



**EXPEDITED SPCC SETTLEMENT AGREEMENT**  
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 7, 901 N. 5<sup>th</sup> ST., KANSAS CITY, KANSAS 66101**

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ENVIRONMENTAL PROTECTION  
 AGENCY-REGION VII  
 REGIONAL HEARING CLERK

**DOCKET NO. CWA-07-2010-0088**

On February 24, 2010

At: the intersection of NW 110<sup>th</sup> & NW Hopkins Switch \_\_

Owned or operated by D & J Investments, (Respondent), an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (SPCC) regulations promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act (33 U.S.C. § 1321(j)) (the Act), and found that Respondent had violated regulations implementing Section 311(j) of the Act by failing to comply with the regulations as noted on the attached **SPILL PREVENTION CONTROL AND COUNTERMEASURE INSPECTION FINDINGS, ALLEGED VIOLATIONS, AND PROPOSED PENALTY FORM (Form)**, which is hereby incorporated by reference.

This proceeding and the Expedited Settlement are 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 C.F.R. §§ 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 \$2,150.

This settlement is subject to the following terms and conditions:

The EPA finds that Respondent is subject to the SPCC regulations, which are published at 40 C.F.R. Part 112, and has violated the regulations as further described in the Form. Respondent admits that he/she is subject to 40 C.F.R. Part 112 and that EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent does not contest the Inspection 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 the violations have been corrected and **Respondent has sent a certified check in the amount of \$2,150, payable to the "Environmental Protection Agency," via certified mail to:**

U.S. Environmental Protection Agency  
 P.O. Box 979077  
 St. Louis, MO 63197-9000

and Respondent has noted on the penalty payment check Docket No. CWA-07-2010-0088 and "OSLTF - 311." **The original, signed Settlement Agreement and copy of the penalty payment check must be sent via certified mail to:**

Paula Higbee  
 U.S. Environmental Protection Agency  
 Region 7, A/WMD/STOP  
 901 N. 5<sup>th</sup> Street  
 Kansas City, KS 66101

This Expedited Settlement resolves Respondent's liability for Federal civil penalties for the violations of the SPCC regulations 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 Respondent of the SPCC regulations or of any other federal statute or regulations. By its first signature, EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

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:

Margaret S. [Signature] Date 7-30-2010  
 Chief, Storage Tank and Oil Pollution Branch (STOP)  
 Air and Waste Management Division

APPROVED BY RESPONDENT:

Name (print): Don Brickley dba D & J Investments  
 Title (print): owner  
 Signature: [Signature]  
 Date: 7-27-10

The estimated cost for correcting the violation(s) is:

\$ 2,400.<sup>00</sup>

IT IS SO ORDERED:

[Signature] Date August 6, 2010  
 Robert L. Patrick  
 Regional Judicial Officer

## Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 7 under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name D & J Investments		Docket Number: CWA -07-2010-0088	
Facility Name Claassen Lease		Date 2/24/10	
Address Intersection of NW110th St and NW Hopkins Switch		Inspection Number FY-INSP-	
City: El Dorado		Inspectors Name: Katy Miley	
State: KS	Zip Code: 67042	EPA Approving Official: Margaret Stockdale	
Contact: Donald Brickley		Enforcement Contacts: Paula Higbee 913-551-7028	



### Summary of Findings

(Onshore Oil Production Facilities)

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

(When the SPCC Plan review penalty exceeds \$1,000.00 enter only the minimum allowable of \$1,000.00.)

- |                                     |   |            |
|-------------------------------------|---|------------|
| <input type="checkbox"/>            | No Spill Prevention Control and Countermeasure Plan- 112.3 .....  | \$1,000.00 |
| <input type="checkbox"/>            | Plan not certified by a professional engineer- 112.3(d) .....   | 400.00     |
| <input type="checkbox"/>            | No management approval of plan- 112.7.....  | 300.00     |
| <input type="checkbox"/>            | Plan not maintained on site (applies if facility is manned at least four (4) hours per day)- 112.3(e)(1) .....  | 100.00     |
| <input type="checkbox"/>            | Plan not available for review- 112.3(e)(1).....   | 300.00     |
| <input type="checkbox"/>            | No evidence of five-year review of plan by owner/operator- 112.5(b).....  | 50.00      |
| <input checked="" type="checkbox"/> | 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)..... | 50.00      |
| <input type="checkbox"/>            | Amendment(s) not certified by a professional engineer- 112.5(c).....  | 100.00     |

- Plan does not follow sequence of the rule and/or cross-reference not provided- 112.7 ..... 100.00
- Plan does not discuss additional procedures/methods/equipment not yet fully operational- 112.7..... 50.00
- Plan does not discuss conformance with SPCC requirement- 112.7(a)(1)..... 50.00
- Plan does not discuss alternative environmental protection to SPCC requirements- 112.7(a)(2) ..... 50.00
- Plan has inadequate or no discussion of conformance with SPCC rules or applicable State rules, regulations and guidelines- 112.7(j)..... 50.00
- Plan has inadequate or no facility diagram- 112.7(a)(3) ..... 50.00
- Plan has inadequate or no description of the physical layout of the facility- 112.7(a)(3)(i-vi)..... 100.00
- Plan has inadequate or no information and procedures for reporting a discharge- 112.7(a)(4) ..... 100.00
- Plan has inadequate or no description and procedures to use when a discharge may occur- 112.7(a)(5) ..... 100.00
- Inadequate or no prediction of equipment failure which could result in discharges- 112.7(b)..... 100.00
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- (including truck transfer areas) 112.7(c)..... 100.00

Claiming installation of appropriate containment/diversionary structures is impractical but:

- Impracticability has not been clearly denoted & demonstrated ..... 400.00
- No contingency plan- 112.7(d)(1)..... 100.00
- No written commitment of manpower, equipment, and materials- 112.7(d)(2) ..... 100.00

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

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- Inspections and tests required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility- 112.7(e)..... 50.00

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

- Are not signed by appropriate supervisor or inspector- 112.7(e)..... 50.00
- Are not kept with the plan- 112.7(e) ..... 50.00
- Are not maintained for three years- 112.7(e)..... 50.00

**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- 112.7(f)(1) ..... 50.00
- No training on discharge procedure protocols- 112.7(f)(1)..... 50.00

- No training on the applicable pollution control laws, rules, and regulations- 112.7(f)(1) ..... 50.00
- No training on general facility operations- 112.7(f)(1) ..... 50.00
- No training on the contents of the SPCC Plan- 112.7(f)(1)..... 50.00
- No designated person accountable for spill prevention- 112.7(f)(2) ..... 50.00
- Spill prevention briefings are not scheduled and conducted periodically- 112.7(f)(3) ..... 50.00
- Plan has inadequate or no discussion of personnel and spill prevention procedures..... 50.00

**FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING RACK 112.7(h)**

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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). ..... 500.00
- 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). ..... 300.00
- 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)..... 200.00
- 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). ..... 100.00
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack..... 50.00

**OIL PRODUCTION FACILITY DRAINAGE 112.9(b)**

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- 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) ..... 400.00
- Prior to 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) ..... 300.00
- 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) ..... 200.00
- Field drainage system (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) ..... 200.00

**OIL PRODUCTION FACILITY BULK STORAGE CONTAINERS 112.9(c)**

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- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i) ..... 50.00

- Container material and construction are not compatible with the oil stored and the conditions of storage- 112.9(c)(1) ..... 300.00
- Size of secondary containment appears to be inadequate for containers and treating facilities- 112.9(c)(2) ..... 500.00
- Excessive vegetation which affects the integrity and/or walls of containment system are slightly eroded or have low areas- 112.9(c)(2) ..... 200.00
- Drainage from undiked areas is not confined in a catchment basin or holding pond- 112.9(c)(2) ..... 400.00
- Visual inspections of containers, foundation and supports are not conducted periodically for deterioration and maintenance needs- 112.9(c)(3) ..... 300.00
- Tank battery installations are not in accordance with good engineering practice because none of the following are present- 112.9(c)(4) ..... 300.00
  - (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 an alarm signal where facilities are part of a computer control system- 112.9(c)(4)(iv).

FACILITY TRANSFER OPERATIONS, OIL PRODUCTION FACILITY 112.9(D)

- Above ground valves and pipelines are not examined periodically on a scheduled basis for general condition (includes items, such as: flange joints, valve glands 2<sup>nd</sup> bodies, drip pans, pipeline supports, bleeder and gauge valves, polish rods/stuffing box.)- 112.9(d)(1) ..... 300.00
- Brine and saltwater disposal facilities are not examined often- 112.9(d)(2) ..... 300.00
- Inadequate or no flowline maintenance program (includes: examination, corrosion protection, flowline replacement)- 112.9(d)(3) ..... 300.00
- Plan has inadequate or no discussion of oil production facilities ..... 50.00

\*Plan violations need to be corrected but you were not penalized.  
 \*Inspection and maintenance records need to be kept but you were not penalized.  
 \*Drainage violations that need to be corrected but you were not penalized.

TOTAL 2,100

IN THE MATTER OF D&J Investments, Respondent  
Docket No. CWA-07-2010-0088

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited SPCC Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Howard Bunch  
Assistant Regional Counsel  
Region 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Don Brickley, Owner  
D&J Investments  
128 N Alegheny Street  
El Dorado, Kansas 67042

Dated: 8/9/10

  
Kathy Robinson  
Hearing Clerk, Region 7