UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6, 1445 ROSS AVENUE, DALLAS, TEXAS 75202-2733
EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO. CWA-06-2011-4332

On: April 18, 2011

At: Arkola Southside Ready Mix Plant, 5215 South Zero Street, Ft. Smith, Sebastian County, AR, 72903. Owned or operated by: APAC Central, Inc., P. O. Box 9208, Fayettville, AR 72703 (Respondent).

An authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Spill Prevention, Control and Countermeasure (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 $1,350.00. 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 $1,350.00, payable to the "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-06-2011-4332."

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 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:

Robert R Broyles Date: 5/19/11.
Robert R. Broyles
Associate Director
Prevention and Response Branch
Superfund Division

APPROVED BY RESPONDENT:

Name (print): JEFF SORRELLS

Title (print): ENGINEER

Jeff Sorrells Date: 6-10-2011
Signature

Estimated cost for correcting the violation(s) is $500.00

IT IS SO ORDERED:

Pamela Phillips-Acting Date: 6/21/11.
Samuel Coleman, P.E.
Director
Superfund Division

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 6 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: APAC Central, Inc.	Docket Number: CWA –06-2011-4332
Facility Name: Arkola Southside Ready Mix Plant	Date: 4/18/2011
Address: 5215 South Zero Street	Inspection Number: FY-INSP-110109
City: Ft. Smith	Inspectors Name: Tom McKay
State: AR / Zip Code: 72903	EPA Approving Official: Donald P. Smith
Contact: Mr. Jeff Williams, (479) 719-8115	Enforcement Contacts: Misty Ward (214) 665-6418

Summary of Findings

(Bulk Storage Facilities)

GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)
(When the SPCC Plan review penalty exceeds $1,500.00 enter only the maximum allowable of $1,500.00.)

- ☐ No Spill Prevention Control and Countermeasure Plan-*112.3* $1,500.00
- ☐ Plan not certified by a professional engineer- *112.3(d)* 450.00
- ☐ Certification lacks one or more required elements - *112.3(d)(1)* 100.00
- ☐ No management approval of plan- *112.7...* 450.00
- ☐ Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - *112.3(e)(1)* 300.00
- ☐ No evidence of five-year review of plan by owner/operator- *112.5(b)* 75.00
- ☐ 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)* 75.00
- ☐ Amendment(s) not certified by a professional engineer- *112.5(c)* 150.00
- ☐ Plan does not follow sequence of the rule and/or cross-reference not provided- *112.7* 150.00
- ☐ Plan does not discuss additional procedures/methods/equipment not yet fully operational- *112.7* 75.00
- ☐ Plan does not discuss alternative environmental protection to SPCC requirements- *112.7(a)(2)* 200.00

☐ Plan has inadequate or no facility diagram- *112.7(a)(3)* 75.00

☐ Inadequate or no listing of type of oil and storage capacity layout of containers- *112.7(a)(3)(i)* 50.00

■ Inadequate or no discharge prevention measures- *112.7(a)(3)(ii)* 50.00

☐ Inadequate or no description of drainage controls- *112.7(a)(3)(iii)* 50.00

☐ Inadequate or no description of countermeasures for discharge discovery, response and cleanup- *112.7(a)(3)(iv)* ... 50.00

☐ Recovered materials not disposed of in accordance with legal requirements- *112.7(a)(3)(v)* 50.00

☐ No contact list & phone numbers for response & reporting discharges- *112.7(a)(3)(vi)* 50.00

☐ Plan has inadequate or no information and procedures for reporting a discharge- *112.7(a)(4)* 100.00

☐ Plan has inadequate or no description and procedures to use when a discharge may occur- *112.7(a)(5)* 150.00

■ Inadequate or no prediction of equipment failure which could result in discharges- *112.7(b)* 150.00

■ Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- *112.7(c)* 400.00

- If claiming impracticability of appropriate containment/diversionary structures:

☐ Impracticability has not been clearly denoted and demonstrated in plan- *112.7(d)* 100.00

☐ No contingency plan- *112.7(d)(1)* 150.00

☐ No written commitment of manpower, equipment, and materials- *112.7(d)(2)* 150.00

☐ No periodic integrity and leak testing , if impracticability is claimed - *112.7(d)* .150.00

☐ Plan has no or inadequate discussion of general requirements not already specified-*112.7(j)* 75.00

QUALIFIED FACILITY REQUIREMENTS: 112.6

☐ Qualified Facility: No Self certification- *112.6(a)* 450.00

☐ Qualified Facility: Self certification lacks required elements- *112.6(a)* 100.00

