



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

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REGIONAL HEARING CLERK
EPA REGION 6

EXPEDITED SPILL PREVENTION CONTROL AND COUNTERMEASURE
SETTLEMENT AGREEMENT

In the matter of Danny Engel Construction, LLC
(Respondent) Docket No. CWA-06-2024-4304

On January 9, 2024, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility known as the Ellie Lease, located Off County Road 1495 in Ada, Pontotoc 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 **\$725.00**. 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
dannengelconstructionllc@gmail.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),

**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)(l) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name
Danny Engel Construction, LLC

Docket Number
CWA-06-2024-4304

Facility Name
Ellie Lease

Date
1/9/2024

Address
15255 County Road 3585

Facility ID Number
SPCC-OK-2024-00057

City
Ada

Inspector's Name
Tom McKay

State **Zip Code**
OK 74820

EPA Approving Official
Chris Perry

Contact
Danny Engel

Enforcement Contact
Enoch Johnbull

Total Storage Capacity
23,856 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)
 - 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)
 - 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)
- 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: 40 C.F.R. 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 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)

(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)

\$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)

- 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)

\$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)

- 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: 40 C.F.R. 112.7(e) 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: 40 C.F.R. 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: 40 C.F.R 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: 40 C.F.R. 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)

\$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: 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)
 - 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	\$725
Multiplier	1	1
Total		\$725

Docket No. CWA-06-2024-4304

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 March 25, 2024, 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 Sent by E-mail:

NAME: Danny Engel
ADDRESS: 15255 County Road 3585
Ada, OK 74820

ENOCH Digitally signed by
JOHNBULL ENOCH JOHNBULL
Date: 2024.03.25
10:34:46 -05'00'

Enoch Johnbull
OPA Enforcement Officer