

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:

DLP Haywood Regional Medical Center, LLC

Respondent

DOCKET NO.: CWA-04-2025-1105(b)

Oil Spill Expedited Settlement Agreement

Pursuant to CWA Section 311(b)(6)(B)(i)

On May 25, 2024, Respondent's facility at 262 Leroy George Drive, Clyde, North Carolina 28721 (the Facility), discharged approximately 1,651 gallons of diesel fuel in violation of Section 311(b)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(3), as described in the attached "Findings and Alleged Violations Form – Oil Spill Expedited Settlement Agreement" (Oil Spill Violations Form), which is hereby incorporated by reference.

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 Oil Spill Violations Form for a penalty of \$5,000.

This ESA is subject to the following terms and conditions:

EPA finds Respondent's conduct is subject to the discharge prohibition of CWA § 311(b)(3), 33 U.S.C. § 1321(b)(3), in conjunction with 40 C.F.R. § 110.3, and has therefore violated the CWA as described in the Oil Spill Violations Form. Respondent admits it is subject to CWA § 311(b)(3), and that EPA has jurisdiction over Respondent and Respondent's conduct as described in the Oil Spill Violations Form. Respondent does not contest the findings and neither admits nor denies the allegations in the Oil Spill Violations 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 it has investigated the cause

of the spill, it has cleaned up the spill pursuant to federal requirements, and it has taken corrective actions that will prevent future spills.

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. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), coming into compliance with the Oil Pollution Prevention regulations is restitution, remediation, or required to come into compliance with the 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.

By signing this ESA, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the 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 described in the Oil Spill 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 CWA 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: joyner.william@epa.gov for EPA and Christoper.brown@lifepointhealth.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.

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 Oil Spill Violations Form.

APPROVED BY RESPONDENT:

Name (print): Elmer Polite

Title (print): President

 Date 09/09/25
Signature

APPROVED BY EPA:

_____ for

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division

FINAL ORDER

Having determined that this Agreement is authorized by law, the foregoing Expedited Settlement Agreement is hereby incorporated into the Final Order.

IT IS SO ORDERED:

Regional Judicial Officer

Findings and Alleged Violations Form
Oil Spill Expedited Settlement Agreement

1. DLP Haywood Regional Medical Center, LLC. (Respondent) is the operator of an onshore facility within the meaning of Section 311(a)(10) of the Clean Water Act (CWA), 33 U.S.C. § 1321(a)(10), which is located at 262 Leroy George Drive, Clyde, North Carolina 28721 (Facility).
2. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of diesel fuel 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)(3) and (b)(4) of the CWA, 33 U.S.C. §§ 1321(b)(3) and (b)(4), discharges of diesel fuel into or upon the navigable waters of the United States in such quantities that may be harmful to the public health, welfare or environment are defined in 40 C.F.R. § 110.3 to include discharges of diesel fuel that violate applicable water quality standards, or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines.
4. On May 25, 2024, Respondent discharged approximately 1,651 gallons of diesel fuel as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from the Facility into or upon Jones Cove Branch and/or adjoining shorelines. The EPA obtained this information from the EPA On-Scene Coordinator's observations documented in the EPA Pollution Report dated June 3, 2024.
5. Jones Cove Branch flows into Richland Creek, which flows into the Pigeon River, a traditional navigable water. Jones Cove Branch, Richland Creek, and Pigeon River are navigable waters, as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.
6. Respondent's discharge of diesel fuel on May 25, 2024, was observed in the stormwater system on the hospital campus, throughout Jones Cove Branch to Richland Creek and throughout Richland Creek to its confluence with the Pigeon River. A petroleum sheen was also observed in the Pigeon River at Riverview Drive and adjoining shorelines, and therefore, was a quantity that may be harmful under 40 C.F.R. § 110.3, which implements Section 311(b)(3) and (b)(4) of the CWA, 33 U.S.C. §§ 1321(b)(3) and (b)(4).
7. Respondent's discharge of diesel fuel therefore violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), and Respondent is liable for civil penalties pursuant to Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i).

DLP Haywood Regional Medical Center, LLC
Attachment A
Oil Spill 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 standard U.S. Postal Service delivery:

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, Missouri 63197-9000

If remitted by non-standard mail delivery (e.g., FedEx, DHL, UPS, USPS certified, registered, etc.):

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, Missouri 63045

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
Beneficiary: US 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

Remittance Express (REX): 1-866-234-5681

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 mail and/or email 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

William Joyner

U.S. EPA Region 4

61 Forsyth Street, SW

Atlanta, GA 30303-8960

Joyner.william@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Expedited Settlement Agreement and Final Order, in the Matter of DLP Haywood Medical Center, LLC, Docket No. CWA-04-2025-1105(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Sue Shugart
Chief Executive Officer
DLP Haywood Regional Medical Center, LLC
262 Leroy George Drive
Clyde, North Carolina 28721
Sue.shugart@lifepointhealth.net
(423) 453-9810

To EPA: William Joyner
Environmental Engineer
Joyner.william@epa.gov
(404) 562-8795

Andrew Teodorescu
Associate Regional Counsel
Teodorescu.andrew@epa.gov
(404) 562-8309

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov