



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

DOCKET NO.: CWA-08-2020-0011

May 13, 2020
3:30 PM

IN THE MATTER OF:

WEST STAR AVIATION

RESPONDENT

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FINAL ORDER

Received by
EPA Region VIII
Hearing Clerk

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Expedited Penalty Action and Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Expedited Penalty Action and Consent Agreement, effective immediately upon filing this Expedited Penalty Action and Consent Agreement and Final Order.

SO ORDERED THIS 13th DAY OF May, 2020.

KATHERIN
HALL

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HALL
Date: 2020.05.13 15:23:59
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Katherin E. Hall
Regional Judicial Officer



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Denver, CO 80202-1129
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May 13, 2020
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Hearing Clerk

In the Matter of:

EXPEDITED PENALTY ACTION
AND CONSENT AGREEMENT

West Star Aviation

Docket No.: CWA-08-2020-0011

On October 8, 2019, authorized representatives of the United States Environmental Protection Agency (EPA) conducted an inspection of a facility known as West Star Aviation, at 790 Heritage Way in Grand Junction, Colorado. The facility is owned and/or operated by West Star Aviation, LLC (Respondent). The purpose of the inspection was to determine compliance with the Spill Prevention Control and Countermeasure regulations promulgated at 40 C.F.R. Part 112, Subparts A-C, under Section 311(j) of the Clean Water Act (Act), 33 U.S.C. § 1321(j). As a result, the EPA has found that Respondent, a “person” as defined in section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7), violated the regulations as described in attached Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, Proposed Penalty Form (Violations Form), which is hereby incorporated by reference.

Respondent and the undersigned EPA complainant enter into this Expedited Penalty Action and Consent Agreement (Consent Agreement) to settle Respondent’s federal civil penalty liability for the violations set forth in the Violations Form for a penalty payment of \$313.00. This Consent Agreement and any final order by an EPA Regional Judicial Officer ratifying this Consent Agreement (Final Order) will commence and conclude this action pursuant to Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the violations set forth in the Violations Form have been corrected.

Respondent consents to the assessment of a penalty in the amount specified above. Respondent agrees that it shall, within 30 calendar days of the date of issuance of the Final Order, make payment in this amount by any of the methods provided on the website <https://www.epa.gov/financial/makepayment>, a printout of which is attached and entitled “Payment Instructions.” The payment shall also indicate it is payable to “Oil Spill Liability Trust Fund-311” and be identified with the docket number that appears on the Final Order. Within 24 hours of payment, the Respondent shall also send proof of payment to each of the following at the email addresses indicated below:

Dennis Jaramillo, Environmental Engineer
Enforcement and Compliance Assistance Division (8ENF-RO-O)
Region 8, U.S. Environmental Protection Agency
Jaramillo.dennis@epa.gov

and

Melissa Haniewicz, Regional Hearing Clerk
Region 8, U.S. Environmental Protection Agency
Haniewicz.melissa@epa.gov

The term "proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements.

Consistent with Section 162(f) of the Internal Revenue Code, 26 U.S.C. §162(f), Respondent will not deduct penalties paid under this Consent Agreement for federal tax purposes.

This Consent Agreement and the accompanying Final Order resolve only the federal civil penalty claims for the specific violations alleged in the Violations Form. In addition, this settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, the EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations, to enforce the provisions of this Consent Agreement and the Final Order following its filing with the Regional Hearing Clerk. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the EPA or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

Respondent neither admits nor denies the allegations set forth in the Violations Form, but Respondent admits that the EPA has jurisdiction over this matter under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and 40 C.F.R. Part 22. For the purposes of this proceeding, Respondent waives any right to contest the allegations in the Violations Form and its right to appeal the proposed Final Order that would ratify this Consent Agreement. Moreover, Respondent agrees to bear its own costs and attorney's fees related to this Consent Agreement. The parties consent to service of this Consent Agreement and the Final Order by e-mail at the following valid e-mail addresses: livingston.peggy@epa.gov (for Complainant), and kmeyer@wsa.aero (for Respondent).

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to it.

SIGNATURE BY RESPONDENT:

Signature Kraig A. Meyer Date Apr. 29, 2020

Name and Title (print): Kraig A. Meyer Director of EHS

Mailing Address: 740 Heritage Way
Grand Junction, CO 81506

Email Address: kmeyer@wsa.aero

Telephone: 970-248-5225

SIGNATURE BY EPA/COMPLAINANT:

JANICE
PEARSON

Digitally signed by
JANICE PEARSON
Date: 2020.05.12 08:02:43
-06'00'

_____ Date _____

Janice Pearson, Chief
RCRA and OPA Enforcement Branch
Region 8, U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202
pearson.janice@epa.gov
303-312-6354

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) and (c), the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

Respondent is hereby ORDERED to comply with all of the terms of this Consent Agreement, effective upon the date of signature of this Final Order.

