

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

Alan Vanarsdale, Owner of Elsie Snead Lease
Respondent

DOCKET NO.: CWA-04-2021-0400(b)
SPCC Expedited Settlement Agreement
Pursuant to CWA Section 311(b)(6)(B)(i)

On June 4, 2019, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility located at or near 1357 Jones Chapel Road, Columbia, Kentucky 42728 (the Facility), to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act (CWA), as amended, 33 U.S.C. § 1321(j). EPA determined that Respondent, as owner or operator of the Facility, violated 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" (SPCC Violations Form), which is incorporated by reference. By its signature below, EPA ratifies the inspection findings and alleged violations set forth in the SPCC Violations Form.

EPA is authorized to enter into this Expedited Settlement Agreement (ESA) under the authority of Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and 40 C.F.R. § 22.13(b). The parties enter into this ESA to settle the civil violations described in the SPCC Violations Form for a penalty of \$1,950.

This ESA is subject to the following terms and conditions:

EPA finds Respondent is subject to the Oil Pollution Prevention regulations and has violated the regulations as described in the SPCC 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 SPCC Violations Form. Respondent does not contest the inspection findings and neither admits nor denies the allegations in the Form. Respondent also waives any objections it may have to EPA's jurisdiction, any rights to contest the allegations, and its right to appeal this ESA and Final Order. 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 identified in the 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 timeframe agreed to by EPA in writing).

Respondent agrees to pay the penalty assessed within thirty (30) calendar days of the effective date of this ESA. Instructions for making the penalty payment are enclosed with this ESA as Attachment A and incorporated herein by reference. Failure by Respondent to pay the penalty assessed by this ESA in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs and an 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. Any 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(b)(6)(G) of the CWA, 33 U.S.C. § 1321(b)(6)(G), and consents to EPA's approval of the ESA without further notice. Moreover, Respondent agrees to bear its own costs and attorney's fees related to this ESA.

After the parties sign this ESA and Respondent pays the civil penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the Oil Pollution Prevention regulations described in the SPCC Violations Form through the effective date of this ESA. 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.

This ESA 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. Parties agree to receive service by electronic means at the following valid email addresses: goodwin.john@epa.gov for the EPA and

dixiecc@windstream.net for Respondent. Once the ESA is signed by the Regional Judicial Officer, the original ESA will be filed with the Regional Hearing Clerk. A copy will then be emailed to Respondent. The ESA shall not affect EPA's right to pursue appropriate injunctive relief or criminal sanctions for any violations of law and does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CWA and regulations promulgated thereunder.

- Enclosures:
1. SPCC Violations Form
 2. Payment Instructions

If Respondent does not sign and return this ESA as presented within 30 days of the date of its receipt, or within an extension timeframe approved by EPA, this proposed ESA is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the SPCC Violations Form.

APPROVED BY RESPONDENT:

Name (print): ALAN VAN ARSDALE

Title (print): OWNER

Alan Van Arsdale Signature Date 2-16-21

APPROVED BY EPA:

Mary Jo Bragan, Chief
Water Enforcement Branch
Enforcement and Compliance Assurance Division

FINAL ORDER
IT IS SO ORDERED:

Tanya Floyd
Regional Judicial Officer

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

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

Owner Name
Alan Vanarsdale

Docket Number
CWA-04-2021-4000(b)

Facility Name
Elsie Snead Lease

Date
06/04/2020

Address
Near 1357 Jones Chapel Road

Facility ID Number
KY1903-003

City
Columbia

Inspector's Name
Ted Walden

State **Zip Code**
KY 42728

EPA Approving Official
Mary Jo Bragan

Contact
Alan Vanarsdale

Enforcement Contact
J. C. Goodwin

Total Storage Capacity
5,000 gallons



**Summary of Findings
(Production Facilities)**

GENERAL TOPICS: 40 C.F.R 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

-
- Failure to have or implement a Spill Prevention Control and Countermeasure Plan 112.3 (\$1,750) \$1,750
 - Plan or sections of the hybrid plan are not certified by a professional engineer 112.3(d) (\$500)
 - Certification lacks one or more required elements 112.3(d)(1) (\$125)
 - Plan not maintained on site (if manned at least four hrs/day) or not available for review 112.3(e)(1) (\$350)
 - No evidence of five-year review of plan by owner/operator 112.5(b) (\$100)
 - 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) (\$100)
 - Amendment(s) not certified by a professional engineer 112.5(c) (\$175)
 - No management approval of plan 112.7 (\$500)
 - Plan does not follow sequence of the rule and/or cross-reference not provided 112.7 (\$175)
 - Plan does not discuss additional procedures/methods/equipment not yet fully operational 112.7 (\$100)

- Plan does not discuss alternative environmental protection to SPCC requirements 112.7(a)(2) (\$225)
- Plan has inadequate or no facility diagram 112.7(a)(3) (\$100)
- Inadequate or no listing of type of oil and storage capacity layout of containers 112.7(a)(3)(i) (\$75)
- Inadequate or no discharge prevention measures 112.7(a)(3)(ii) (\$75)
- Inadequate or no description of drainage controls 112.7(a)(3)(iii) (\$75)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup 112.7(a)(3)(iv) (\$75)
- Recovered materials not disposed of in accordance with legal requirements 112.7(a)(3)(v) (\$75)
- No contact list & phone numbers for response & reporting discharges 112.7(a)(3)(vi) (\$75)
- Plan has inadequate or no information and procedures for reporting a discharge 112.7(a)(4) (\$125)
- Plan has inadequate or no description and procedures to use when a discharge may occur 112.7(a)(5) (\$175)
- Inadequate or no prediction of flow from equipment failure which could result in discharges 112.7(b) (\$175)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/ equipment 112.7 (\$450)
- Inadequate containment or drainage for Loading Area- 112.7(c) (\$450)
- If claiming impracticability of containment and appropriate diversionary structures:**
- Impracticability has not been clearly denoted and demonstrated in plan 112.7(d) (\$125)
- No contingency plan 112.7(d)(1) (\$175)
- No written commitment of manpower, equipment, and materials 112.7(d)(2) (\$175)
- No periodic integrity and leak testing 112.7(d) (\$175)
- Plan has no or inadequate discussion of general requirements not already specified 112.7(j) (\$100)
- 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) (\$175)

QUALIFIED FACILITY REQUIREMENTS: 40 C.F.R. 112.6

- Qualified Facility: No Self certification 112.6(a) (\$500)
- Qualified Facility: Self certification lacks required elements 112.6(a) (\$125)
- Qualified Facility: Technical amendments not certified 112.6(b) (\$175)
- Qualified Facility: Qualified Facility Plan includes alternative measures not certified by licensed Professional Engineer 112.6(b) \$175
- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE 112.6(d) (\$400)

WRITTEN PROCEDURES AND INSPECTION RECORDS: 40 C.F.R. 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112.7(e) (\$100)
- Inspections and tests required are not in accordance with written procedures developed for the facility 112.7(e) (\$100)
- The plan has inadequate or no discussion of written procedures for inspection records 112.7(a)(1) (\$100)
- No Inspection records were available for review 112.7(e) (\$225)
(Written procedures and/or a record of inspections and/or customary business records)
- Inspection records are not signed by appropriate supervisor or inspector 112.7(e) (\$100)
- Inspection records are not maintained for three years 112.7(e) (\$100)

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) (\$100)
- No training on discharge procedure protocols 112.7(f)(1) (\$100)
- No training on the applicable pollution control laws, rules and regulations, and/or SPCC plan 112.7(f)(1) (\$100)
- No designated person accountable for spill prevention 112.7(f)(2) (\$100)
- Spill prevention briefings are not scheduled and conducted at least once per year per 112.7(f)(3) (\$100)
- Plan has inadequate or no discussion of personnel and spill prevention procedures 112.7(a)(1) (\$100)

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING: 40 C.F.R. 112.7(c) and/or (h-j)

- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin treatment system, or quick drainage system 112.7(h)(1) (\$850) \$850
- 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) (\$525)
- 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) (\$350)
- 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) (\$175)
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack 112.7(a)(1) (\$100)

QUALIFIED OIL OPERATIONAL EQUIPMENT: 40 C.F.R. 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) (\$175)
- Failure to provide an oil spill contingency plan 112.7(k)(2)(ii)(A) (\$175)
- No written commitment of manpower, equipment, and materials 112.7(k)(2)(ii)(B) (\$175)

