



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9

75 HAWTHORNE STREET, SAN FRANCISCO, CALIFORNIA 94105
EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO.: SPCC-09-~~2017-0001~~ *2016-0002* *Adopt 9/21/16*

On: February 11, 2016

At: 905 Stockton Avenue, San Jose, CA 95110

Owned & Operated by: Bay Area/Diablo Petroleum,
DBA Golden Gate Petroleum (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 failed to comply with the SPCC regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection findings and Alleged Violations set forth in the Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further described in the Form. The Respondent admits to being 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 Respondent may have to EPA's jurisdiction.

EPA is 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 \$2475.00. The Respondent consents to the assessment of this penalty.

This Expedited Settlement also is subject to the following terms and conditions: 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 \$2475.00, payable to the Treasurer, United States of America with the notation "Spill Fund - 311" and the Docket Number stated above.

This Expedited Settlement must be returned by certified mail to: Janice Witul, U.S. Environmental Protection Agency, Region 9 (ENF-3-2), 75 Hawthorne Street, San Francisco, California 94105-3901. The certified check for payment must be sent by certified mail to: U. S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

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.

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 immediately on the date filed with the Regional Hearing Clerk. If 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 noncompliance identified in the Form.

APPROVED BY EPA:

Kathleen H. Johnson Date 9/21/2016
Kathleen H. Johnson, Director
Enforcement Division

APPROVED BY RESPONDENT:

Name (Print): Brad Hurley

Title (Print): Plant Operations

Brad Hurley Date 9/15/16
Signature

IT IS SO ORDERED:

Steven L. Jawgiel Date 09/23/16
Steven L. Jawgiel
Regional Judicial Officer

** FILED **

26SEP2016 - 11:40AM

U.S. EPA - Region 09

REV. 11/3/2003

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

(Note: Do not use this form for a farm or if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 9 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.

Company Name: Bay Area/Diablo Petroleum Co.		Docket Number: SPCC-09-2017-0001
Facility Name: Golden Gate Petroleum		Date: February 11, 2016
Address: 905 Stockton Avenue		Inspection Number: 16-4024
City: San Jose		Inspector Name: J Witul
State: CA	Zip Code: 95110	EPA Approving Official: Kathleen Johnson, Director – Enforcement Division
Contact: Brad Hurley, Plant Operations Manager		Enforcement Contact: Janice Witul



**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 \$1,500.00 enter only the maximum allowable of \$1,500.00.)

- No Spill Prevention Control and Countermeasure Plan -112.3\$1,500.00
- Plan not certified by a professional engineer - 112.3(d)..... 450.00
- Certification lacks one or more required elements - 112.3(d)(1)..... 100.00
- Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1).....300.00
- 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)..... 75.00
- No evidence of five-year review of plan by owner/operator - 112.5(b)..... 75.00
- Amendment(s) not certified by a professional engineer - 112.5(c).....150.00
- No management approval of plan - 112.7.....450.00
- Plan does not follow sequence of the rule and/or cross-reference not provided - 112.7.....150.00
- Plan does not discuss additional procedures/methods/equipment not yet fully operational - 112.7.....75.00
- Plan does not discuss conformance with SPCC requirement - 112.7(a)(1)75.00
- Plan does not discuss alternative environmental protection to SPCC requirements - 112.7(a)(2).....200.00

