



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

2890 WOODBRIDGE AVE, MS-211, EDISON, NJ 08837-3679

EXPEDITED SPCC SETTLEMENT AGREEMENT

2013 OCT 31 P 3: 59

DOCKET NO. CWA-02-2013-3806
On: June 12, 2013
REGIONAL HEARING CLERK

At: Riverbay Corporation- Co-op City Power Plant

Owned or Operated by: Riverbay Corporation
(Respondent)

The United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (SPCC) regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j), (the Act), and found that Respondent had failed to comply with the SPCC regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (SPCC Form), which is hereby incorporated by reference into this Agreement. By its first signature below, EPA ratifies the Inspection findings and Alleged Violations set forth in the SPCC Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further identified in the SPCC Form. The Respondent admits being subject to 40 CFR Part 112 and admits that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the SPCC Form. Respondent does not contest the Inspection Findings.

EPA is authorized to enter into this Expedited Settlement Agreement (Settlement Agreement) 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 CFR § 22.13(b). The parties enter into this Settlement Agreement in order to settle the civil violations identified in the SPCC Form for a penalty of **One Thousand Three Hundred Twenty Five (\$1,325.00)**. The Respondent consents to the assessment of this penalty.

This Settlement Agreement is also subject to the following terms and conditions: 1) Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected within 30 days of receipt of this Agreement, or within an extension time frame granted by the EPA. 2) The Respondent has sent a certified check in the amount of **\$1,325.00**, payable to the "Environmental Protection Agency" at the following address: "U.S. Environmental Protection Agency, Fines & Penalties, CFC, PO Box 979077, St Louis, MO 63197-9000" within 30 days of the date of filing with the Regional Hearing Clerk (a.k.a. "effective date"), and 3) Respondent has noted on the penalty payment check "OSLTF-311" and the docket number of this case, "**CWA-02-2013-3806**."

Within 30 days of receipt of the Settlement Agreement, Respondent must correct the violations identified in the SPCC Form, certify such corrections, and sign and return this Settlement Agreement as presented.

An initial 30 day extension may be granted upon written approval by the EPA. In certain cases, one or two additional 30 day extensions may be granted if EPA determines documentation demonstrates it is technically infeasible or impractical to achieve compliance in less than thirty or sixty days.

Upon signing, please return this Settlement Agreement, the violation correction certification, description of activities taken to come into compliance and documentation of the cost to come into compliance to: "Francesco Maimone, Oil Enforcement Coordinator, U.S. Environmental Protection Agency, 2890 Woodbridge Avenue, MS-211, Edison, New Jersey 08837-3679."


This Settlement Agreement is binding on the parties signing below when Ordered by the Director of the Emergency Response and Remedial Division, and it is effective upon filing with the Regional Hearing Clerk. Payment of the penalty, as set forth in paragraph 4, is required within 30 days after filing with the Regional Hearing Clerk. You will be notified of the effective date of this Settlement Agreement in a future mailing by the EPA.

If the penalty is paid in accordance with the terms of the Settlement Agreement and certification of compliance is deemed accurate, the EPA will take no further action against the Respondent for the violations of the SPCC regulations described in the SPCC Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulations.

If Respondent fails to submit any documents or penalty payments as required under this Agreement, the proposed Settlement Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in the SPCC Form.

By signing and returning the 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 Settlement Agreement without further notice.

APPROVED BY EPA:

 Date: 7/25/13
Eric Mosher, Chief, Response & Prevention Branch

APPROVED BY RESPONDENT:

 Director of Plant
Name/Title (print)

 Date: 9/24/13
Signature

IT IS SO ORDERED:

 Date: 9/27/13
Walter E. Mugdan, Director
Emergency Response and Remedial Division

CERTIFICATE OF SERVICE

I certify that the attached Riverbay Corporation- Co-op City Power Plant Spill Prevention Control and Countermeasure (SPCC) Expedited Settlement Agreement (and its enclosures), were sent in the following manner, on October 29, 2013, to the addressees listed below.

Original and One Copy Delivered by hand to Regional Hearing Clerk's Office:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Dated: *Oct 30, 2013*



Christina Ekstedt
ERRD RPB Secretary
U.S. Environmental Protection Agency
ERRD RPB, Region 2