

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

ENFORCEMENT CONFIDENTIAL

DATE: SEP 18 2017

SUBJECT: In the Matter of: Skylands Energy Services
Expedited Settlement Agreement
Docket Number: CWA-02-2017-3803

FROM: Eric Mosher, Chief
Response and Prevention Branch

TO: Angela Carpenter, Acting Director
Emergency and Remedial Response Division

Attached for your review and signature is an Expedited Settlement Agreement for the Skylands Energy Services facility, located at 836 Ridgewood Avenue in North Brunswick, New Jersey. This Expedited Settlement Agreement was issued by the Response and Prevention Branch (RPB) under the Agency's Spill Prevention Control and Countermeasure (SPCC) Expedited Enforcement Program (SEEP).

SEEP offers SPCC inspection violators the opportunity to pay a nonnegotiable penalty, with no option for a hearing, in lieu of the potentially protracted and more costly administrative penalty process. The EPA may settle expedited cases using the Administrator's authority to institute administrative proceedings under the relevant statute, and 40 CFR § 22.13(b), enabling the EPA to simultaneously commence and conclude an administrative proceeding pursuant to 40 CFR § 22.18(b). These agreements will settle the Class I administrative penalty enforcement actions discussed below which were filed under Section 311(b)(6) of the Clean Water Act (Act), 33 U.S.C. § 1321(b)(6).

On December 2, 2016, the EPA had conducted a SPCC inspection at the above-referenced facility. During the inspection, it was determined that the facility had approximately 41,000 gallons of oil storage capacity to support its storage and distribution of diesel fuel, fuel oil #2, and heating oil. An oil spill from the facility could impact the Raritan River via overland flow to storm drains located on Ridgewood Avenue.

SPCC violations were noted during the EPA's December 2, 2016 SPCC inspection. Specifically, the facility failed to: review its SPCC Plan every five years; have management approval of the SPCC Plan; provide sufficient secondary containment, meet security requirements; and maintain drainage valves in the closed position.

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In order to sufficiently address the aforementioned violations, the facility requested two 30-day extensions in order to prepare and implement a new SPCC Plan. The RPB agreed to grant the extensions.

Mr. Francesco Maimone (Enforcement Coordinator) and Mr. Kahn (Inspector) of my staff believe that the facility has sufficiently corrected the noted violations. Specifically, Skylands Energy Services has completed the SPCC Plan, and a recent drive-by of the facility confirmed that appropriate physical improvements have been made. It is important to note that because the facility is generally unmanned, Mr. Kahn has arranged to conduct a formal SPCC inspection with the facility's Professional Engineer in Fiscal Year 2018. Additionally, by completing and signing the attached Expedited Settlement Agreement, the Skylands Energy Services facility has certified that all identified violations have been corrected.

Mr. Craig Miller, Manager of Skylands Energy Services, signed the attached Expedited Settlement Agreement on May 26, 2017, thus certifying that the facility has agreed to the terms identified in the Expedited Settlement Agreement. Because the SPCC Plan was not completed when Mr. Miller had signed the Expedited Settlement Agreement, the RPB withheld the facility-signed ESA until this violation was resolved in September 2017. The Respondent has agreed to pay an Expedited Settlement Agreement penalty amount of \$3,580.00 to the EPA's Cincinnati Finance Center within 30 days of the Expedited Settlement Agreement being filed with the Region 2 Regional Hearing Clerk.

The RPB believes that the penalty amount provides enough of a deterrent to avoid the likelihood of repeat violations. Additionally, the EPA has reserved its right to perform future inspections and investigations, and to bring future enforcement actions, as appropriate.

Docket No. CWA-02-2017-3803

Recommendation

We recommend your approval and issuance of the attached Expedited Settlement Agreement. After signature, please return the enclosed to Francesco Maimone, 2RPB-ERRD, for service.