OIL PRODUCTION FACILITY DRAINAGE: 40 C.F.R. 112.9(b)

- 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) (\$700)
- Prior to the 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) (\$525)
- 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) (\$350)
- Field drainage system (e.g. 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) (\$350)
- Inadequate or no records maintained for drainage events 112.9 (\$100)
- Plan has inadequate or no discussion of facility drainage 112.9 (\$100)

BULK STORAGE CONTAINERS: 40 C.F.R. 112.7(i) and 112.9(c)

- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$100)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$350)
- Container material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature 112.9(c)(1) (\$525)
- Size of secondary containment appears to be inadequate for containers and treating facilities 112.9(c)(2) (\$850)
- Drainage from undiked areas are not safely confined in a catchment basin or holding pond 112.9(c)(2) (\$450)
- Secondary containment materials are not sufficiently impervious to contain oil 112.9(c)(2) (\$425)
- Excessive vegetation which affects the integrity 112.9(c)(2) (\$175)
- Walls of containment system slightly eroded or have low areas which impact the containment sizing/ capacity requirements 112.9(c)(2) (\$350)
- Visual inspections of containers, foundation and supports are not conducted periodically for deterioration and maintenance needs 112.9(c)(3) (\$525)
- Tank battery installations are not in accordance with good engineering practice because none of the following are present 112.9(c)(4) (\$525)
 - (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 and alarm signal where facilities are part of a computer control system- 112.9(c)(4)(iv).
- Plan has inadequate or no discussion of bulk storage tanks- 112.7(a)(1) (\$100)

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS: 40 C.F.R. 112.9(d) and 112.7

- Aboveground valves, piping and appurtenances are not inspected periodically on a scheduled basis for general condition (including items such as: flange joints, valve glands 2nd bodies, drip pans, pipeline supports, bleeder and gauge valves, polish rods/stuffing box).- 112.9(d)(1) (\$525)
- Brine and saltwater disposal facilities are not examined often- 112.9(d)(2) (\$525)
- Inadequate or no flowline maintenance program (includes: examination, corrosion protection, flowline replacement)- 112.9(d)(3) (\$525)
- Plan has inadequate or no discussion of oil production facilities- 112.7(a)(1) (\$100)
- Flowlines with no secondary containment need a contingency plan and written commitment of resources 112.9(d)(3) (\$300)
- Facility does not have a written flowline maintenance program or it fails to meet or implement the requirements of 112.9(d)(4) \$300

SUB TOTAL	\$2,600
------------------	----------------

Multiplier	0.75
Total	\$1,950

Attachment A
SPCC Expedited Settlement Agreement
Payment Instructions

Payment shall be in a single payment, due no later than 30 calendar days from the effective date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by remitting a check or making a wire transfer or on-line payment. The check or other payment shall:

- designate the name and docket number of this case, and
- be payable to “Treasurer, United States of America.”

The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. Environmental Protection Agency / Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197

If remitted by any overnight commercial carrier:

U.S. Bank
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

If remitted through the Automated Clearing House (ACH) for receiving US currency:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737

If remitted on-line with a debit card or credit card: No user name, password, or account number is necessary for this option. On-line payment can be accessed via www.pay.gov, entering 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen.

At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent by email and/or mail to:

Regional Hearing Clerk
U.S. EPA Region 4
Office of Regional Counsel
61 Forsyth Street, SW
Atlanta, GA 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Mr. John Goodwin
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303-8960
Goodwin.John@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing Expedited Settlement Agreement and Final Order, in the matter of Elsie Snead Lease, Docket No. CWA-04-2021-0400(b), and that copies of the same were sent to the parties as indicated below.

Via email to all parties:

To Respondent:

Alan Vanarsdale, Owner
Elsie Snead Lease
85 M Caldwell Road
Columbia, Kentucky 42728
dixiecc@windstream.net

To EPA:

John C. Goodwin
Drinking Water and Wastewater Section
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Goodwin.John@epa.gov

Stephen P. Smith
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Smith.Stephen@epa.gov

Shannon Richardson, Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960