



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 10, 1200 6th Avenue, Suite 900, Seattle, Washington, 98101
EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO. CWA-10-2013-0070

On: July 20, 2012
 At: Bethel Utilities Corporation Facility in Bethel, Alaska.
 Owned or operated: Bethel Utilities Corporation.
 (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 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 violated regulations implementing Section 311(j) of the Act by failing to comply with the regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference.

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 \$1,500.00

This settlement is subject to the following terms and conditions:

EPA finds the Respondent is subject to the SPCC regulations, which are published at 40 CFR Part 112, and has violated the regulations as further described in the Form. The Respondent admits he/she is subject to 40 CFR Part 112 and that EPA has jurisdiction over the Respondent and the 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. The 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 \$1,500.00, payable to the "Oil Spill Liability Trust Fund" to: "U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000". Respondent has noted on the penalty payment check "EPA" and the docket number of this case, "CWA-10-2013-0070."

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.

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.

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent 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 the 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.

This Expedited Settlement is binding on the parties signing below, and is effective upon EPA's filing of the document with the Regional Hearing Clerk.

APPROVED BY EPA:

[Signature] Date: 2/12/2013
 Edward J. Kowalski, Director
 Office of Compliance and Enforcement

APPROVED BY RESPONDENT:

Name (print): Thomas S. Sterrett, Jr.
 Title (print): [Signature]
Controller Date 4.15.13
 Signature

Estimated cost for correcting the violation(s) is \$55,000 to \$65,000

IT IS SO ORDERED:

[Signature] Date 4/25/13
 Thomas M. Jahnke
 Regional Judicial Officer
 EPA Region 10

RECEIVED

13 APR 25 AM 8:32

HEARINGS CLERK
 EPA--REGION 10



**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 10 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:		Docket Number:	
Bethel Utilities Corporation		CWA-10-2013-0070	
Facility Name:		Date:	
Bethel Utilities Corporation Facility		07/20/2012	
Street Address:		Inspector's Name:	
1340 Kwethluk Lane		Richard Whittier/EPA Carl Overpeck/START	
City:		Enforcement Contacts:	
Bethel			
State:		Name	Phone Number
Alaska		Derek Schruhl	(206) 553-1146
Zip Code:			
99559			
Facility Contact:		EPA Approving Official:	
Mr. Lenny Welch		Edward J Kowalski	

**Summary of Findings
(Bulk Storage Facilities)**

General Topics

	112.3 (a)	No Spill Prevention Control and Countermeasure Plan.	\$1,000
	112.3 (d)	Plan not certified by a professional engineer.	\$300
	112.3 (d)	Amendment(s) not certified by a professional engineer.	\$100
	112.7	No management approval of plan.	\$300
	112.3 (a)	Plan not available for review.	\$300
	112.3 (e)(1)	Plan not maintained on site (applies if facility is manned at least eight (8) hours per day).	\$100
✓	112.5(b)	No evidence of (5) five year review of plan by owner/operator.	\$50
	112.5(b)	No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential.	\$50
	112.7(b)	Inadequate or no prediction of equipment failure which could result in discharges.	\$100
✓	112.7(c)	Plan does not discuss appropriate containment/diversionary structures/equipment.	\$100

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

112.7(d)	No contingency plan.	\$100
112.7(d)	No written commitment of manpower, equipment, and materials.	\$100

Written Procedures and Inspection Records

✓ 112.7(e)	Inspections required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility.	\$50
✓ 112.7(e)	Written procedures and a record of inspections are not signed by facility supervisor.	\$50
112.7(e)	Written procedures and a record of inspections are not made part of the plan.	\$50
✓ 112.7(e)	Written procedures and a record of inspections are not maintained for (5) five years.	\$50

Personnel Training and Spill Prevention Procedures

✓ 112.7(f)(1)	No training on the operation and maintenance of equipment to prevent discharges.	\$50
✓ 112.7(f)(1)	No training on the applicable laws, rules, and regulations.	\$50
112.7(f)(2)	No designated person responsible for spill prevention.	\$50
✓ 112.7(f)(3)	Spill prevention briefings are not scheduled and conducted periodically.	\$50
112.7(f)	Plan has inadequate or no discussion of personnel and spill prevention procedures.	\$50

Facility Drainage, Onshore (excluding Production Facilities)

112.8(b)(2)	Valves used to drain diked areas are not of manual, open-and-closed design	\$200
112.12(b)(2)	(note: flapper-type valves should not be used).	
112.8(b)(1)	Pumps or ejectors not manually activated when diked storage areas drained.	\$100
112.12(b)(1)		
112.8(b)(3)	Drainage from undiked areas not into ponds, lagoons, or catchment basins,	\$300
112.12(b)(3)	or no diversion systems to return spills to the facility.	
✓ 112.8(b)	Plan has inadequate or no discussion of facility drainage.	\$50
112.12(b)		