Enclosure

- Skylands Energy Services Expedited Settlement Agreement



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
2890 WOODBRIDGE AVE, MS-211, EDISON, NJ 08837-3679
EXPEDITED SPCC SETTLEMENT AGREEMENT**

2017 SEP 27 10 28 20

**DOCKET NO.: CWA-02-2017-3803
On: December 2, 2016**

**At: Skylands Energy Services
836 Ridgewood Avenue, North Brunswick, NJ 08869**

Owned or Operated by: Fast Oil (Respondent)

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 (SPCC Form), which is hereby incorporated by reference into this Agreement. By its first signature below, EPA ratifies the Inspection findings and Alleged Violations set forth in the SPCC Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further identified in the SPCC Form. The Respondent admits being subject to 40 CFR Part 112 and admits that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the SPCC Form. Respondent does not contest the Inspection Findings.

EPA is authorized to enter into this Expedited Settlement Agreement (Settlement Agreement) 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 Settlement Agreement in order to settle the civil violations identified in the SPCC Form for a penalty of **Three Thousand Five Hundred and Eighty (\$3,580.00)**. The Respondent consents to the assessment of this penalty.

This Settlement Agreement is also subject to the following terms and conditions: 1) Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected within 30 days of receipt of this Agreement, or within an extension time frame granted by the EPA. 2) The Respondent has sent a certified check in the amount of **\$3,580.00**, payable to the "Environmental Protection Agency" at the following address: "U.S. Environmental Protection Agency, Fines & Penalties, CFC, PO Box 979077, St Louis, MO 63197-9000" within 30 days of the date of filing with the Regional Hearing Clerk (a.k.a. "effective date"), and 3) Respondent has noted on the penalty payment check "OSLTF-311" and the docket number of this case, "**CWA-02-2017-3803**."

Within 30 days of receipt of the Settlement Agreement, Respondent must correct the violations identified in the SPCC Form, certify such corrections, and sign and return this Settlement Agreement as presented.

An initial 30 day extension may be granted upon written approval by the EPA. In certain cases, one or two additional 30 day extensions may be granted if EPA determines that documentation demonstrates it is technically infeasible or impractical to achieve compliance in less than thirty or sixty days.

Upon signing, please return this Settlement Agreement, the violation correction certification, description of activities taken to come into compliance and documentation of the cost to come into compliance to: "Francesco Maimone, Oil Enforcement Coordinator, U.S. Environmental Protection Agency, 2890 Woodbridge Avenue, MS-211, Edison, New Jersey 08837-3679."

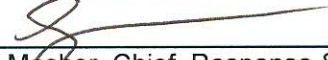
This Settlement Agreement is binding on the parties signing below when Ordered by the Director of the Emergency Response and Remedial Division, and it is effective upon filing with the Regional Hearing Clerk. Payment of the penalty, as set forth in paragraph 4, is required within 30 days after filing with the Regional Hearing Clerk. You will be notified of the effective date of this Settlement Agreement in a future mailing by the EPA.

If the penalty is paid in accordance with the terms of the Settlement Agreement and certification of compliance is deemed accurate, the EPA will take no further action against the Respondent for the violations of the SPCC regulations described in the SPCC 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.

If Respondent fails to submit any documents or penalty payments as required under this Agreement, the proposed Settlement Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in the SPCC Form.

By signing and returning the 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 Settlement Agreement without further notice.

APPROVED BY EPA:

 Date: 4/24/17
Eric Mosher, Chief, Response & Prevention Branch

APPROVED BY RESPONDENT:

Craig J Miller Manager
Name/Title (print)

 Date: 5/26/2017
Signature

IT IS SO ORDERED:

 Date: 9/25/17
John Prince, Director
Emergency Response and Remedial Division

CERTIFICATE OF SERVICE

Docket #: CWA-02-2017-3803

I certify that the attached Skylands Energy Services Spill Prevention Control and Countermeasure (SPCC) Expedited Settlement Agreement (and its enclosures), was sent in the following manner, on 9/27/2017, to the addressees listed below.

Original and One Copy Delivered by Hand Delivery to Regional Hearing Clerk's Office:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Dated:

9/27/17



Nicole DeHart
ERRD, Administrative Assistant
U.S. Environmental Protection Agency
ERRD, Region 2