

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Heather Thompson 3/24/16  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number CWA-01-2016-0030

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

RA. Cummings, Inc.  
26 Meadow Road Ext.  
Topsham, ME 04086  
c/o Joel Cummings

Total Dollar Amount of Receivable \$ 3,000 Due Date: 4/24/16

SEP due? Yes \_\_\_\_\_ No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:  
1<sup>ST</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1, 5 POST OFFICE SQUARE, BOSTON, MASSACHUSETTS 02109-3912

EXPEDITED SPCC SETTLEMENT AGREEMENT

In the matter of R.A. Cummings, Inc., d/b/a Auburn Concrete ("Respondent"), Topsham facility, Docket No. CWA-01-2016-0030

On November 3, 2015 the United States Environmental Protection Agency ("EPA") sent an information request letter to Respondent pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318 to determine the company's compliance with the Oil Pollution Prevention regulations promulgated at 40 C.F.R. part 112 under Section 311(j) of the Clean Water Act (the "Act"), 33 U.S.C. § 1321(j), at its ready-mix concrete product facilities located in Maine. In response to the information request, Respondent acknowledged that it had violated regulations implementing Section 311(j) of the Act by failing to comply with the Oil Pollution Prevention regulations at its facility located in Topsham, Maine as noted on the attached Spill Prevention Control and Countermeasure Plan ("SPCC") Inspection Findings and Violations Form ("Violations Form") which is hereby incorporated by reference. By its first signature below, EPA ratifies the Violations set forth in the Violations Form.

The parties enter into this Expedited Settlement in order to settle the civil violations described in the Violations Form for Respondent's Topsham facility for a penalty of \$3,000. The parties are authorized to enter into this Expedited Settlement 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 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 will be corrected by April 15, 2016 so that the facility will be in full compliance with the Oil Pollution Prevention regulations. Respondent has sent a certified check in the amount of \$3,000, payable to the Environmental Protection Agency, to: U.S. Environmental Protection Agency, Fines and Penalties, P.O. Box 979077, St. Louis, MO 63197-9000. This check shall reference the docket number of the case and the "Oil Spill Liability Trust Fund - 311." Respondent shall send a copy of the check to Heather Thompson, Environmental Protection Agency, Region 1, 5 Post Office Square (OES04-4), Boston, Massachusetts 02109-3912, and to the Regional Hearing Clerk, Environmental Protection Agency, Region 1, 5 Post Office Square (ORC-18), Boston, Massachusetts 02109-3912.

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 filing with the Regional Hearing Clerk pursuant to 40 C.F.R. § 22.31(b).

Once the Expedited Settlement is signed by the Regional Judicial Officer, the original Expedited Settlement 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-002), Cincinnati, OH 45268. A copy of the Expedited Settlement will also be mailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement 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 becomes effective, EPA will take no further civil penalty action against Respondent for the violations of the Oil Pollution Prevention regulations described in the Violations Form through the order date of this Expedited 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:

 Date: 2/12/16  
Joanna Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship

APPROVED BY RESPONDENT:

Name (print): JOEL P. CUMMINGS

Title (print): OPERATIONS MGR/OWNER

Signature:  Date: 3/16/16

IT IS SO ORDERED:

 Date: 3/24/16  
LeAnn Jensen  
Acting Regional Judicial Officer

## Spill Prevention Control and Countermeasure Inspection Findings and Violations Form



Company Name:

R.A. Cummings Inc.

Docket Number:

CWA-01-2016-0030

Facility Name:

Topsham Plant

Date of Inspection:

n/a (308 letter 11/3/15)

Address:

26 Meadow Road Ext.

City:

Topsham

Inspector's Name:

Alex Rosenberg

State:

ME

Zip Code:

04086

Enforcement Contact:

Alex Rosenberg, Spill Prevention Compliance Officer  
Tel: 617-918-1709

Facility  
Contact:

Joel Cummings, Operational Manager

207-777-7100

### Summary of Findings

*EPA sent an information request letter to Auburn Concrete ("Company") on November 3rd, 2015 related to the Company's compliance with the Oil Pollution Prevention regulations. In response, the Company acknowledged that the SPCC regulations apply to their Augusta, West Bath, Westbrook and Auburn facilities and that none of the facilities had an SPCC plan.*

#### GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

- No Spill Prevention Control and Countermeasure Plan-112.3
- Plan not certified by a professional engineer- 112.3(d)
- Certification lacks one or more required elements - 112.3(d)(1)
- No management approval of plan- 112.7
- Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1)
- No evidence of five-year review of plan by owner/operator- 112.5(b)
- 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)
- Amendment(s) not certified by a professional engineer- 112.5(c)
- Plan does not follow sequence of the rule and/or cross-reference not provided- 112.7

