



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6, 1201 ELM STREET, DALLAS, TEXAS 75270-2102

EXPEDITED SPILL PREVENTION CONTROL AND COUNTERMEASURE
SETTLEMENT AGREEMENT

REGIONAL HEARING CLERK
EPA REGION VI

In the matter of Overflow Energy Stack, LLC
Docket No. CWA-06-2021-4305

On July 20, 2021, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility known as the Simmons B-1 Facility, located off County Road North 2940 in Cashion, Kingfisher County, Oklahoma, to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, as amended, (33 U.S.C. §1321(j)), (the Act or CWA). EPA determined that Respondent, as owner or operator of the facility, violated regulations implementing Section 311(j) of the Act by failing to comply with the Oil Pollution Prevention regulations as noted on the attached Spill Prevention Control and Countermeasure Plan (SPCC) Inspection Findings, Alleged Violations, and Proposed Penalty Form (Violations Form) which is hereby incorporated by reference. By its signature below, EPA ratifies the inspection findings and alleged violations set forth in the Violations Form.

The parties enter into this Expedited Settlement Agreement in order to settle the civil violations described in the Violations Form for a penalty of \$4,875.00. The parties are authorized to enter into this Expedited Settlement Agreement under the authority of Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), and by 40 C.F.R. § 22.13(b).

This settlement is subject to the following terms and conditions:

EPA finds the Respondent is subject to the Oil Pollution Prevention regulations and has violated the regulations as further described in the Violations Form. Respondent admits it is subject to the Oil Pollution Prevention regulations and that EPA has jurisdiction over Respondent and Respondent's conduct as described in the Violations Form. Respondent admits to the facts in the first paragraph of this Expedited Settlement Agreement and waives any objections it may have to EPA's jurisdiction. Respondent consents to the assessment of the penalty stated above.

Respondent further certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations identified in the Violations Form have been corrected and the facility is now in full compliance with the Oil Pollution Prevention regulations (or that the violations will be corrected and the facility brought into full compliance with the Oil Pollution Prevention regulations within an alternative time frame agreed to by EPA in writing). Respondent, in accordance with the attached payment Instructions, shall provide payment of the civil penalty.

The payment made pursuant to this Expedited Settlement 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.

Upon signing and returning this Expedited Settlement Agreement 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 Agreement without further notice. Moreover, in entering into this Expedited Settlement Agreement, the Respondent agrees to bear its own costs and attorney's fees related to this Agreement.

This Expedited Settlement Agreement is binding on the parties signing below and is effective upon filing with the Regional Hearing Clerk pursuant to 40 C.F.R. § 22.31(b). The parties consent to service of this Expedited Settlement Agreement by e-mail at the following valid e-mail addresses:

smalley.bryant@epa.gov (for Complainant), and
pdesantiago@oeswd.com (for Respondent).

Once the Expedited Settlement Agreement is signed by the Director of the Enforcement and Compliance Assurance Division, the original Expedited Settlement Agreement will be filed with the Regional Hearing Clerk and a copy will be mailed to: U.S. EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive (MS-WG32B), Cincinnati, OH 45268. A copy of

the Expedited Settlement Agreement will also be mailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement Agreement as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, the proposed Expedited Settlement Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Violations Form.

After this Expedited Settlement Agreement becomes effective, EPA will take no further civil penalty action against Respondent for the alleged violations of the Oil Pollution Prevention regulations described in the Violations Form through the order date of this Expedited Settlement 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 Oil Pollution Prevention regulations or of any other federal statute or regulations.

APPROVED BY EPA:

 Date: August 11, 2021
Bryant Smalley
Chief
Water Enforcement Branch

APPROVED BY RESPONDENT:

Name (print): Pete De Santiago

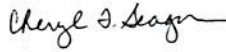
Title (print): VP of Operations

Signature:  Date: 9.10.21

The estimated cost of the clean-up and corrective action is:

\$ 4875 .

IT IS SO ORDERED:



Digitally signed by CHERYL SEAGER
DN: cn=US, o=U.S. Government, ou=Environmental
Protection Agency, cn=CHERYL SEAGER,
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Date: 2021.09.16 09:51:52 -05'00'

Date: 09/16/21

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Simmons B-1 facility
Overflow Energy Stack, LLC

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

These Findings, Alleged Violations and Penalties are issued by EPA 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
Overflow Energy Stack, LLC

Docket Number
CWA-06-2021-4305

Facility Name
Simmons B-1 Facility

Date
7/20/2021

Address
111 South Main - P.O. Box 354

Facility ID Number
SPCC-OK-2021-00071

City
Booker

Inspector's Name
Tom McKay

State Zip Code
TX 79005

EPA Approving Official
Chris Perry

Contact
Pete De Santiago-Vice President Operations

Enforcement Contact
Enoch Johnbull

Total Storage Capacity
113,665 gallons



Summary of Findings
(Bulk Storage Facilities)

GENERAL TOPICS: 40 C.F.R.112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

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- Failure to have a Spill Prevention Control and Countermeasure Plan 112.3 (\$1,750)
 - Plan or sections of the hybrid plan are not certified by a professional engineer * 112.3(d) (\$500)
*Not applicable to Qualified facilities unless a hybrid (PE/QF plan) see Qualified facility 112.6 section
 - Certification lacks one or more required elements 112.3(d)(1) (\$125)
 - Plan not maintained on site (if manned at least four hrs/day) or not available for review 112.3(e)(1) (\$350)
 - No evidence of five-year review of plan by owner/operator 112.5(b) (\$100)
 - 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) (\$100)
 - Amendment(s) not certified by a professional engineer 112.5(c) (\$175) \$175
 - No management approval of plan 112.7 (\$500) \$500
 - Plan does not follow sequence of the rule and/or cross-reference not provided 112.7 (\$175) \$175
 - Plan does not discuss additional procedures/methods/equipment not yet fully operational 112.7 (\$100)