Bulk Storage Tanks (excluding Production Facilities)

112.8(c)(1)	Material and construction of tanks not compatible to the material stored and	\$300
112.12(c)(1)	the conditions of storage such as pressure and temperature.	
112.8(c)(2)	Secondary containment appears to be grossly inadequate.	\$500
112.12(c)(2)		
112.8(c)(2)	Materials of construction are not sufficiently impervious.	\$250
112.12(c)(2)		
112.8(c)(2)	Excessive vegetation which affects the integrity of the containment system.	\$100
112.12(c)(2)		
112.8(c)(2)	Walls of containment system are slightly eroded or have low areas.	\$200
112.12(c)(2)		

When drainage from diked areas is to a storm drain, open water course, or lake or pond:

112.8(c)(3)	Bypass valve not normally sealed closed.	\$300
112.12(c)(3)		
112.8(c)(3)	Runoff rain water not inspected and/or will cause a harmful discharge as	\$300
112.12(c)(3)	defined in 40 CFR 110.	
112.8(c)(3)	Bypass valve is not opened and resealed under responsible supervision.	\$100
112.12(c)		

112.8(c)(3)	Adequate records of drainage events are not maintained.	\$50
112.12(c)(3)		
112.8(c)(4)	Underground tanks are not protected from corrosion or are not subjected to regular pressure testing.	\$100
112.12(c)(4)		
112.8(c)(5)	Partially buried tanks do not have buried sections protected from corrosion.	\$100
112.12(c)(5)		
✓ 112.8(c)(6)	Above ground tanks not subject to periodic integrity testing, such as visual, hydrostatic, and nondestructive methods, etc.	\$300
112.12(c)(6)		
✓ 112.8(c)(6)	Outside of tank not frequently observed for signs of deterioration, leaks which might cause a spill, or accumulation of oil inside diked area.	\$300
112.12(c)(6)		
112.8(c)(7)	Steam return /exhaust of internal heating coils which discharge into an open water course not monitored, passed through a settling tank, skimmer, or other separation system.	\$100
112.12(c)(7)		
✓ 112.7(c)(6)	Records of inspections of aboveground tanks are not maintained.	\$50
112.8(c)(6)		

Tanks are not "fail-safe" engineered:

112.8(c)(8)	(1) No audible or visual high liquid level alarm; or (2) no high-level pump cutoff devices set to stop flow at a predetermined tank content level; or (3) no direct communications between tank gauger and pumping station; or (4) no fast response system for determining liquid levels, such as computers, telepulse or direct vision gauges.	\$300
112.12(c)(8)		
✓ 112.8(c)(8)	No testing of liquid level sensing devices to ensure proper operation.	\$50
112.12(c)(8)		
112.8(c)(9)	Disposal facilities which discharge plant effluents directly to navigable waters are not monitored frequently to detect oil spills.	\$100
112.12(c)(9)		
112.8(c)(10)	Visible oil leaks resulting in accumulations of oil in diked areas are not promptly corrected.	\$300
112.12(c)(10)		
112.8(c)(11)	Mobile or portable storage tanks are not positioned to prevent spilled oil from reaching navigable water, or are in area subject to flooding.	\$300
112.12(c)		
112.8(c)(11)	Secondary containment inadequate for mobile or portable storage tanks.	\$500
112.12(c)(11)		
✓ 112.7(a)(3)	Plan has inadequate or no discussion of bulk storage tanks.	\$50
112.8(c)		
112.12(c)		

Facility Transfer Operations, Pumping, and In-Plant Processes, onshore (excluding Production Facilities)

112.8(d)(1)	Buried piping not corrosion protected with protective wrapping, coating, or cathodic protection.	\$100
112.12(d)(1)		
112.8(d)(1)	Corrective action not taken on buried piping when corrosion damage found.	\$300
112.12(d)(1)		
112.8(d)(2)	Terminal connections at transfer points on not-in-service or standby pipelines are not capped or blank-flanged and marked as to origin.	\$300
112.12(d)(2)		
112.8(d)(3)	Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction.	\$50
112.12(d)(3)		
✓ 112.8(d)(4)	Above ground valves and pipelines are not inspected regularly.	\$200
112.12(d)(4)		
112.8(d)(4)	Integrity and leak testing not conducted on buried piping at time of installation, modification, construction, relocation, or replacement.	\$100
112.12(d)(4)		
112.8(d)(5)	Vehicle traffic not warned verbally or by appropriate signs of above ground piping.	\$100
112.12(d)(5)		
✓ 112.7(a)(3)	Plan has inadequate or no discussion of facility transfer operations, pumping, and in-plant processes.	\$50
112.8(d)		

112.12(d)

