



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EXPEDITED SPILL SETTLEMENT AGREEMENT
Clean Water Act Section 311(b) Violation

FILED

Mar 31, 2025

2:50 pm

**U.S. EPA REGION 5
HEARING CLERK**

In the matter of Kokosing Materials, Inc.
Docket No. CWA-05-2025-0005

On or around September 24, 2024, Kokosing Materials ("Respondent"), the owner or operator of an onshore facility located at 3000 Independence Road, Cleveland, OH 44105, discharged oil, as defined in section 311(a)(1) of the Clean Water Act (Act), 33 U.S.C. § 1321(a)(1), or a hazardous substance(s), as defined in section 311(a)(14), to the Cuyahoga River, a water of the United States as defined in section 502(7) of the Act, and 40 C.F.R. § 110.1.

The undersigned EPA Complainant finds that Respondent is a person as defined in section 311(a)(7) of the Act and that Respondent has violated section 311(b)(3) of the Act by discharging a harmful quantity of oil, as defined in 40 C.F.R. § 110.3, or hazardous substances into navigable waters of the United States or adjoining shorelines. Respondent admits that the EPA has jurisdiction over this matter under section 311(b)(6) of the Act and 40 C.F.R. part 22. Respondent neither admits nor denies the specific factual allegations in the first paragraph.

The purpose of this Expedited Spill Settlement Agreement, ("Consent Agreement and Final Order" or "Agreement"), is to settle Respondent's civil penalty liability for the violation alleged above. Respondent consents to a penalty assessment of \$2,500.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, has cleaned up the spill pursuant to federal requirements, and has taken corrective actions that will prevent future spills.

Respondent agrees that it shall, within 30 calendar days of the date of issuance of the final order below (Final Order) approving this Agreement, make a payment of the amount specified in the previous paragraph \$2,500 by any of the methods provided on the website <https://www.epa.gov/financial/makepayment>. A printout of this website is attached and entitled "Payment Instructions." Respondent's payment shall indicate it is payable to "Environmental Protection Agency." In the check or other instrument of payment, Respondent shall also reference "Oil Spill Liability Trust Fund-311" and the docket number that appears on the Final Order. Within 24 hours of payment, Respondent shall also e-mail proof of payment to each of the following: meenan.sean@epa.gov, koller.mark@epa.gov, AcctsReceivable@epa.gov, R5HearingClerk@epa.gov. The payment made pursuant to this 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.

This Agreement will commence and conclude this proceeding pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Agreement: will resolve only the federal civil penalty claims for the violation alleged above; does not affect EPA's right to pursue appropriate injunctive or other equitable relief or criminal sanctions; and does not affect Respondent's duty to comply with the Act or any other law.

Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this Expedited Settlement Agreement and Final Order with respect to the civil penalty claims and its right to appeal this Expedited Settlement Agreement and Final Order. Respondent waives any rights or defenses that Respondent has or may have for the civil penalty claims to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement. Respondent also agrees to bear its own costs and attorney's fees related to this Agreement.

The Complainant and Respondent agree to service of the Agreement at the following valid email addresses: koller.mark@epa.gov and cjm2@kokosing.biz.

Respondent understands that its 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 original signature on this Agreement.

This Agreement is binding on the parties signing below and becomes final 30 days from the date the Regional Judicial Officer issues the Final Order approving the Agreement. Once the Final Order is signed by the Regional Judicial Officer, it will be filed with the Regional Hearing Clerk and a copy will be mailed or emailed to the U.S. EPA Cincinnati Finance Office. A copy of the Final Order will also be mailed to the Respondent. Respondent shall pay the penalty of \$2,500 within 30 calendar days of the date the Regional Judicial Officer signs the Final Order.

After the Regional Judicial Officer signs the Final Order, EPA will take no further civil penalty action against Respondent for the violations of the Act described in this 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 Act or of any other federal statute or regulations.

APPROVED BY EPA:

DOUGLAS
BALLOTTI


Digitally signed by DOUGLAS
BALLOTTI
Date: 2025.03.28 11:32:56 -05'00'

Douglas Ballotti, Director
Superfund and Emergency Management Division
Complainant

APPROVED BY RESPONDENT:

Charles Mull
Name (print)

Environmental Director
Title (print)

 Date: 3-20-25
Signature

FINAL ORDER

The preceding Consent Agreement is hereby approved.
IT IS SO ORDERED:

Ann Coyle
Regional Judicial Officer