**Simmons B-1 facility
Overflow Energy Stack, LLC**

certified by licensed Professional Engineer 112.6(b) \$175

- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE 112.6(b)(4) (\$400)

WRITTEN PROCEDURES AND INSPECTION RECORDS: 40 C.F.R. 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 112.7(e) (\$100)
- Inspections and tests required are not in accordance with written procedures developed for the facility 112.7(e) (\$100)
- No Inspection records were available for review 112.7(e) (\$225) \$225
- (Written procedures and/or a record of inspections and/or customary business records)
- Inspection records are not signed by appropriate supervisor or inspector 112.7(e) (\$100)
- Inspection records are not maintained for three years 112.7(e) (\$100)

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES: 40 C.F.R. 112.7(f)

- No training on the operation and maintenance of equipment to prevent discharges and/or facility operations 112.7(f)(1) (\$100) \$100
- No training on discharge procedure protocols 112.7(f)(1) (\$100) \$100
- No training on the applicable pollution control laws, rules and regulations, and/or SPCC plan 112.7(f)(1) (\$100) \$100
- No designated person accountable for spill prevention 112.7(f)(2) (\$100) \$100
- Spill prevention briefings are not scheduled and conducted at least once a year 112.7(f)(3) (\$100) \$100
- Plan has inadequate or no discussion of personnel and spill prevention procedures 112.7(a)(1) (\$100)

SECURITY (excluding Production Facilities): 40 C.F.R. 112.7(g)

- Plan does not describe how the facility secures and controls access to the oil handling, processing and storage areas 112.7(g)(1) (\$175)
- Master flow and drain valves not secured 112.7(g)(2) (\$350)
- Starter controls on pumps not secured to prevent unauthorized access- 112.7(g) (\$100) \$100
- Out-of-service and loading/unloading connection(s) of piping/pipelines not adequately secured 112.7(g)(4) (\$100) \$100
- Plan does not address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges 12.7(g) (\$175)

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING: 40 C.F.R. 112.7(c) and/or (h-j)

- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin treatment system, or quick drainage system 112.7(h)(1) (\$850)
- 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) (\$525)

**Simmons B-1 facility
Overflow Energy Stack, LLC**

- Records of inspections (or customary business records) do not include inspections of container supports/
foundation, signs of container deterioration, discharges and/or accumulations of oil inside diked areas 112.8(c)(6)
- 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) (\$175)
- Container installations are not engineered or updated in accordance with good engineering practice because
none of the following are present: 112.8(c)(8) (\$525)
 - high liquid level alarm with audible or visual signal, or audible air vent 112.8(c)(8)(i)
 - high liquid level pump cutoff devices set to stop flow at a predetermined level 112.8(c)(8)(ii)
 - direct audible or code signal communication between container gauger and pumping station 112.8(c)(8)(iii)
 - fast response system for determining liquid level of each bulk storage container, or direct vision gauges
with a person present to monitor gauges and the overall filling of bulk storage containers 112.8(c)(8)(iv)
- No testing of liquid level sensing devices to ensure proper operation 112.8(c)(8)(v) (\$100)
- Effluent treatment facilities not observed frequently to detect possible system upsets that could cause
a discharge as described in §112.1(b)- 112.8(c)(9) (\$175)
- Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected 112.8(c)(10) (\$525) \$525
- Mobile or portable storage containers are not positioned or located to prevent discharged oil from reaching
navigable water or have inadequate secondary containment 112.8(c)(11) (\$175)
- Secondary containment inadequate for mobile or portable storage tanks 112.8(c)(11) (\$600)
- Plan has inadequate or no discussion of bulk storage tanks 112.7(a)(1) (\$100) \$100

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS: 40 C.F.R. 112.8(d) and 112.12(d)

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- Buried piping is not corrosion protected with protective wrapping, coating or cathodic protection
protection 112.8(d)(1) (\$175)
 - Corrective action is not taken on exposed sections of buried piping when deterioration is found 112.8(d)(1) (\$525)
 - Not-in-service or standby piping is not capped or blank-flanged and marked as to origin 112.8(d)(2) (\$100)
 - Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for
expansion and contraction 112.8(d)(3) (\$100)
 - Aboveground valves, piping and appurtenances are not inspected regularly 112.8(d)(4) (\$350) \$350
 - Periodic integrity and leak testing of buried piping is not conducted at time of installation,
modification, construction, relocation, or replacement 112.8(d)(4) (\$175)
 - Vehicle traffic is not warned of aboveground piping or other oil transfer operations 112.8(d)(5) (\$175)
 - Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process 112.7(a)(1) (\$100)

SUB TOTAL	\$3,900
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Multiplier 1.25

Total \$4,875

Docket No. CWA-06-2021-4305

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on September 16, 2021, with the Regional Hearing Clerk, U.S. EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270-2102; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Copy by E-mail

NAME: Pete De Santiago
ADDRESS: P. O. Box 354
Booker, TX 79005

**ENOCH
JOHNBULL**

Digitally signed by ENOCH
JOHNBULL
DN: c=US, o=U.S. Government,
ou=Environmental Protection
Agency, cn=ENOCH JOHNBULL,
0.9.2342.19200300.100.1.1=6800
1000082365
Date: 2021.09.16 15:42:54 -05'00'

Enoch Johnbull
OPA Enforcement Officer