

### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 0 7 2010

## <u>CERTIFIED MAIL</u> RETURN RECEIPT REQUESTED

Mr. Mark Kozak, Manager of Environmental Compliance Estes Express Lines 110 Interstate Drive Richland, Mississippi 39218

SUBJ: Consent Agreement and Final Order: Docket No. CWA-04-2010-7003

Dear Mr. Kozak:

Enclosed is a copy of the Consent Agreement and Final Order (CAFO) for the above referenced matter. This CAFO became effective on the date of filing with the Regional Hearing Clerk as required by 40 C.F.R. §§ 22.6 and 22.31, and as indicated on the Certificate of Service.

The United States Environmental Protection Agency (EPA) hereby notifies you that the Expedited Settlement Agreement has been executed by both parties and is binding on EPA and you. Upon receipt of your assessed penalty of \$4,000.00, EPA will take no further action against you for the violations cited in the Settlement Agreement. Your copy of the executed agreement is enclosed.

You must submit your payment within seven (7) days of your receipt of this letter by either electronic funds transfer, certified or cashiers check made payable to "Environmental Protection Agency." The check and a letter accompanying the check shall reference the name of the responsible party (Oil Spill Liability Trust Fund-311, Estes Express Lines) and the EPA docket number CWA-04-2010-7003, and shall be sent depending upon your preferred method of payment identified in Enclosure A.

Internet Address (URL) • http://www.epa.gov Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer) At the same time, you shall send a separate copy of each check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

Ms. Patricia Bullock Regional Hearing Clerk U.S. EPA - Region 4 61 Forsyth Street, S.W. Atlanta, Georgia 30303-8960

Mel Rechtman
U.S. EPA - Region 4
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

If you have any questions, please contact Mel Rechtman at (404) 562-8745.

Sincerely,

Caroline Y. F. Robinson, Chief

Caroline J. J. Robinson

RCRA and OPA Enforcement and Compliance Branch

**RCRA** Division

Enclosures:

Expedited Settlement Agreement Payment Information

cc: USCG

### **ENCLOSURE A**

#### **COLLECTION INFORMATION**

#### **CHECK PAYMENTS:**

U.S. Environmental Protection Agency Fines and Penalties P.O. Box 979077 St. Louis, Missouri 63197-9000

### **WIRE TRANSFERS:**

Wire transfers should be directed to the Federal Reserve Bank of New York

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"

### **OVERNIGHT MAIL:**

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

Contact: Natalie Pearson 314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving U.S. currency PNC Bank 808 17th Street, NW Washington, DC 20074 Contact – Jesse White 301-887-6548 ABA = 051036706 Transaction Code 22 - checking Environmental Protection Agency Account 310006 CTX Format

## ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

## www.pay.gov

Enter sfo 1.1 in the search field

Open form and complete required fields.



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 4

# 61 FORSYTH ST S.W. ATLANTA, GEORGIA 30303-8960 PROPOSED SPCC SETTLEMENT AGREEMENT

DOCKET NO.: CWA-04-2010-7003

On: June 26, 2008

At: 110 Interstate Drive, Richland, Rankin County, Mississippi, Estes Express Lines Terminal #75, owned or operated by Estes Express Lines (Respondent), an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Spill Prevention, Control and Countermeasures (SPCC) regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j), (the Act), and found that Respondent had failed to comply with the SPCC regulations as noted on the attached SPCC Findings, Alleged Violations, and Proposed Penalty Form, which is hereby incorporated by reference.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further described in the Alleged Civil Violations Docket No. CWA-04-2010-7003. The Respondent admits being subject to 40 CFR § 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Alleged Violations. Respondent does not contest the Inspection Findings, and waives my objections Respondent may have to EPA's jurisdiction.

EPA is authorized to enter into this Proposed Settlement Agreement 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 Proposed Settlement Agreement in order to settle the civil violations described in the Letter of Deficiencies for a penalty of \$1,400.00. The Respondent consents to the assessment of this penalty.

This Proposed Settlement Agreement is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected by January 12, 2010, at a cost of \$\( \frac{\chi\_2 \chi\_2}{\chi\_2} \), and Respondent agrees to payment of the penalty upon written notice that the Proposed Settlement Agreement Agreement. EPA will provide instructions in writing on the procedures for making penalty payments to the "Oil Spill Liability Trust Fund".

After this Proposed Settlement Agreement becomes effective, EPA will take no further action against the Respondent for the violations of the SPCC regulations described in the Alleged Civil Violations. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulations.

Upon signing and returning this Proposed Settlement Agreement 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 Proposed Settlement Agreement without further notice.

