



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL 7018 2290 0000 6353 8895 AUG 23 2019
RETURN RECEIPT REQUESTED

Mr. Edward Byczynski
President and Chief Executive Officer
Apollo Aerosol Industries, LLC
310 Brookhollow Road SE
Dalton, Georgia 30721

Re: SPCC Expedited Settlement Agreement
Apollo Technologies - Smyrna, Georgia
NRC No. 1156130
Docket No. CWA-04-2018-5000(b)
SPCC Inspection Number: GA1604-001
Docket No. CWA-04-2019-7005(b)

Dear Mr. Byczynski:

This letter is to notify Apollo Aerosol Industries, LLC (Apollo), that the Expedited Settlement Agreements (ESA) for the above-referenced matters have been signed by the U.S. Environmental Protection Agency and became effective on the date of filing with the Regional Hearing Clerk, as required by 40 C.F.R. §§ 22.6 and 22.31, as indicated on the Certificate of Service. The ESAs are binding on the EPA and Apollo. Copies of the ESAs are enclosed.

Pursuant to the ESAs, Apollo shall submit payments of \$4,500 and \$1,150 within 30 days of receipt of this letter. Payments shall be made by cashier's checks, certified checks, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express) payable to the "Oil Spill Liability Trust Fund." If paying by checks, Respondent shall submit a cashier's check or certified check. The checks shall bear the notation "OSLTF - 311" and Respondent shall reference the title and docket numbers of these cases on the face of each check. The payment shall be made in one of the forms stated in Enclosure A. For additional payment information, see the EPA's payments webpage <http://www2.epa.gov/financial/makepayment>.

Pursuant to 40 C.F.R. § 22.31(c), you shall send a separate copy of the check or the other instrument of payment that you use and a written statement that the payment is being made in accordance with this ESA, to the persons at the following addresses:

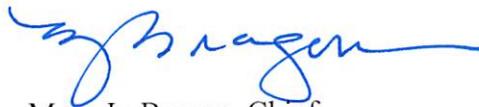
Ms. Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

And to:

Mr. John C. Goodwin
Environmental Engineer
Water Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

If you have any questions, please contact Mr. John C. Goodwin at (404) 562-8488.

Sincerely,



Mary Jo Bragan, Chief
Water Enforcement Branch
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE A

COLLECTION INFORMATION

Address for payment by certified or cashier's check sent by U.S. Postal Service:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000

Address for payment by certified or cashier's check sent by non-U.S. Postal Service Express mail:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
(314) 481-1028

Electronic Funds Transfer payment:

Wire transfers to the EPA can be done through the Federal Reserve Bank of New York using the following information:

ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

Automated Clearinghouse Payments (also known as REX or remittance express):

Automated Clearinghouse payments to EPA can be made through the US Treasury using the following information:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737
US Treasury Contact Information:
1-866-234-5681

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:

Apollo Aerosol Industries, LLC,
Respondent.

DOCKET NO.: CWA-04-2019-5000(b)

Oil Spill Expedited Settlement Agreement
Pursuant to CWA Section 311(b)(6)(B)(i)

On or about August 13, 2016, at 1850 South Cobb Industrial Boulevard, Smyrna, Georgia, Apollo Aerosol Industries, LLC (Respondent), doing business as Plaze Georgia, discharged approximately 2,300 gallons of oil in violation of the Clean Water Act (CWA) § 311(b)(3), 33 U.S.C. § 1321(b)(3), as described on the attached "Findings and Alleged Violations Form" (Form), which is hereby incorporated by reference.

The United States Environmental Protection Agency finds that Respondent's conduct is subject to the discharge prohibition of CWA § 311(b)(3), 33 U.S.C. § 1321(b)(3) in conjunction with 40 C.F.R. § 110.3. Respondent admits being subject to CWA § 311(b)(3), and that the EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent neither admits nor denies the allegations in the Form.

The EPA is authorized to enter into this Expedited Settlement Agreement (ESA) under the authority vested in the Administrator of the EPA by CWA § 311(b)(6)(B)(i), 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) and § 22.18(b)(2)-(3). The parties enter into this ESA in order to settle the civil violation described in the Form for a penalty of \$4,500. Respondent consents to the assessment of this penalty.

This ESA is also 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 it has investigated the cause of the spill, it has cleaned up the spill pursuant to federal requirements, and it has taken corrective actions that will prevent future spills. Respondent, also by signature on this ESA, agrees to pay the penalty assessed within thirty (30) calendar days of receiving written notice that the ESA has been executed and effective. Instructions for making the penalty payment are enclosed with this ESA as Attachment A.

