

FILED

May 06, 2026

3:34 pm

**U.S. EPA REGION 8
HEARING CLERK**



REGION 8

DENVER, CO 80202

<p>IN THE MATTER OF:</p> <p>McAtee Construction dba Simon Contractors,</p> <p style="text-align: center;">Respondent</p>	<p>Docket No. CWA-08-2026-0006</p> <p>EXPEDITED SETTLEMENT AGREEMENT</p>
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On or around August 16, 2024, McAtee Construction (“Respondent”), a Colorado corporation, discharged oil, as defined in section 311(a)(1) of the Clean Water Act (Act), 33 U.S.C. § 1321(a)(1), during a paving operation in Estes Park, Larimer County, Colorado, into the Big Thompson River, a perennial water body, that caused a sheen.

The undersigned EPA Complainant finds that Respondent is a person as defined in section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7), and that Respondent, by discharging oil as indicated above, has violated section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), by discharging a harmful quantity of oil, as defined in 40 CFR § 110.3, into or upon the navigable waters of the United States or adjoining shorelines.

By signing this Agreement, Respondent:

- (1) certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that it has investigated the cause of the discharge referenced above, has cleaned up the discharged oil pursuant to federal requirements, and has taken corrective actions that will prevent future oil discharges; and
- (2) agrees to pay a penalty in the amount and manner stated below.

Respondent shall pay a civil penalty in the amount of \$2,500.00 within 30 days after a final order (Final Order) ratifying this Agreement is filed by the Regional Hearing Clerk for EPA Region 8 (Filing Date). Respondent shall pay this penalty using any of the methods provided on the website <https://www.epa.gov/financial/makepayment>, with

additional instructions, available at <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Respondent's payment shall indicate it is payable to "Environmental Protection Agency." In the instrument of payment, Respondent shall also reference the docket number that appears on the Final Order and include a reference to "Oil Spill Liability Trust Fund-311." Within 24 hours after making payment, Respondent shall also email proof of payment to each of the following:

- (1) Dennis Jaramillo, Environmental Engineer
Jaramillo.dennis@epa.gov.
- (2) Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
R8_hearing_clerk@epa.gov; and
- (3) Cincinnati Finance Division
U.S. Environmental Protection Agency
CINWD_acctsreceivable@epa.gov.

If Respondent is unable to transmit the proof of payment via email, the Respondent will contact Mr. Jaramillo at (303) 312-6203 to make alternative arrangements.

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, in the amount due, and identified with the appropriate docket number and Respondent's name.

If Respondent fails to timely pay the full amount of the penalty, the EPA is authorized to recover any unpaid amount of the penalty, plus interest (at the IRS standard underpayment rate), enforcement expenses such as attorneys' fees and costs of collection proceedings, and a 20% quarterly non-payment penalty. For more information, see 33 U.S.C. § 1321(b)(6)(H), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11.

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

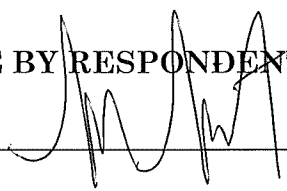
This Agreement and the Final Order will commence and conclude this proceeding pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Agreement and the Final Order will resolve only the federal civil penalty claims for the violation alleged above. The EPA reserves any rights and remedies available to it under the Act, the regulations

promulgated thereunder, and any other federal statutes or regulations, to enforce the provisions of this Agreement and the Final Order. This Agreement and the Final Order do not constitute a waiver, suspension or modification of the requirements of the Act, or any regulations promulgated thereunder, and they do 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 above, 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 (i) any right to contest the allegations in this Agreement, (ii) any rights or defenses Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and (iii) any right to appeal or challenge the lawfulness of any Final Order that may be issued.

Complainant and Respondent consent to service of this Agreement and the Final Order at the following valid email addresses: emeson.robyn@epa.gov (for Complainant), and jmayzu@simonteam.com (for Respondent). Respondent agrees that this email address and any other address for Respondent provided to the Regional Hearing Clerk in connection with this proceeding may be made public when this Agreement, the Final Order, and any related Certificate(s) of Service are filed or uploaded to a searchable database.

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Agreement and to bind Respondent to it. Complainant agrees to accept Respondent's digital or original signature on this Agreement.

SIGNATURE BY RESPONDENT:
Signature  Date 4/6/26

Name and Title (print): Trevor Tipotsch, President
Mailing Address: 6215 Clear Creek Pkwy
Cheyenne, WY 82007
Email Address: ttipotsch@simonteam.com
Telephone: 307-635-9605

SIGNATURE BY EPA COMPLAINANT:

David I. Dorian, Acting Manager
RCRA and OPA Enforcement Branch
Region 8, U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202
Dorian.David.I@epa.gov
(303) 312-7011

Date: _____