



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7, 11201 RENNER BOULEVARD, LENEXA, KANSAS 66219

FILED

September 25, 2024

1:31PM

U.S. EPA REGION 7
HEARING CLERK

**EXPEDITED SPILL PREVENTION CONTROL AND COUNTERMEASURE
SETTLEMENT AGREEMENT**

In the matter of Buzzi Unicem USA, Inc.
Docket No. CWA-07-2024-0094

On August 17, 2023, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility known as the Buzzi Unicem USA, Inc. Cape Girardeau Plant at 2524 South Sprigg Street in Cape Girardeau, Missouri 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 (ESA) in order to settle the civil violations described in the Violations Form for a penalty of \$2,350. 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) and § 22.18(b)(2)-(3).

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 waives any right to contest the allegations and to appeal the final order. Respondent consents to the assessment of the penalty stated above. Respondent does not contest the inspection findings and neither admits nor denies the allegations in the Form.

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, has provided payment of the civil penalty.

The payment made pursuant to this ESA 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 ESA 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 ESA without further notice. Moreover, by entering into this ESA, the Respondent agrees to bear its own costs and attorney's fees related to this ESA.

Failure by Respondent to pay the penalty assessed by this ESA in full by its due date may subject Respondent to civil action to collect the assessed penalty plus interest, attorney's fees, costs, and additional quarterly nonpayment penalty pursuant to CWA § 311(b)(6)(H), 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

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). Each person signing this ESA certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The parties consent to service of this Expedited Settlement Agreement and Final Order by e-mail at the following valid e-mail addresses: moreno.sarah@epa.gov (for Complainant) and the e-mail noted below for Respondent.

Once the Expedited Settlement is signed by the Regional Judicial Officer, the original Expedited Settlement will be filed with the Regional Hearing Clerk. A copy of the Expedited Settlement will also be emailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, 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 alleged 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 RESPONDENT:

Name (print): Craig Conklin

Title (print): Plant Manager

Email: craig.conklin@buzziunicemusa.com

Signature:  Date: 9/6/2024

APPROVED BY EPA:

Delegated Official Date: _____

IT IS SO ORDERED:

Regional Judicial Officer Date: _____

Effective Date: See Notice of Filing for Effective Date