



EXPEDITED OIL SPILL SETTLEMENT AGREEMENT
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7, 901 N. 5th ST., KANSAS CITY, KANSAS 66101

DOCKET NO. CWA-07-2011-0089

On March 11, 2011

At: Douglas Avenue and 33rd Street, Des Moines, IA

Owned or operated by EJM Pipe Services, (Respondent), discharged 30 gallons of oil (hydraulic oil) in violation of regulations promulgated at 40 C.F.R. Part 110 under Section 311(b)(3) of the Clean Water Act as noted on the attached FINDINGS AND ALLEGED VIOLATIONS FORM, (Form), which is hereby incorporated by reference.

This proceeding and the Expedited Settlement are 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 C.F.R. §§ 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 \$500.

This settlement is subject to the following terms and conditions:

Respondent consents to the assessment of the penalty stated above. 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 \$500, payable to the "Environmental Protection Agency," via certified mail to:

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, MO 63197-9000

and Respondent has noted on the penalty payment check Docket No. CWA-07-2011-0089 and "OSLTF - 311." The original, signed Settlement Agreement and copy of the penalty payment check must be sent via certified mail to:

Mr. Douglas Drouare
U.S. Environmental Protection Agency
Region 7, AWMD/STOP
901 N. 5th Street
Kansas City, KS 66101

This Expedited Settlement resolves Respondent's liability for Federal civil penalties for the violations of the oil spill 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 Respondent of the OPA/SPCC regulations or of any other federal statute or regulations. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

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 upon the Regional Judicial Officer's signature.

APPROVED BY EPA:

Marygrace Stahl Date 9/22/2011
Chief, Storage Tank and Oil Pollution Branch (STOP)
Air and Waste Management Division

APPROVED BY RESPONDENT:

Name (print): Allen R. Montgomery

Title (print): President

Signature: Allen R. Montgomery

Date: 09-13-2011

The estimated cost for correcting the violation(s) is:

\$

IT IS SO ORDERED:

Robert L. Patrick Date Sept. 30, 2011
Regional Judicial Officer

11 SEP 30 AM 0:12
ENVIRONMENTAL PROTECTION
AGENCY
REGIONAL CLERK

## FINDINGS AND ALLEGED CIVIL VIOLATIONS

1. EJM Pipe Services organized under the laws of Minnesota with a place of business located at 7807 Lake Drive, Lino Lakes, Minnesota 55014. The Respondent is a person within the meaning of Section 311 (a)(7) of the Act, 33 U.S.C. §1321 (a)(7).
2. Respondent was the owner/operator of an onshore facility within the meaning of Section 311 (a)(10) of the Act, 33 U.S.C. §1321 (a)(10) of the Act (temporary directional drilling operation), which was located at the intersection of Douglas Avenue and 33<sup>rd</sup> Street, Des Moines, Iowa 50317 ('facility').
3. Section 311(b)(3) of the Act 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 Act, 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 have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines or a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.
5. On March 11, 2011, Respondent discharged 30 gallons of oil (hydraulic oil) as defined in Section 311 (a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 C.F.R. §110.1, from its facility into or upon Four Mile Creek and adjoining shorelines.
6. Four Mile Creek is a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 C.F.R. §110.1.
7. Respondent's March 11, 2011 discharge (rupture of equipment line) of oil (hydraulic oil) from its facility caused a sheen upon or discoloration of the surface of Four Mile Creek and the adjoining shoreline and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. §110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.
8. Respondent's March 11, 2011 discharge (rupture of equipment line) of oil (hydraulic oil) from its facility into or upon Four Mile Creek and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. §110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 C.F.R. 19.4, the Respondent is liable for civil penalties of up to \$16,000 per violation, up to a maximum of \$37,500.

IN THE MATTER OF EJM Pipe Services, Respondent  
Docket No. CWA-07-2011-0089

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Oil Spill Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Howard Bunch  
Assistant Regional Counsel  
Region 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Allen R. Montgomery  
President  
EJM Pipe Services  
7807 Lake Drive  
Lino Lakes, Minnesota 55014-1135

Dated: 9/30/11

*for*   
Kathy Robinson  
Hearing Clerk, Region 7