Regional Judicial Officer

Date

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
West Star Aviation

Docket Number
CWA-08-2020-0011



Facility Name
Grand Junction Airport

Date
1/6/2020

Address
790 Heritage Way

Facility ID Number

City
Grand Junction

Inspector's Name
D. Jaramillo

State **Zip Code**
Co 81506

EPA Approving Official
Janice Pearson

Contact
Kraig Meyers

Enforcement Contact
Dennis Jarmillo

Total Storage Capacity
87000

Summary of Findings (Bulk Storage Facilities)

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

-
- 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)
 - No management approval of plan *112.7* (\$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)

- Plan does not discuss alternative environmental protection to SPCC requirements *112.7(a)(2)* (\$225)
- Plan has inadequate or no facility diagram 112.7(a)(3) (\$100)
- Inadequate or no listing of type of oil and storage capacity of containers 112.7(a)(3)(i) (\$75)
- Inadequate or no discharge prevention measures 112.7(a)(3)(ii) (\$75)
- Inadequate or no description of drainage controls 112.7(a)(3)(iii) (\$75)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup 112.7(a)(3)(iv) (\$75)
- Methods of disposal of recovered materials not in accordance with legal requirements 112.7(a)(3)(v) (\$75) \$75
- No contact list & phone numbers for response & reporting discharges 112.7(a)(3)(vi) (\$75)
- Plan has inadequate or no information and procedures for reporting a discharge 112.7(a)(4) (\$125)
- Plan has inadequate or no description and procedures to use when a discharge may occur 112.7(a)(5) (\$175)
- Inadequate or no prediction of equipment failure which could result in discharges 112.7(b) (\$175)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment *112.7* (\$450)
- Inadequate containment or drainage for Loading Area- 112.7(c) (\$450)
- Plan has no or inadequate discussion of any applicable more stringent State rules, regulations, and guidelines- 112.7(j) (\$100)
- Plan does not include a signed copy of the Certification of Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e) (\$175)
- If claiming impracticability of containment and appropriate diversionary structures:**
- Impracticability has not been clearly denoted and demonstrated in plan 112.7(d) (\$125)
- No periodic integrity and leak testing 112.7(d) (\$175)
- No contingency plan 112.7(d)(1) (\$175)
- No written commitment of manpower, equipment, and materials 112.7(d)(2) (\$175)
- No periodic integrity and leak testing , if impracticability is claimed 112.7(d) (\$175)
- Plan has no or inadequate discussion of general requirements not already specified 112.7(j) (\$100)

QUALIFIED FACILITY REQUIREMENTS: 112.6

- Qualified Facility: No Self certification *112.6(a)* (\$500)
- Qualified Facility: Self certification lacks required elements 112.6(a) (\$125)
- Qualified Facility: Technical amendments not certified 112.6(b) (\$175)

- Qualified Facility: Qualified Facility Plan includes alternative measures not certified by liscensed 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 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)

(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 112.7(f)

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

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)(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)
- Out-of-service and loading/unloading connection(s) of piping/pipelines not adequately secured 112.7(g)(4) (\$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 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)
- 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)* (\$350)
- 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)* (\$175)
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack *112.7(a)(1)* (\$100)

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)* (\$175)
- Failure to provide an oil spill contingency plan *112.7(k)(2)(ii)(A)* (\$175)
- No written commitment of manpower, equipment, and materials *112.7(k)(2)(ii)(B)* (\$175)

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

- 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)and(2), and 112.8(c)(3)(i)* (\$700)
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision *112.8(c)(3)(ii)and(iii)* (\$525)
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained *112.8(c)(3)(iv)* (\$100)
- Drainage from undiked areas do not flow into catchment basins ponds or lagoons, or no diversion system to retain or return a discharge to the facility *112.8(b)(3)and(4)* (\$525)
- Two “lift” pumps are not provided for more that one treatment unit *112.8(b)(5)* (\$75)
- Plan has inadequate or no discussion of facility drainage *112.7(a)(1)* (\$100)

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

- 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)* \$350
- Material and construction of containers not compatible to the oil stored and the conditions of storage such as pressure and temperature *112.8(c)(1)* (\$525)
- Secondary containment is inadequate *112.8(c)(2)* (\$850)
- Secondary containment systems are not sufficiently impervious to contain oil *112.8(c)(2)* (\$425)
- Completely buried tanks installed after August 16, 2002 are not protected from corrosion or are not subjected to regular pressure testing *112.8(c)(4)* (\$175)
- Buried sections of partially burried metallic tans are not prootected from corrosion *112.8(c)(5)* (\$175)

- Aboveground tanks are not subject to visual inspections *112.8(c)(6)* (\$525)
- Aboveground tanks are not subject to periodic integrity testing techniques such as visual inspections hydrostatic testing, or other nondestructive methods *112.8(c)(6)* (\$525)
- 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)
- 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)

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 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)
- 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	\$250
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Multiplier	1.25
Total	\$313

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED PENALTY ACTION AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **WEST STAR AVIATION; DOCKET NO.: CWA-08-2020-0011** were filed with the Regional Hearing Clerk on May 13, 2020.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Peggy Livingston, Enforcement Attorney, and sent via certified receipt email on May 13, 2020, to:

Respondent

Kraig Meyers, Director of EH&S
West Star Aviation
Kmeyer@wsa.aero

And emailed to:

Jessica Chalifoux
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

May 13, 2020

MELISSA
HANIEWICZ

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Date: 2020.05.13 15:49:41
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Melissa Haniewicz
Regional Hearing Clerk