



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

September 21, 2023

TRANSMITTED VIA E-EMAIL

Mr. Steve Olfers
Manager
Strocher & Son, Inc.
509 S Adams Street
Fredericksburg, TX 78624
steveolfers@hotmail.com

Re: Expedited Spill Settlement Agreement
Docket No. **CWA-06-2023-4502**
Oil Spill in Gillespie County, Texas, on or about February 6, 2023

Dear Mr. Olfers:

The Environmental Protection Agency (EPA) has authority under Section 311 of the Clean Water Act to pursue civil penalties for oil spill violations. Based upon information available to the EPA, a specific oil spill by your company is identified in the enclosed Findings and Alleged Civil Violations Form (Form). The EPA encourages the expedited settlement of oil spill violations, such as the violations cited in the enclosed Expedited Spill Settlement Agreement (Settlement Agreement). The enclosed Complaint and Settlement Agreement has been issued in accordance with 40 CFR Part 22, "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (enclosed).

You may resolve the cited violations quickly by correcting the cited violations, mailing a check for the penalty as described below, inserting the estimated cost for the corrective action in the space provided on the Settlement Agreement, and signing and returning the original Settlement Agreement within 30 days of your receipt of this letter. As previously stated, as a condition of the settlement, you must correct the violations within 30 days of your receipt of this letter. The EPA, at its discretion, may grant one 30-day extension for cause upon request. A request for a 30-day extension should be sent to the Energy Sector Compliance Section Chief at the address given on page 2 of this letter.

The Settlement Agreement, when executed by both parties, is binding on both you and the EPA. Upon receipt of the signed document and a check for the amount of the penalty, the EPA will take no further action against you for the violations cited in the Settlement Agreement. The EPA will neither accept nor approve the Settlement Agreement if returned more than 30 days after the date of your receipt of this letter, unless an extension has been granted by the EPA. (Please be advised that the Settlement Agreement contains a discounted, non-negotiable penalty amount, which is lower than the amount, which would be derived from the EPA's National Civil Penalty Policy for discharge violations.)

If you do not pay the penalty and return the Settlement Agreement within 30 days of your receipt of this letter, unless an extension has been granted by the EPA, the Settlement Agreement will be automatically withdrawn, without prejudice to the EPA's ability to file an enforcement action for the cited violations. Failure to sign and return the Settlement Agreement and pay the penalty within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correcting the

violations that have been specifically identified in the Form. If you decide not to sign and return the Settlement Agreement and pay the penalty, the EPA can pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to \$22,324 per violation up to a maximum penalty of \$55,808.

You are required in the Settlement Agreement to certify that you have corrected the violations and paid the penalty. The payment for the penalty amount must be in the form of a certified check payable to the "Environmental Protection Agency", with the Docket Number of the Settlement Agreement and "Spill Fund – 311" noted on the check. The Docket Number is located at the top of the left column of the Settlement Agreement.

The original, signed Expedited Settlement Agreement must be sent via CERTIFIED MAIL or E-Mail to:

Energy Sector Compliance Section
U. S. Environmental Protection Agency
Region 6 (6ECD-WE)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
blaha.michael@epa.gov

The payment of the penalty amount must be sent via CERTIFIED MAIL to:

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

A copy of the Settlement Agreement and of the penalty payment should be retained by you. The EPA will forward to you a copy of the fully executed Expedited Settlement Agreement.

By terms of the Settlement Agreement, and upon the EPA's receipt of the signed Settlement Agreement and a check for the amount of the penalty, you waive your opportunity for a hearing pursuant to Section 311 of the Clean Water Act. The EPA will treat any response to the proposed Settlement Agreement, other than acceptance of the settlement offer, as an indication that the recipient is not interested in pursuing an expedited settlement of this matter.

If you have any questions relating to this Expedited Settlement Agreement, please contact Michael Blaha at 214-665-8574.

Sincerely,


Bryant Smalley
Chief
Water Enforcement Branch

Enclosures

FILED



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6, 1201 ELM STREET, DALLAS TEXAS 75270-2102,

SPILL EXPEDITED SETTLEMENT AGREEMENT

23 OCT 11 PM 4:46

REGIONAL HEARING CLERK
EPA REGION VI

DOCKET NO. CWA-06-2023-4502

On: February 6, 2023

At: Stroher & Son, Inc., Gillespie County, TX (Respondent) discharged 1,200 gallons of gasoline in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached FINDINGS and ALLEGED CIVIL VIOLATIONS 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 \$3,000.00.

This settlement is subject to the following terms and conditions:

EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in the statute and further described by 40 CFR § 110.3. The Respondent admits he/she is subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the 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 it has investigated the cause of the spill, it has cleaned up the spill pursuant to the federal requirements, and it has taken corrective actions that will prevent future spills. The Respondent also verifies that it has sent a certified check for \$3,000.00, payable to "Environmental Protection Agency," to: "USEPA, Fines & Penalties, P.O. Box 979077, St. Louis, MO 63197-9000" and Respondent has noted on the penalty payment check "Spill Fund-311" and the docket number of this case, "CWA-06-2023-4501."

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 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 Section 311(b)(3) of the Act 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 Section 311(b)(3) of the Act or of any other federal statute or regulation. 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 the Enforcement and Compliance Assurance Division Director's signature.

APPROVED BY EPA:

Bryant Smalley

Date: September 11, 2023

Bryant Smalley
Chief
Water Enforcement Branch

APPROVED BY RESPONDENT:

Name (print): STEVE OLFEBS

Title (print): STEVE OLFEBS, MNGR

Steve Olfebs

Date: 09/22/2023

Signature

The estimated cost of the clean-up and corrective action is

\$ 177,944.46

IT IS SO ORDERED:

Cheryl T. Seager

Digitally signed by CHERYL SEAGER
Date: 2023.10.11 12:18:13 -0500'

Date: October 11, 2023

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

FINDINGS AND ALLEGED CIVIL VIOLATIONS

1. Stroeher & Son, Inc. is a firm qualified to do business in the State of Texas with a place of business located in Fredericksburg, TX. The Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7).
2. Respondent is the owner/operator of an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), a gasoline and retail sales facility, which is located in Gillespie County, Texas (facility).
3. Section 311(b)(3) of the Act prohibits the discharge of oil 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.
4. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. 110.3 to include discharges of oil that cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.
5. On February 6, 2023, Respondent discharged 1,200 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. 110.1, from its facility into or upon Barons Creek and adjoining shorelines.
6. Barons Creek enters Pedernales River and is a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. 110.1.
7. Respondent's February 6, 2023, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Barons Creek and adjoining shorelines and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. 110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.
8. Respondent's February 6, 2023, discharge of oil from its facility into or upon Barons Creek and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. 110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 CFR 19.4, the Respondent is liable for civil penalties of up to \$22,324 per violation, up to a maximum of \$55,808.

Docket No. CWA-06-2023-4502

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on October 11, 2023, with the Regional Hearing Clerk, U.S. EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270-2102, and that on the same date a copy of the same was sent to the following, in the manner specified below:

NAME: Steve Olfers
ADDRESS: 509 South Adams Street
Fredericksburg, TX
78624

**MICHAEL
BLAHA**

Digitally signed by
MICHAEL BLAHA
Date: 2023.10.12 07:24:04
-05'00'

Michael Blaha
OPA Enforcement Officer