



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

August 17, 2023

TRANSMITTED VIA E-MAIL

Mr. Aaron Tanquary
Production Foreman
High Mark Energy Operating, LLC
100 East 13th Street
Ada, OK 74820
atanquary@highmarkenergyoperating.com

Re: Expedited Settlement Offer for Violations of Spill Prevention Control and Countermeasure Regulations
Docket No. CWA-06-2023-4322
RC Gilmore Facility
Pontotoc County, Oklahoma

Dear Mr. Tanquary:

On June 6, 2023, Region 6 of the U.S. Environmental Protection Agency (EPA) conducted an inspection of High Mark Energy Operating, LLC's RC Gilmore Facility. The purpose of the inspection was to evaluate High Mark Energy Operating, LLC's 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") (commonly known as the Spill Prevention Control and Countermeasure or "SPCC" regulations).

The inspection revealed instances in which High Mark Energy Operating, LLC appeared not to have complied with the SPCC requirements. The apparent violations are outlined in the enclosed SPCC Inspection Findings, Alleged Violations, and Proposed Penalty Form (Violations Form).

The EPA has authority under Section 311(b) of the Act to take enforcement actions, including seeking civil penalties, for the alleged violations outlined in the Violations Form. At this time, rather than undertake a more traditional enforcement action for civil penalties, the EPA is offering High Mark Energy Operating, LLC the opportunity to enter into the enclosed Expedited Settlement Agreement (ESA), provided High Mark Energy Operating, LLC (1) corrects the deficiencies cited in the inspection report and in the Violations Form and (2) agrees to pay an administrative civil penalty of **\$781.00**.

It is important for all deficiencies identified in the Violations Form and inspection report to be corrected promptly. Before the EPA agrees to enter into the ESA, you will need to submit evidence, including photographs, demonstrating all such deficiencies have been corrected. Please note that by signing the ESA, High Mark Energy Operating, LLC will certify all violations alleged in the Violations Form have been corrected.

If you intend to enter into this ESA, please sign and return the original, together with documentation of the deficiencies having been corrected, within 30 days of your receipt of this letter to:

Energy Sector Compliance Section
U. S. Environmental Protection Agency
Region 6 (ECD-WE)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
blaha.michael@epa.gov

Although the ESA will commit High Mark Energy Operating, LLC to pay a civil administrative penalty, you do **not** need to make that payment at the time you return the signed ESA to the EPA. Upon EPA's receipt of the signed Settlement Agreement, it will be forwarded to the Director, of the Enforcement and Compliance Assurance Division to issue a Final Order approving the ESA. You will then be notified of the issuance of the Final Order, and your penalty will be due 10 days after the Final Order is signed. The mechanics for payment are set forth in the Expedited Settlement Agreement Payment Instructions accompanying the ESA.


Entering into the enclosed ESA and paying the penalty will resolve High Mark Energy Operating, LLC's liability for federal civil penalties for the violations alleged in the Violations Form. In other words, for all violations alleged in the Violations Form there will be no additional civil penalties. As with any settlement of administrative civil penalties, regardless of whether you enter into the ESA, the EPA reserves its rights to issue an administrative compliance order, to seek a court injunction directing compliance, and/or to pursue criminal sanctions, in the event any such actions are appropriate.

This offer is open for a period of 30 days from your receipt of this letter. EPA may, at its discretion, grant up to a 90 day extension for you to come into compliance with the SPCC requirements but only if you demonstrate that it is technically infeasible or impracticable to achieve compliance within 30 days. You must submit a request for an extension to Energy Sector Compliance Section at the above address within 14 days of your receipt of this letter. If EPA grants the extension request, you will receive an approval letter. You must correct the violations within the approved time frame.

If you do not return the signed ESA and documentation of corrective action within the allotted time, this offer will be automatically withdrawn, and the EPA may pursue a more formal enforcement action for penalties. This could involve a longer process and result in a greater penalty. Under the Clean Water Act, the EPA is authorized to seek civil penalties of up to \$22,324 per day of violation, 33 U.S.C. § 1321(b)(6). In addition, the EPA may take further enforcement action if you sign the ESA but do not pay the penalty.

The EPA encourages expeditious settlements and is committed to settling this matter fairly and expeditiously. If you have any questions or comments, such as how to document corrective actions, please contact Michael Blaha at 214-665-8574. If you are represented by an attorney in this matter who has questions, please ask the attorney to contact Amy Salinas at 214-665-8063 or Edwin Quinones at 214-665-8035.

Sincerely,


Bryant Smalley
Chief
Water Enforcement Branch

Enclosures:

SPCC Inspection Findings and Violations Form
Expedited Settlement Agreement
Payment Instructions

cc: allen.mark@epa.gov



FILED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6, 1201 ELM STREET, DALLAS, TEXAS 75270-2102

23 SEP 18 PM 3:55

EXPEDITED SPILL PREVENTION CONTROL AND COUNTERMEASURE
SETTLEMENT AGREEMENT

REGIONAL HEARING CLERK
EPA REGION VI

In the matter of High Mark Energy Operating, LLC
(Respondent)
Docket No. CWA-06-2023-4322

On June 6, 2023, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility known as the RC Gilmore Facility, located off County Road 3675 in Allen, 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 \$781.00. 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 atanquary@highmarkenergyoperating.com (for Respondent).

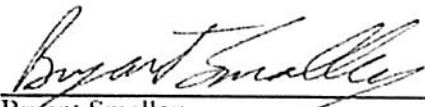
Once the Expedited Settlement Agreement is signed by the Director, of the Enforcement and Compliance Assurance Division, the original Expedited Settlement Agreement will be filed with the Regional Hearing Clerk and a copy will be mailed to: U.S. EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive (MS-WG32B), Cincinnati, OH 45268. A copy of

the Expedited Settlement Agreement will also be mailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement Agreement as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, the proposed Expedited Settlement Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Violations Form.

After this Expedited Settlement Agreement becomes effective, EPA will take no further civil penalty action against Respondent for the alleged violations of the Oil Pollution Prevention regulations described in the Violations Form through the order date of this Expedited Settlement Agreement. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by Respondent of the Oil Pollution Prevention regulations or of any other federal statute or regulations.

APPROVED BY EPA:


Bryant Smalley
Chief
Water Enforcement Branch
Date: 8/17/2023

APPROVED BY RESPONDENT:

Name (print): ABRON TONDURY

Title (print): PRODUCTION FOREMAN

Signature:  Date: 8-29-23

The estimated cost of the clean-up and corrective action is

\$ 0.

IT IS SO ORDERED:


Digitally signed by Cheryl T. Seager
Date: 2023.09.18 12:16:20 -05'00'
Date: 09/18/2023
Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

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

Company Name High Mark Energy Operating, LLC	Docket Number CWA-06-2023-4322
Facility Name RC Gilmore Facility	Date 6/6/2023
Address 100 East 13th Street	Facility ID Number SPCC-OK-2023-00091
City Ada	Inspector's Name Tom McKay
State OK	EPA Approving Official Chris Perry
Zip Code 74820	Enforcement Contact Michael Blaha
Contact Aaron Tanquary	
Total Storage Capacity 42,420 gallons	



**Summary of Findings
(Production Facilities)**

GENERAL TOPICS: 40 C.F.R 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

- Failure to have or implement 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)
- 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 layout 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)
- Recovered materials not disposed of 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)
- If claiming impracticability of containment and appropriate diversionary structures:**
- Impracticability has not been clearly denoted and demonstrated in plan 112.7(d) (\$125)
- 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 112.7(d) (\$175)
- Plan has no or inadequate discussion of general requirements not already specified 112.7(j) (\$100)
- Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e) (\$175)

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(d) (\$400)

WRITTEN PROCEDURES AND INSPECTION RECORDS: 40 C.F.R. 112.7(e)

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- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112.7(e) (\$100)
 - Inspections and tests required are not in accordance with written procedures developed for the facility 112.7(e) (\$100)
 - The plan has inadequate or no discussion of written procedures for inspection records 112.7(a)(1) (\$100)
 - No Inspection records were available for review 112.7(e) (\$225) \$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)

