EXPEDITED SPCC SETTLEMENT AGREEMENT
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7, 901 NORTH 5TH STREET, KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

DOCKET NO. CWA-07-2008-0073

On April 14, 2008

At: Delano Station Break, Hwys 19 & 68 ,

Owned or operated by Delano Oil Company, 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 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 COUNTERMEASURE 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 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 **$1050**.

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 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 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 $1050, payable to the "Environmental Protection Agency," via certified mail to:**

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

and Respondent has noted on the penalty payment check Docket No. CWA-07-2008-0073 and "OSLTF – 311." **The original, signed Settlement Agreement and copy of the penalty payment check must be sent via certified mail to:**

Paula Higbee
U.S. Environmental Protection Agency
Region 7, AWMD/STOP
901 North 5th Street
Kansas City, Kansas 66101

This Expedited Settlement resolves Respondent's liability for Federal civil penalties 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 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.

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.

This Expedited Settlement is binding on the parties signing below, and is effective upon the Regional Judicial Officer's signature.

APPROVED BY EPA:

Stanley Walker Date 10/8/08
Chief, Storage Tank and Oil Pollution Branch (STOP)
Air and Waste Management Division

APPROVED BY RESPONDENT:

Name (print): William J. Delano, III

Title (print): PRESIDENT

Signature: William J. Delano, III

Date: 10/1/08

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

$ –

IT IS SO ORDERED:

Robert L. Patrick Date Nov. 4, 2008
Robert L. Patrick
Regional Judicial Officer

IN THE MATTER OF Delano Station Break, Respondent
Docket No. CWA-07-2008-0073

CERTIFICATE OF SERVICE

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

Copy hand delivered to
Attorney for Complainant:

Howard Bunch
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

William J. Delano, III
Delano Station Break
Highway 19 and Highway 68
Salem, Missouri 65560

Dated: Nov 7, 2008

Kathy Robinson
Hearing Clerk, Region 7

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 EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Respondent: Delano Oil Company	Docket Number: CWA2008-0073
Facility Name: Delano Station Break	Date: 4/14/08
Address: Highway 19 and Highway 68	Inspection Number: FY-INSP-
City: Salem	Inspector's Name: Bjorn Brinkman
State: MO Zip Code: 65560	EPA Approving Official: Stan Walker, Branch Chief, AMWD/STOP
Contact: Jay Delano	Enforcement Contacts: Paula Higbee 913-551-7028

Summary of Findings

(Bulk Storage Facilities)

GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

(When the SPCC Plan review penalty exceeds $1,000.00 enter only the minimum allowable of $1,000.00.)

- [ ] No Spill Prevention Control and Countermeasure Plan- *112.3*.....$1,000.00
- [ ] Plan not certified by a professional engineer- *112.3(d)*.....400.00
- [X] No management approval of plan- *112.7*.....300.00
- [ ] Plan not maintained on site (applies if facility is manned at least four (4) hours per day)- *112.3(e)(1)*.....100.00
- [ ] Plan not available for review- *112.3(e)(1)*.....300.00
- [ ] No evidence of five-year review of plan by owner/operator- *112.5(b)*.....50.00
- [ ] 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)*.....50.00
- [ ] Amendment(s) not certified by a professional engineer- *112.5(c)*.....100.00
- [ ] Plan does not follow sequence of the rule and/or cross-reference not provided- *112.7*.....100.00
- [ ] Plan does not discuss additional procedures/methods/equipment not yet fully operational- *112.7*.....50.00

☐ Plan does not discuss conformance with SPCC requirement- *112.7(a)(1)*.....50.00

☐ Plan does not discuss alternative environmental protection to SPCC requirements- *112.7(a)(2)*.....50.00

☐ Plan has inadequate or no facility diagram- *112.7(a)(3)*.....50.00

☐ Plan has inadequate or no description of the physical layout of the facility- *112.7(a)(3)(i-vi)*..... 100.00

☒ Plan has inadequate or no information and procedures for reporting a discharge- *112.7(a)(4)*.....100.00

☐ Plan has inadequate or no description and procedures to use when a discharge may occur- *112.7(a)(5)*..... 100.00

☐ Inadequate or no prediction of equipment failure which could result in discharges- *112.7(b)*.....100.00

☐ Plan does not discuss appropriate containment/diversionary structures/equipment- *112.7(c)*.....100.00

- If claiming impracticability of appropriate containment/diversionary structures:

☐ Impracticability has not been clearly denoted and demonstrated- *112.7(d)*.....400.00

☐ No contingency plan- *112.7(d)(1)*.....100.00

☐ No written commitment of manpower, equipment, and materials- *112.7(d)(2)*.....100.00

☐ Plan has inadequate or no discussion of conformance with SPCC rules or applicable State rules, regulations and guidelines- *112.7(j)*..... 50.00

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

☐ Inspections and tests required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility- *112.7(e)*..... 50.00

- Written procedures and/or a record of inspections and/or customary business records:

☐ Are not signed by appropriate supervisor or inspector- *112.7(e)*..... 50.00

☐ Are not kept with the plan- *112.7(e)*..... 50.00

☐ Are not maintained for three years- *112.7(e)*..... 50.00

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

☐ No training on the operation and maintenance of equipment to prevent discharges- *112.7(f)(1)*..... 50.00

☐ No training on discharge procedure protocols- *112.7(f)(1)*..... 50.00

☐ No training on the applicable pollution control laws, rules, and regulations- *112.7(f)(1)*..... 50.00

☐ No training on general facility operations- *112.7(f)(1)*.....50.00

☐ No training on the contents of the SPCC Plan- *112.7(f)(1)*..... 50.00

☒ No designated person accountable for spill prevention- *112.7(f)(2)*..... 50.00

☐ Spill prevention briefings are not scheduled and conducted periodically- *112.7(f)(3)*..... 50.00

☐ Plan has inadequate or no discussion of personnel and spill prevention procedures.....50.00

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)*.....100.00

☐ Master flow and drain valves that permit direct outward flow to the surface are not secured in closed position when in a non-operating or standby status- *112.7(g)(2)*..... 200.00

☐ 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- *112.7(g)(3)*..... 50.00

☐ Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- *112.7(g)(4)*.....50.00

☐ Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- *112.7(g)(5)*..... 100.00

☐ Plan has inadequate or no discussion of facility security.....50.00

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING RACK 112.7(h)

☐ Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- *112.7(h)(1)*.....500.00

☐ 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)*.....300.00

☐ There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before complete disconnect from transfer lines- *112.7(h)(2)*.....200.00

☐ 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)*.....100.00

☐ Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack..... 50.00

FACILITY DRAINAGE FROM DIKED AREAS 112.8(b) & (c)

☐ Valves used for drainage from diked storage areas to drainage system, watercourse, or effluent treatment system not controlled to prevent a discharge- *112.8(b)(2)*..... 200.00

☐ Run-off rainwater from diked areas is not inspected- *112.8(c)(3)(ii)*..... 300.00

☐ Valves not opened and resealed under responsible supervision- *112.8(c)(3)(iii)*.....100.00

☐ Adequate records (or NPDES permit records) of drainage from diked areas not maintained- *112.8(c)(3)(iv)*..... 50.00

FACILITY DRAINAGE FROM UNDIKED AREAS 112.8(b)

☐ Drainage from undiked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility- *112.8(b)(3)&(4)*..... ..400.00

☐ Two "lift" pumps are not provided for more that one treatment unit- *112.8(b)(5)*..... 100.00

☐ Plan has inadequate or no discussion of facility drainage.....50.00

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)* 50.00
- [ ] 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)* 300.00
- [X] Secondary containment appears to be inadequate- *112.8(c)(2)* 500.00
- [ ] Containment systems, including walls and floors are not sufficiently impervious to contain oil- *112.8(c)(2)* 250.00
- [ ] Excessive vegetation which affects the integrity and/or walls slightly eroded- 200.00
- [ ] Containment bypass valves are not sealed closed when not draining rainwater- *112.8(c)(3)(i)* 400.00
- [ ] Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- *112.8(c)(4)* 100.00
- [ ] Partially buried tanks do not have buried sections protected from corrosion- *112.8(c)(5)* 100.00
- [ ] Aboveground tanks are not subject to visual inspections- *112.8(c)(6)* 200.00
- [ ] Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- *112.8(c)(6)* 300.00
- [ ] 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- *112.8(c)(6)* 100.00
- [ ] 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)* 100.00

Container installations are not engineered if:

- [ ] No audible or visual high liquid level alarm- *112.8(c)(8)(i)*, **or** 300.00
- [ ] No high liquid level pump cutoff devices- *112.8(c)(8)(ii)*, **or** 300.00
- [ ] No audible or code signal communications between tank gauger and pumping station- *112.8(c)(8)(iii)*, **or** 300.00
- [ ] No fast response system for determining liquid levels, such as computers, telepulse or direct vision gauges- *112.8(c)(8)(iv)* 300.00
- [ ] No testing of liquid level sensing devices to ensure proper operation- *112.8(c)(8)(v)* 50.00
- [ ] Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- *112.8(c)(9)* 100.00
- [ ] Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- *112.8(c)(10)* 300.00
- [ ] Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- *112.8(c)(11)* 100.00
- [ ] Secondary containment inadequate for mobile or portable storage tanks- *112.8(c)(11)* 500.00

☐ Plan has inadequate or no discussion of bulk storage tanks- 50.00

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)

☐ Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -*112.8(d)(1)*....100.00

☐ Corrective action is not taken on exposed sections of buried piping when deterioration is found- *112.8(d)(1)*.....300.00

☐ Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- *112.8(d)(2)*.....50.00

☐ Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- *112.8(d)(3)*..... 50.00

☐ Aboveground valves, piping and appurtenances are not inspected regularly- *112.8(d)(4)*.....200.00

☐ Periodic integrity and leak testing of buried piping is not conducted- *112.8(d)(4)*.....100.00

☐ Vehicle traffic is not warned of aboveground piping or other oil transfer operations- *112.8(d)(5)*..... 100.00

☐ Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process.....50.00

TOTAL **$ 1,050.00**