Facility Tank Car and Tank Truck Loading/Unloading Rack, Onshore

112.7(h)(1)	Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system.	\$500
112.7(h)(1)	Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck.	\$300
112.7(h)(2)	There is no interlocked warning light, physical barrier system, or warning signs to prevent vehicular departure before complete disconnect from transfer lines.	\$200
112.7(h)(3)	There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck.	\$100
112.7(h)	Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack.	\$50

Security (excluding Production Facilities)

112.7(g)	Facility not fully fenced and entrance gates are not locked and/or guarded when plant is unattended or not in production.	\$100
112.7(g)	Master flow and drain valves that permit direct outward flow of tank's contents to the surface are not secured in closed position when in a non-operating or standby status.	\$200
112.7(g)	Starter controls on pumps are not locked in the "off" position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status.	\$50
112.7(g)	Loading and unloading connection(s) of pipelines are not capped or blank-flanged when not in service.	\$50
112.7(g)	Facility lighting not commensurate with the type and location of facility to facilitate the discovery of spills during hours of darkness and to deter vandalism.	\$100
112.7	Plan has inadequate or no discussion of facility security.	\$50

TOTAL \$1,500

EPA/FACILITY INSPECTION REVIEW

Bethel Utilities Corporation

Bethel, AK 99559

SPCC RULE REFERENCE	PLAN	FIELD	INSP. DEFICIENCY DESCRIPTION (7/20/12)
SPCC REVIEW			
112.5(b) SPCC Review	X		No evidence of 5 year review of plan by owner/operator.
112.7(c) Adequate secondary containment		X	No or inadequate containment and/or diversionary structures to prevent a discharge. No general containment beneath transformers. Lube oil tanks downgradient containment to sump may lack sufficient volume for precipitation; calculations needed. Downgradient flow path from lube oil tanks may miss sump; upgrade (curbing, dedicated containment, other engineering design required).
112.7(e) Inspections, Tests, and Records		X	Inspections and tests not in accordance with written procedures in Plan. Records not available. Records of inspections not maintained for three years.
112.7(f) Personnel, training, and discharge prevention procedures -- (1)		X	No training of oil-handling personnel on discharge prevention. Not documented.
-- (3)		X	Spill prevention briefings are not conducted at least annually. Not documented.
112.7(k) Qualified oil-filled operational equipment	X		Transformers indoors on wood floor with gaps, no general containment.
112.8(b); 112.12(b) Facility Drainage	X		Plan has inadequate or no discussion of facility drainage. Fuel oil tanks are double walled and self contained. Lube oil tanks lack secondary containment, design is for release to flow to catchment basin; however, flow to catchment basin is uncertain. The size of the basin is "designed to accept over 100% of the product in either tank" but does not account for precipitation or winter (snow and ice) conditions.
112.8(c); 112.12(c) Bulk Storage Containers (c)(6) Aboveground containers; visual plus additional integrity tests; comparison records kept, Frequent visual inspection for condition, leaks, in diked areas; records kept	X	X	Aboveground containers not integrity tested on a regular schedule or when repaired. Testing/inspection not in accordance with industry standards to identify the appropriate qualifications for inspection/testing personnel or frequency or type of testing/inspection. Containers and container supports not adequately inspected. Outside of container not frequently inspected for signs of deterioration, or oil discharges. Records of inspections/tests or comparison records not kept. Plan only references Daily Visual inspections. No documentation.
(c)(8) Engineered to avoid discharges	X	X	No liquid level sensing devices or other overfill prevention systems provided or not regularly tested. No records.
(c)(9) Effluent Treatment Facilities	X		The plan does not discuss effluent treatment facilities.
(c)(10) Visible Discharges		X	No records.
112.8(d) Transfer Operations, Pumping and Facility Process (d)(2) Piping terminal connection	X		The plan does not discuss piping terminal connections.
(d)(4) Piping Inspections		X	No records present.

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of : Bethel Utilities Corporation Facility in Bethel, Alaska.** Docket No.: CWA-10-2013-0070, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

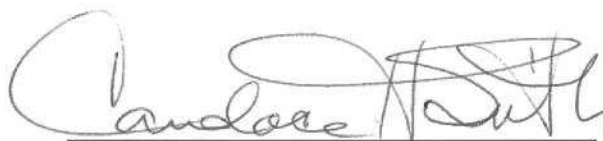
The undersigned certifies that a true and correct copy of the document was delivered to:

David Allnutt, Esquire
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, Washington 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 to:

Edward Tilbury
President
3201 C Street, Suite 500
Anchorage, AK 99503

DATED this 25th day of April 2013

A handwritten signature in black ink, appearing to read "Candace H. Smith", written over a horizontal line.

Signature

Candace H. Smith
Regional Hearing Clerk
EPA Region 10