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

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- No training on the operation and maintenance of equipment to prevent discharges and/or facility operations 112.7(f)(1) (\$100) \$100
 - No training on discharge procedure protocols 112.7(f)(1) (\$100) \$100
 - No training on the applicable pollution control laws, rules and regulations, and/or SPCC plan 112.7(f)(1) (\$100) \$100
 - No designated person accountable for spill prevention 112.7(f)(2) (\$100)
 - Spill prevention briefings are not scheduled and conducted at least once per year per 112.7(f)(3) (\$100) \$100
 - Plan has inadequate or no discussion of personnel and spill prevention procedures 112.7(a)(1) (\$100)

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING: 40 C.F.R. 112.7(c) and/or (h-j)

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- 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)

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- 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)

OIL PRODUCTION FACILITY DRAINAGE: 40 C.F.R. 112.9(b)

- Drains for the secondary containment systems at tank batteries and separation and central treating areas are not closed and sealed at all times except when uncontaminated rainwater is being drained 112.9(b)(1) (\$700)
- Prior to the drainage of diked areas, rainwater is not inspected, valves opened and resealed under responsible supervision and records kept of such events 112.9(b)(1) (\$525)
- Accumulated oil on the rainwater is not removed and returned to storage or disposed of in accordance with legally approved methods 112.9(b)(1) (\$350)
- Field drainage system (e.g. drainage ditches and road ditches), oil traps, sumps, and/or skimmers are not regularly inspected and/or oil is not promptly removed 112.9(b)(2) (\$350)
- Inadequate or no records maintained for drainage events 112.9 (\$100)
- Plan has inadequate or no discussion of facility drainage 112.9 (\$100)

BULK STORAGE CONTAINERS: 40 C.F.R. 112.7(i) and 112.9(c)

- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$100)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$350)
- Container material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature 112.9(c)(1) (\$525)
- Size of secondary containment appears to be inadequate for containers and treating facilities 112.9(c)(2) (\$850)
- Drainage from undiked areas are not safely confined in a catchment basin or holding pond 112.9(c)(2) (\$450)
- Secondary containment materials are not sufficiently impervious to contain oil 112.9(c)(2) (\$425)
- Excessive vegetation which affects the integrity 112.9(c)(2) (\$175)
- Walls of containment system slightly eroded or have low areas which impact the containment sizing/ capacity requirements 112.9(c)(2) (\$350)
- Visual inspections of containers, foundation and supports are not conducted periodically for deterioration and maintenance needs 112.9(c)(3) (\$525)
- Tank battery installations are not in accordance with good engineering practice because none of the following are present 112.9(c)(4) (\$525)
 - (1) Adequate tank capacity to prevent tank overflow 112.9(c)(4)(i), or
 - (2) Overflow equalizing lines between the tanks 112.9(c)(4)(ii), or
 - (3) Vacuum protection to prevent tank collapse 112.9(c)(4)(ii), or
 - (4) High level alarms to generate and transmit and alarm signal where facilities are part of a computer control system- 112.9(c)(4)(iv).
- 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. 112.9(d) and 112.7

- Aboveground valves, piping and appurtenances are not inspected periodically on a scheduled basis for general condition (including items such as: flange joints, valve glands 2nd bodies, drip pans, pipeline supports, bleeder and gauge valves, polish rods/stuffing box).- 112.9(d)(1) (\$525)
- Brine and saltwater disposal facilities are not examined often- 112.9(d)(2) (\$525)
- Inadequate or no flowline maintenance program (includes: examination, corrosion protection, flowline replacement)- 112.9(d)(3) (\$525)
- Plan has inadequate or no discussion of oil production facilities- 112.7(a)(1) (\$100)
- Flowlines with no secondary containment need a contingency plan and written commitment of resources 112.9(d)(3) (\$300)
- Facility does not have a written flowline maintenance program or it fails to meet or implement the requirements of 112.9(d)(4) \$300

	SUB TOT/	\$625
Multiplier	1.25	1.25
Total		\$781

Docket No. CWA-06-2023-4322

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 September 18, 2023, 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:

NAME: Aaron Tanquary
ADDRESS: 100 East 13th Street
Ada, OK 74820

MICHAEL
BLAHA

Digitally signed by MICHAEL
BLAHA
Date: 2023.09.19 17:29:37
-05'00'

Michael Blaha
OPA Enforcement Officer