="checkbox"/>	112.8(c)(8) 112.12(c)(8)	(1) No audible or visual high liquid level alarm; or (2) no high-level pump cutoff devices set to stop flow at a predetermined tank content level; or (3) no direct communications between tank gauger and pumping station; or (4) no fast response system for determining liquid levels, such as computers, telepulse or direct vision gauges.	\$300
<input type="checkbox"/>	112.8(c)(8) 112.12(c)(8)	No testing of liquid level sensing devices to ensure proper operation.	\$50
<input type="checkbox"/>	112.8(c)(9) 112.12(c)(9)	Disposal facilities which discharge plant effluents directly to navigable waters are not monitored frequently to detect oil spills.	\$100
<input type="checkbox"/>	112.8(c)(10) 112.12(c)(10)	Visible oil leaks resulting in accumulations of oil in diked areas are not promptly corrected.	\$300
<input type="checkbox"/>	112.8(c)(11) 112.12(c)	Mobile or portable storage tanks are not positioned to prevent spilled oil from reaching navigable water, or are in area subject to flooding.	\$300
<input type="checkbox"/>	112.8(c)(11) 112.12(c)(11)	Secondary containment inadequate for mobile or portable storage tanks.	\$500
<input type="checkbox"/>	112.7(a)(3) 112.8(c) 112.12(c)	Plan has inadequate or no discussion of bulk storage tanks.	\$50

**Facility Transfer Operations, Pumping, and In-Plant Processes, onshore (excluding Production Facilities)**

<input type="checkbox"/>	112.8(d)(1) 112.12(d)(1)	Buried piping not corrosion protected with protective wrapping, coating, or cathodic protection.	\$100
<input type="checkbox"/>	112.8(d)(1) 112.12(d)(1)	Corrective action not taken on buried piping when corrosion damage found.	\$300
<input type="checkbox"/>	112.8(d)(2) 112.12(d)(2)	Terminal connections at transfer points on not-in-service or standby pipelines are not capped or blank-flanged and marked as to origin.	\$300
<input type="checkbox"/>	112.8(d)(3) 112.12(d)(3)	Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction.	\$50
<input type="checkbox"/>	112.8(d)(4) 112.12(d)(4)	Above ground valves and pipelines are not inspected regularly.	\$200
<input type="checkbox"/>	112.8(d)(4) 112.12(d)(4)	Integrity and leak testing not conducted on buried piping at time of installation, modification, construction, relocation, or replacement.	\$100
<input type="checkbox"/>	112.8(d)(5) 112.12(d)(5)	Vehicle traffic not warned verbally or by appropriate signs of above ground piping.	\$100
<input type="checkbox"/>	112.7(a)(3) 112.8(d)	Plan has inadequate or no discussion of facility transfer operations, pumping, and in-plant processes.	\$50

112.12(d)

**Facility Tank Car and Tank Truck Loading/Unloading Rack, Onshore**

- |                          |             |   |       |
|--------------------------|-------------|---|-------|
| <input type="checkbox"/> | 112.7(h)(1) | Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system.                            | \$500 |
| <input type="checkbox"/> | 112.7(h)(1) | Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck.                                 | \$300 |
| <input type="checkbox"/> | 112.7(h)(2) | There is no interlocked warning light, physical barrier system, or warning signs to prevent vehicular departure before complete disconnect from transfer lines. | \$200 |
| <input type="checkbox"/> | 112.7(h)(3) | There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck.  | \$100 |
| <input type="checkbox"/> | 112.7(h)    | Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack.  | \$50  |

**Security (excluding Production Facilities)**

- |                          |          |  |       |
|--------------------------|----------|--|-------|
| <input type="checkbox"/> | 112.7(g) | Facility not fully fenced and entrance gates are not locked and/or guarded when plant is unattended or not in production.  | \$100 |
| <input type="checkbox"/> | 112.7(g) | Master flow and drain valves that permit direct outward flow of tank's contents to the surface are not secured in closed position when in a non-operating or standby status.         | \$200 |
| <input type="checkbox"/> | 112.7(g) | 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. | \$50  |
| <input type="checkbox"/> | 112.7(g) | Loading and unloading connection(s) of pipelines are not capped or blank-flanged when not in service.  | \$50  |
| <input type="checkbox"/> | 112.7(g) | Facility lighting not commensurate with the type and location of facility to facilitate the discovery of spills during hours of darkness and to deter vandalism.                     | \$100 |
| <input type="checkbox"/> | 112.7    | Plan has inadequate or no discussion of facility security.   | \$50  |

**TOTAL \$2,100**