- Plan does not discuss additional procedures/methods/equipment not yet fully operational- 112.7
- Plan does not discuss alternative environmental protection to SPCC requirements- 112.7(a)(2)
- Plan has inadequate or no facility diagram- 112.7(a)(3)
- Inadequate or no listing of type of oil and storage capacity layout of containers- 112.7(a)(3)(i)
- Inadequate or no discharge prevention measures- 112.7(a)(3)(ii)
- Inadequate or no description of drainage controls- 112.7(a)(3)(iii)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup- 112.7(a)(3)(iv)
- Recovered materials not disposed of in accordance with legal requirements- 112.7(a)(3)(v)
- No contact list & phone numbers for response & reporting discharges- 112.7(a)(3)(vi)
- Plan has inadequate or no information and procedures for reporting a discharge- 112.7(a)(4)
- Plan has inadequate or no description and procedures to use when a discharge may occur- 112.7(a)(5)
- Inadequate or no prediction of equipment failure which could result in discharges- 112.7(b)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- 112.7(c)

- If claiming impracticability of appropriate containment/diversionary structures:

- Impracticability has not been clearly denoted and demonstrated in plan- 112.7(d)
- No contingency plan- 112.7(d)(1)
- No written commitment of manpower, equipment, and materials- 112.7(d)(2)
- No periodic integrity and leak testing, if impracticability is claimed - 112.7(d)
- Plan has no or inadequate discussion of general requirements not already specified-112.7(j)

**QUALIFIED FACILITY REQUIREMENTS: 112.6**

- 
- Qualified Facility: No Self certification- 112.6(a)(1)(Tier I) or (b)(1)(Tier II)
  - Qualified Facility: Self certification lacks required elements- 112.6(a)(1)(Tier I) or (b)(1)(Tier II)
  - Qualified Facility: Technical amendments not certified- 112.6(a)(2)(Tier I) or (b)(2)(Tier II)
  - Qualified Facility: Un-allowed deviations from requirements- 112.6(a)(Tier I) or (b)(Tier II)
  - Qualified Facility: Environmental Equivalence or Impracticability not certified by PE- 112.6(b)(3)(Tier II)

**WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)**

---

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - 112.7(e)

Inspections and tests required are not in accordance with written procedures developed for the facility- 112.7(e)

No Inspection records were available for review - 112.7(e)

- Written procedures and/or a record of inspections and/or customary business records:

Are not signed by appropriate supervisor or inspector- 112.7(e)

Are not maintained for three years- 112.7(e)

---

#### PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

---

No training on the operation and maintenance of equipment to prevent discharges and or facility operations - 112.7(f)(1)

No training on discharge procedure protocols- 112.7(f)(1)

No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- 112.7(f)(1)

Training records not maintained for 3 years- 112.7(f)(1)

No designated person accountable for spill prevention- 112.7(f)(2)

Spill prevention briefings are not scheduled and conducted at least annually- 112.7(f)(3)

Plan has inadequate or no discussion of personnel and spill prevention procedures-112.7(a)(1)

---

#### SECURITY (excluding Production Facilities) 112.7(g)

---

Master flow and drain valves that permit direct outward flow to the surface are not secured in closed position when in a non-operating or standby status- 112.7(g).

Starter controls on pumps are not locked in the "off" position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status- 112.7(g)

Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- 112.7(g)

Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- 112.7(g)

Plan has inadequate or no discussion of facility security-112.7(a)(1), (g)

---

#### FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING 112.7(c) and/or (h-j)

---

Inadequate containment for Loading Area (not consistent with 112.7(c)) - 112.7(c)

Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- 112.7(h)(1)

- 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)
- 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)
- 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)
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack-112.7(a)(1)

---

**QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)**

---

- 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)
- Failure to provide an oil spill contingency plan- 112.7(k)(2)(ii)(A)
- No written commitment of manpower, equipment, and materials- 112.7(k)(2)(ii)(B)

---

**FACILITY DRAINAGE 112.8(b) & (c)**

---

- Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge- 112.8(b)(1)&(2) and 112.8(c)(3)(i)
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision- 112.8(c)(3)(ii)&(iii)
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained- 112.8(c)(3)(iv)
- Drainage from undiked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility- 112.8(b)(3)&(4)
- Two "lift" pumps are not provided for more that one treatment unit- 112.8(b)(5)
- Plan has inadequate or no discussion of facility drainage-112.7(a)(1)

---

**BULK STORAGE CONTAINERS 112.8(c)**

---

- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i)
- Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature- 112.8(c)(1)
- Secondary containment appears to be inadequate- 112.8(c)(2)
- Containment systems, including walls and floors are not sufficiently impervious to contain oil- 112.8(c)(2)
- Excessive vegetation which affects the integrity
- Walls of containment system slightly eroded or have low areas

- Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- 112.8(c)(4)
- Partially buried tanks do not have buried sections protected from corrosion- 112.8(c)(5)
- Aboveground tanks are not subject to visual inspections- 112.8(c)(6)
- Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- 112.8(c)(6)
- Records of inspections (or customary business records) do not include inspections of tank supports/foundation, deterioration, discharges and/or accumulations of oil inside diked areas- 112.8(c)(6)
- Steam return /exhaust of internal heating coils which discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system- 112.8(c)(7)
- Tank battery installations are not in accordance with good engineering practice because none of the following are present- 112.8(c)(8)
- No testing of liquid level sensing devices to ensure proper operation- 112.8(c)(8)(v)
- Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- 112.8(c)(9)
- Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- 112.8(c)(10)
- Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- 112.8(c)(11)
- Secondary containment inadequate for mobile or portable storage tanks- 112.8(c)(11)
- Plan has inadequate or no discussion of bulk storage tanks-112.7(a)(1)

**FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)**

---

- Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -112.8(d)(1)
- Corrective action is not taken on exposed sections of buried piping when deterioration is found- 112.8(d)(1)
- Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- 112.8(d)(2)
- Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- 112.8(d)(3)
- Aboveground valves, piping and appurtenances are not inspected regularly- 112.8(d)(4)
- Periodic integrity and leak testing of buried piping is not conducted- 112.8(d)(4)
- Vehicle traffic is not warned of aboveground piping or other oil transfer operations- 112.8(d)(5)
- Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process-112.7(a)(1)
- 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)





**In the Matter of R.A. Cummings, Inc., d/b/a Auburn Concrete**

**EPA Docket Nos.**    CWA-01-2016-0027 (Augusta, ME facility)  
                          CWA-01-2016-0028 (Westbrook, ME facility)  
                          CWA-01-2016-0029 (West Bath, ME facility)  
                          CWA-01-2016-0030 (Topsham, ME facility)

**CERTIFICATE OF SERVICE**

I certify that the foregoing Expedited Settlement Agreement was transmitted to the following persons, in the manner specified, on the date below:

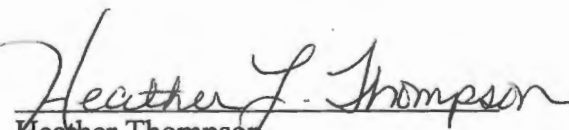
Original and one copy  
hand-delivered:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Copy by certified mail,  
return receipt requested:

Joel Cummings  
Operations Manager/Owner  
R.A. Cummings, Inc.  
d/b/a Auburn Concrete  
82 Goldthwaite Road  
Auburn, ME 04210

Dated: 3/24/14

  
Heather Thompson

Office of Environmental Stewardship  
U.S. Environmental Protection Agency,  
Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
Phone: (617) 918-1320  
Fax: (617) 918-320

335420

52-7252  
2112

03/16/2016

US Environmental Protection Agency

DATE

\$12,000.00

\$

Twelve Thousand and 00/100

DOLLARS

Doc No. CWA-01-2016-0027

Doc No. CWA-01-2016-0028

Doc No. CWA-01-2016-0029

Oil Spill Liability Trust Fund-311

Doc No. CWA-01-2016-0030

*Daniel Hickey*

AUTHORIZED SIGNATURE

⑈335420⑈ ⑆211272520⑆ 90⑈001⑈399⑈

**In the Matter of R.A. Cummings, Inc., d/b/a Auburn Concrete**

**EPA Docket Nos.    CWA-01-2016-0027 (Augusta, ME facility)  
CWA-01-2016-0028 (Westbrook, ME facility)  
CWA-01-2016-0029 (West Bath, ME facility)  
CWA-01-2016-0030 (Topsham, ME facility)**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Expedited Settlement Agreement was transmitted to the following persons, in the manner specified, on the date below:

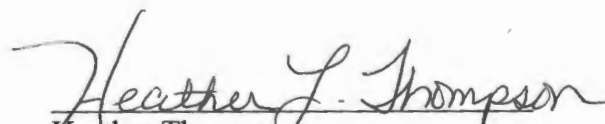
Original and one copy  
hand-delivered:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Copy by certified mail,  
return receipt requested:

Joel Cummings  
Operations Manager/Owner  
R.A. Cummings, Inc.  
d/b/a Auburn Concrete  
82 Goldthwaite Road  
Auburn, ME 04210

Dated: 3/24/14

  
Heather Thompson  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency,  
Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
Phone: (617) 918-1320  
Fax: (617) 918-320