



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10, 1200 6TH AVENUE, SUITE 900, SEATTLE, WASHINGTON
98101

RECEIVED

EXPEDITED SPILL SETTLEMENT AGREEMENT

FEBRUARY 17 AM 8:52

DOCKET NO. CWA-10-2010-0020

On July 9, 2009 Time 1345 hours PST

At: Industrial Oil, Klamath Falls, Oregon
Industrial Oil (Respondent) discharged 1,000 gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached FINDINGS and ALLEGED VIOLATIONS FORM (Form), which is hereby incorporated by reference.

If the 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this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

The parties are authorized to enter into this Expedited Settlement 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 Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$ 3,000.00. This settlement is subject to the following terms and conditions:

EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in that statute and further described by 40 CFR § 110.3. The Respondent admits he/she is subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Findings, and waives any objections it may have to EPA's jurisdiction. Respondent consents to the assessment of the penalty stated above. Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to the federal requirements, and it has taken corrective actions that will prevent future spills. The Respondent also verifies that it has sent a certified check for \$ [redacted] payable to the "Oil Spill Liability Trust Fund" to: US Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, PO Box 979077, St. Louis, MO 63197-9000. Respondent has noted on the penalty payment check "EPA" and the docket number of this case, "CWA-10-2010-0020."

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for the violations of Section 311(b)(3) of the Act described in the 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 Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations

set forth in the Form.

HEARINGS CLERK
EPA -- REGION 10

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 the Regional Judicial Officer's signature.

APPROVED BY EPA:

Kimberly A. Ogle Date: 10/28/09
Kimberly A. Ogle, Manager
NPDES Compliance Unit
Office of Compliance and Enforcement

APPROVED BY RESPONDENT:

Wilmer Lee Briggs
Name (print): x Wilmer Lee Briggs
Title (print): x President

x Wilmer Lee Briggs Date x 2-8-10
Signature

Estimated cost for correcting the violation(s) is \$3,000.⁰⁰

IT IS SO ORDERED:

Thomas M. Jahnke Date 3/17/10
Thomas M. Jahnke
Regional Judicial Officer
EPA Region 10

FINDINGS AND ALLEGED CIVIL VIOLATIONS

1. Industrial Oil is an onshore facility located at 1291 Lavern Avenue, Klamath Falls, Oregon, 97603. The Respondent is an onshore facility within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. §1321(a)(10).
2. Section 311(b)(3) of the Act prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.
3. For purposes of Section 311 (b)(4) of the Act, 33 U.S.C. §1321(b)(4), discharges of oil in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. §110.3 to include discharges of oil that (1) violate applicable water quality standards -- OR -- (2) cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines -- OR -- a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.
4. On July 9, 2009, Respondent discharged approximately 1,000 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 C.F.R. §110.1, from its onshore facility onto the adjoining shoreline of the Klamath River, located in Klamath Falls, Oregon.
5. The Klamath River is a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 C.F.R. §110.1.
6. Respondent's July 9, 2009 discharge of oil from its onshore facility reached an adjoining shoreline of the Klamath River and threatened to cause a sheen upon or discoloration of the surface of the Klamath River, as well as an emulsion to be deposited beneath the surface of the Klamath River, and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R §110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.
7. Respondent's July 9, 2009 discharge of oil from its onshore facility into the adjoining shoreline of the Klamath River in a quantity that has been determined may be harmful under 40 C.F.R. §110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 CFR 19.4, the Respondent is liable for civil penalties of up to \$16,000 per violation administratively, or up to \$37,5000 per day of violation judicially.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SPILL SETTLEMENT AGREEMENT** in **In the Matter of: Industrial Oil, DOCKET NO.: CWA-10-2010-0020** was filed with the Regional Hearing Clerk on March 17, 2010.

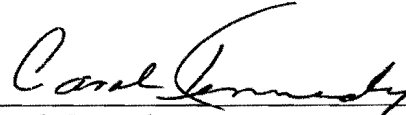
On March 17, 2010 the undersigned certifies that a true and correct copy of the document was delivered to:

David Allnutt, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on March 17, 2010, to:

Wilmen Lee Briggs, President
Industrial Oil
1291 Lavern Avenue
Klamath Falls, OR 97603

DATED this 17th day of March 2010.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10