This Proposed Settlement Agreement is binding on the parties signing below, and is effective upon the Regional Hearing Clerks signature. If Respondent does not sign and return this Proposed Settlement Agreement as presented within 30 days of the date of its receipt, this Proposed Settlement Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in the Letter of Deficiencies.

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APPROVED BY RESPONDENT:
Name (print): MARK KOZAK-
Title Mys. How - ENVIR Compl. (print)
Marf 1/2 Date 4/8/10
APPROVED BY EPA:  Caroline Y. F. Robinson, Chief  RCRA and OPA Enforcement and Compliance Branch  RCRA Division
IT IS SO ORDERED:  Susan B. Schub,  Particular Indicial Officer



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

- 1. Failure to prepare a written Spill Prevention Control and Countermeasure (SPCC) Plan for the facility as required by 40 CFR § 112.3(a) in accordance with the guidelines for plan preparation at 40 CFR § 112.7.
- 2. Failure to implement an SPCC Plan as required by 40 CFR § 112.3(a) in accordance with the guidelines for plan implementation at 40 CFR § 112.7 and/or § 112.8:
  - a. Secondary containment and/or undiked area drainage controls are not provided in tanker truck unloading areas as required by 40 CFR § 112.7(c) and/or § 112.8(b)(3);
  - b. Records of dike drainage events are not maintained as required by 40 CFR § 112.8(c)(3);
  - c. Records of tank inspections and tests are not maintained as required by 40 CFR § 112.8(c)(6);
  - d. Bulk storage container not equipped with a liquid level sensing device as required by 40 CFR § 112.8(c)(8).

## **Summary of Findings**

1.	Failure to prepare a written SPCC Plan	\$1,000.00
2.	a Secondary containment and drainage controls not provided	200.00
	b. Records of Dike Drainage events not maintained	50.00
	c. Records of tank inspections not maintained	50.00
	d. Bulk storage container not equipped	100.00
Total Proposed Penalty		\$1,400.00

## **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Estes Express Lines, Docket No. CWA-04-2010-7003 (filed with the Regional Hearing Clerk on 7 2010) was served on 12010, 2010 in the manner specified to each of the person set forth below:

Mr. Mark Kozak Manager of Environmental Compliance Estes Express Lines 110 Interstate Drive Richland, Mississippi 39218 CERTIFIED MAIL
Return Receipt Requested

Mel Rechtman Via EPA's Internal Mail RCRA and OPA Enforcement and Compliance Branch U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Date: 5-7-16

Patricia A. Bullock, Regional Hearing Clerk

United States Environmental Protection Agency, Region 4 Atlanta Federal Center 61 Forsyth Street, S.W. Atlanta, Georgia 30303 (404) 562-9511

## EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

	PAYMENT DUE DATE:					
TO BE COMPLETED BY THE ORGINATING OFFICE: (Attach a copy of the final order and transmittal letter to Defendant/Respondent)						
	orm was originated by: Mel Rechtman		ол April 19, 2010			
(Name)	(Date)					
in the	ROECB	at	404/562-8745			
-	(Office)		Phone Number)			
	Non-SF Judicial Order/Consent Decree USAO COLLECTS	X	Administrative Order/Consent Agreement FMO COLLECTS PAYMENT			
	SF Judicial Order/Consent Decree DOJ COLLECTS		Oversight Billing - Cost Package required: Sent with bill			
			Not sent with bill			
_	Other Receivable		Oversight Billing - Cost Package not required			
	This is an original debt		This is a modification			
PAYEE: Estes Express Lines						
The Total Dollar Amount of the Receivable: \$1,400.00 (If installments, attach schedule of amounts and respective due dates. See other side of this form.)						
The Case Docket Number: <u>CWA-04-20</u> 10-7003 The Site Specific Superfund Account Number: n						
The Designated Regional/Headquarters Program Office: RCRA Division						
To Be Completed By Cincinnati Finance Center						
The IFMS Accounts Receivable Control Number is: Date: /2010 DISTRIBUTION:						
	CIAL ORDERS: Copies of this form with an attached co	py of the fro	ont page of the <u>FINAL JUDICIAL ORDER</u>			
] ] ]	Debt Tracking Officer Environmental Enforcement Section Department of Justice RM 1647 P.O. Box 7611, Benjamin Franklin Station Washington, D.C. 20044	2. 3.	Originating Office (EAD) Designated Program Office			
B. <u>ADM</u>	INISTRATIVE ORDERS: Copies of this form with an attac	hed copy of th	e front page of the Administrative Order Should be to:			
	Originating Office Regional Hearing Clerk	3. 4.	Designated Program Office Regional Counsel (EAD)			