<input checked="" type="checkbox"/>	Plan has inadequate or no facility diagram, - 112.7(a)(3)	75.00
<input type="checkbox"/>	Inadequate or no listing of type of oil and storage capacity of containers - 112.7(a)(3)(i).....	50.00
<input type="checkbox"/>	Inadequate or no discharge prevention measures - 112.7(a)(3)(ii).....	50.00
<input type="checkbox"/>	Inadequate or no description of drainage controls - 112.7(a)(3)(iii).....	50.00
<input type="checkbox"/>	Inadequate or no description of countermeasures for discharge discovery, response and cleanup - 112.7(a)(3)(iv).....	50.00
<input type="checkbox"/>	Methods of disposal of recovered materials not in accordance with legal requirements - 112.7(a)(3)(v).....	50.00
<input checked="" type="checkbox"/>	Inadequate contact list & phone numbers for response & reporting discharges - 112.7(a)(3)(vi).....	50.00
<input checked="" type="checkbox"/>	Plan has inadequate or no information and procedures for reporting a discharge - 112.7(a)(4).....	100.00
<input type="checkbox"/>	Plan has inadequate or no description and procedures to use when a discharge may occur - 112.7(a)(5)	150.00
<input type="checkbox"/>	Inadequate or no prediction of equipment failure which could result in discharges - 112.7(b).....	150.00
<input type="checkbox"/>	Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment - 112.7(c).....	400.00
<input type="checkbox"/>	Inadequate containment or drainage for Loading Area - 112.7(c)	400.00
<input checked="" type="checkbox"/>	Plan has no or inadequate discussion of any applicable more stringent State rules, regulations, and guidelines -112.7(j)	75.00
<input checked="" type="checkbox"/>	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)	150.00

- If claiming impracticability of appropriate containment/diversionary structures:

<input type="checkbox"/>	Impracticability has not been clearly denoted and demonstrated in plan - 112.7(d).....	100.00
<input type="checkbox"/>	No periodic integrity and leak testing - 112.7(d).....	150.00
<input type="checkbox"/>	No contingency plan - 112.7(d)(1).....	150.00
<input type="checkbox"/>	No written commitment of manpower, equipment, and materials - 112.7(d)(2).....	150.00
<input type="checkbox"/>	Plan has no or inadequate discussion of general requirements not already specified - 112.7(j).....	75.00

QUALIFIED FACILITY REQUIREMENTS: §112.6

<input type="checkbox"/>	Qualified Facility: No Self certification - 112.6(a).....	450.00
<input type="checkbox"/>	Qualified Facility: Self certification lacks required elements - 112.6(a) or (b)	100.00
<input type="checkbox"/>	Qualified Facility: Technical amendments not certified - 112.6(a) or (b).....	150.00
<input type="checkbox"/>	Qualified Facility: Qualified Facility Plan includes alternative measures not certified by licensed Professional Engineer - 112.6(b).....	150.00

- Qualified Facility: Environmental Equivalence or Impracticability not certified by licensed Professional Engineer - 112.6(b)(4) 350.00

WRITTEN PROCEDURES AND INSPECTION RECORDS: §112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - 112.7(e)..... 75.00
- Inspections and tests required are not in accordance with written procedures developed for the facility.- 112.7(e) 75.00
- No Inspection records were available for review - 112.7(e)..... 200.00
 - Written procedures and/or a record of inspections and/or customary business records:
- Are not signed by appropriate supervisor or inspector- 112.7(e)..... 75.00
- Are not maintained for three years - 112.7(e)..... 75.00

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES: §112.7(f)

- No training on the operation and maintenance of equipment to prevent discharges and for facility operations - 112.7(f)(1)..... 75.00
- No training on discharge procedure protocols - 112.7(f)(1)..... 75.00
- No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan - 112.7(f)(1).... 75.00
- No designated person accountable for spill prevention - 112.7(f)(2)..... 75.00
- Spill prevention briefings are not scheduled and conducted at least once a year - 112.7(f)(3)..... 75.00
- Plan has inadequate or no discussion of personnel training and spill prevention procedures - 112.7(a)(1)..... 75.00

SECURITY (excluding Production Facilities): §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)..... 150.00
- Master flow and drain valves not secured - 112.7(g)..... 300.00
- Starter controls on oil pumps not secured to prevent unauthorized access - 112.7(g)..... 75.00
- Out-of-service and loading/unloading connections of oil pipelines not adequately secured - 112.7(g)..... 75.00
- Plan does not address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges - 112.7(g) 150.00

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).....750.00
- 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).....450.00
- 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)300.00
- 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)..... 150.00
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack -112.7(a)(1) 75.00

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).....150.00
- Failure to provide an oil spill contingency plan - 112.7(k)(2)(ii)(A)..... 150.00
- No written commitment of manpower, equipment, and materials - 112.7(k)(2)(ii)(B)..... 150.00

FACILITY DRAINAGE: §112.8(b) & (c) and/or §112.12(b) & (c)

- Two "lift" pumps are not provided for more than one treatment unit - 112.8(b)(5).....50.00
- Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge - 112.8(b)(1)&(2) and 112.8(c)(3)(i).....600.00
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision - 112.8(c)(3)(ii)&(iii).....450.00
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained - 112.8(c)(3)(iv)..75.00
- 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)..... 450.00
- Plan has inadequate or no discussion of facility drainage..... 75.00

BULK STORAGE CONTAINERS: § 112.7(i), §112.8(c) and/or §112.12(c)

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- Failure to conduct evaluation of field-constructed aboveground containers for risk of discharge or failure due to brittle fracture or other catastrophe - 112.7(i).....300.00
 - Material and construction of containers not compatible with the oil stored and the conditions of storage such as pressure and temperature - 112.8(c)(1).....450.00
 - Secondary containment capacity is inadequate - 112.8(c)(2).....750.00
 - Secondary containment systems are not sufficiently impervious to contain oil - 112.8(c)(2)..... 375.00
 - Completely buried metallic tanks are not protected from corrosion or are not subjected to regular pressure testing - 112.8(c)(4)..... 150.00
 - Buried sections of partially buried metallic tanks are not protected from corrosion - 112.8(c)(5)..... 150.00
 - Above ground containers are not subject to periodic integrity testing techniques such as visual inspections, hydrostatic testing, or other nondestructive testing methods - 112.8(c)(6).....450.00
 - Above ground tanks are not subject to visual inspections - 112.8(c)(6)..... 450.00
 - 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)..... 75.00
 - Steam return /exhaust of internal heating coils that discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system - 112.8(c)(7)..... 150.00
 - Container installations are not engineered or updated in accordance with good engineering practice because none of the following are present - 112.8(c)(8).....450.00
 - 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)..... 75.00
 - 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).....150.00
 - Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected - 112.8(c)(10)..450.00
 - 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) :.....150.00
 - 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.....75.00

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS: §112.8(d) and §112.12(d)

- Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection - *112.8(d)(1)*.....150.00
- Corrective action is not taken on exposed sections of buried piping when deterioration is found - *112.8(d)(1)*.....450.00
- Not-in-service or standby piping is not capped or blank-flanged and marked as to origin - *112.8(d)(2)*.....75.00
- Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction - *112.8(d)(3)*.....75.00
- Above ground valves, piping and appurtenances are not inspected regularly- *112.8(d)(4)*300.00
- Periodic integrity and leak testing of buried piping is not conducted at time of installation, modification, construction, relocation, or replacement - *112.8(d)(4)*.....150.00
- Vehicle traffic is not warned of aboveground piping or other oil transfer operations - *112.8(d)(5)*.....150.00
- Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process.....75.00

(Do not use this if FRP subject, go to traditional enforcement)

TOTAL \$2,475

Bank of America 

Cashier's Check

No. 0954804127

Notice to Purchaser - In the event that this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Void After 90 Days

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Date 09/09/16 11:46:41 AM

VIRGINIA HILLS

0004 0001272 0022

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Pay

 BANK OF AMERICA **24** SEVEN FIVE **500** TWO FOUR FIVE CTSCTS

***\$2,475.00

To The Order Of U.S. ENVIRONMENTAL PROTECTION AGENCY

Remitter (Purchased By): BAY AREA PETROLUEM COMPANY

Bank of America, N.A.
PHOENIX, AZ

SP; 11 Fund - 311 SPC-09-2012-0001


AUTHORIZED SIGNATURE

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THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

00-33-3364B 11-2010

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CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER in conjunction with an Expedited Settlement Agreement (ESA) in the matter of Bay Area/Diablo Petroleum, dba Golden Gate Petroleum Docket Number SPCC-09-~~2017-0001~~, has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

(2016-0002)

Accordingly, the Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent-

Brad Hurley, Plant Operations Manager
Golden Gate Petroleum
691 Walsh Avenue
San Jose, CA 95050

HAND DELIVERED:

Complainant-

Andrew Helmlinger, Esq.
Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA. 94105

Dated this ~~20~~th day of September, 2016;


Regional Hearing Clerk
EPA, Region 9