After the parties sign this ESA and Respondent pays the civil penalty, the EPA will take no further action against Respondent for the violations described in the Form. However, the EPA does not waive any rights to take any enforcement action for any other violations by Respondent of CWA § 311(b)(3) or any other federal statute or regulations.

Upon signing and returning this ESA to the EPA, Respondent waives any right to judicial review under CWA § 311(b)(6)(G), 33 U.S.C. § 1321(b)(6)(G), any right to appeal or request a

hearing to contest any fact or allegation, and consents to the EPA's approval of the ESA without further notice. Failure by Respondent to pay the penalty assessed by this ESA in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to CWA § 311(b)(6)(H), 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

This ESA is binding on the parties signing below. Each person signing this ESA certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA is effective upon the EPA's filing of the ESA with the Regional Hearing Clerk. If Respondent does not sign and return this ESA as presented within thirty (30) calendar days of the date of its receipt, the proposed ESA will be withdrawn without prejudice to the EPA's ability to file any other enforcement action for the noncompliance identified in the Form, unless an extension has been granted by EPA.

APPROVED BY RESPONDENT:

Name (print): EDWARD BUCZYNSKI

Title (print): PRESIDENT CEO

Signature: [Signature] Date 7/16/19

APPROVED BY THE EPA:

[Signature] Date 8/13/19

Mary Jo Bragan
Chief, Water Enforcement Branch
Enforcement and Compliance Assurance Division

FINAL ORDER
IT IS SO ORDERED:

[Signature] Date August 21, 2019
Tanya Floyd
Regional Judicial Officer

USEPA REGION 4
OFFICE OF REGIONAL
OPERATIONS
HEARING CLERK
2019 AUG 23 AM 9:31

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**Findings and Alleged Violations Form
Expedited Oil Spill Agreement
Enclosure 1**

1. Apollo Aerosol Industries, LLC (Respondent) is a Corporation with a place of business located at 310 Brookhollow Road Southeast, Dalton, Georgia. Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act (CWA), 33 U.S.C. § 1321(a)(7).
2. Respondent was the owner or operator of an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), which was located at 1850 South Cobb Industrial Boulevard, Smyrna, Georgia ("facility").
3. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.
4. For purposes of Section 311(b)(3) and (b)(4) of the CWA, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that the United States Environmental Protection Agency ("EPA") has determined may be harmful to the public health, welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that violate applicable water quality standards, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.
5. On August 13, 2016, Respondent discharged approximately 2,300 gallons of oil, as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its facility into or upon an unnamed tributary of Nickajack Creek. The EPA obtained this information from the EPA On-Scene Coordinator's observations documented in the Pollution Report dated September 13, 2016.
6. The unnamed tributary of Nickajack Creek feeds the Chattahoochie River, which is a navigable water of the United States, as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.
7. Respondent's August 13, 2016 discharge of oil from its facility caused a sludge or emulsion to be deposited beneath the surface of the unnamed tributary, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, which implements Section 311(b)(3) and (b)(4) of the CWA, 33 U.S.C. § 1321(b)(3) and (b)(4).
8. Respondent's August 13, 2016 discharge of oil from its facility into or upon the unnamed tributary and/or adjoining shorelines was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3 violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3). Pursuant to Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), and 40 C.F.R. Part 19, Respondent is liable for civil penalties of up to \$18,943 per violation, up to a maximum of \$47,357.
9. Respondent has addressed the discharge of oil from its facility.

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order, in the matter of Apollo Aerosol Industries, LLC, Docket Number: CWA-04-2019-5000(b), and have served the parties listed below in the manner indicated:

Stephen Smith
Senior Attorney
Office of CWA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Mary Mattox
Water Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

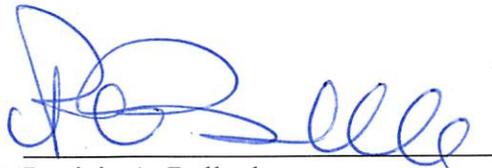
(Via EPA's electronic mail)

Edward Byczynski
President/CEO
Apollo Aerosol Industries, LLC
310 Brookhollow Road SE
Dalton, Georgia 30721

(Via Certified Mail - Return Receipt
Requested)

Date:

8-23-19



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511