☐ Qualified Facility: Technical amendments not certified- *112.6(b)* 150.00

☐ Qualified Facility: Un-allowed deviations from requirements- *112.6(c)* 100.00

☐ Qualified Facility: Environmental Equivalence or Impracticability not certified by PE- *112.6(d)* 350.00

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

☐ Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - *112.7(e)* 75.00

☐ Inspections and tests required are not in accordance with written procedures developed for the facility- *112.7(e)* . 75.00

☐ No Inspection records were available for review - *112.7(e)* 200.00

- Written procedures and/or a record of inspections and/or customary business records:

☐ Are not signed by appropriate supervisor or inspector- *112.7(e)* 75.00

☐ Are not maintained for three years- *112.7(e)* 75.00

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)* 75.00

☐ No training on discharge procedure protocols- *112.7(f)(1)* 75.00

☐ No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- *112.7(f)(1)* 75.00

☐ Training records not maintained for 3 years- *112.7(f)(1)* 75.00

■ No designated person accountable for spill prevention- *112.7(f)(2)* 75.00

☐ Spill prevention briefings are not scheduled and conducted at least annually- *112.7(f)(3)* 75.00

■ Plan has inadequate or no discussion of personnel and spill prevention procedures- *112.7(a)(1)* 75.00

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- *112.7(g)(1)* 150.00

☐ Master flow and drain valves that permit direct outward flow to the surface are not secured in closed position when in a non-operating or standby status- *112.7(g)(2)*. 300.00

☐ 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- *112.7(g)(3)* 75.00

☐ Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- *112.7(g)(4)*. 75.00

☐ Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- *112.7(g)(5)* 150.00

■ Plan has inadequate or no discussion of facility security- *112.7(a)(1)* 75.00

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING 112.7(c) and/or (h-j)

☐ Inadequate containment for Loading Area (not consistent with 112.7(c)) - *112.7(c)* 400.00

☐ Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- *112.7(h)(1)*. 750.00

☐ 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)*. 450.00

☐ 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)*..... 300.00

☐ 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)*..... 150.00

☐ Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack-*112.7(a)(1)*..... 75.00

QUALIFIED OIL OPERATIONAL EQUIPMENT 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)*..... 150.00

☐ Failure to provide an oil spill contingency plan- *112.7(k)(2)(ii)(A)*..... 150.00

☐ No written commitment of manpower, equipment, and materials- *112.7(k)(2)(ii)(B)*..... 150.00

FACILITY DRAINAGE 112.8(b) & (c)

☐ Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge- *112.8(b)(1)&(2) and 112.8(c)3)(i)*..... 600.00

☐ Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision- *112.8(c)(3)(ii)&(iii)*..... 450.00

☐ Adequate records (or NPDES permit records) of drainage from diked areas not maintained- *112.8(c)(3)(iv)*..... 75.00

☐ Drainage from undiked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility- *112.8(b)(3)&(4)*..... 450.00

☐ Two "lift" pumps are not provided for more that one treatment unit- *112.8(b)(5)*..... 50.00

■ Plan has inadequate or no discussion of facility drainage-*112.7(a)(1)*..... 75.00

BULK STORAGE CONTAINERS 112.8(c)

☐ Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture- *112.7(i)*..... 75.00

☐ Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture- *112.7(i)*..... 300.00

☐ Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature- *112.8(c)(1)*..... 450.00

☐ Secondary containment appears to be inadequate- *112.8(c)(2)*..... 750.00

☐ Containment systems, including walls and floors are not sufficiently impervious to contain oil- *112.8(c)(2)*..... 375.00

☐ Excessive vegetation which affects the integrity..... 150.00

☐ Walls of containment system slightly eroded or have low areas..... 300.00

☐ Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- *112.8(c)(4)*..... 150.00

☐ Partially buried tanks do not have buried sections protected from corrosion- *112.8(c)(5)*..... 150.00

☐ Aboveground tanks are not subject to visual inspections- *112.8(c)(6)* 450.00

☐ Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- *112.8(c)(6)*..... 450.00

☐ Records of inspections (or customary business records) do not include inspections of tank supports/foundation, deterioration, discharges and/or accumulations of oil inside diked areas- *112.8(c)(6)*..... 75.00

☐ Steam return /exhaust of internal heating coils which discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system- *112.8(c)(7)*. 150.00

☐ Tank battery installations are not in accordance with good engineering practice because none of the following are present- *112.8(c)(8)* 450.00

☐ No testing of liquid level sensing devices to ensure proper operation- *112.8(c)(8)(v)*..... 75.00

☐ Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- *112.8(c)(9)*..... 150.00

☐ Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- *112.8(c)(10)*..... 450.00

☐ Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- *112.8(c)(11)* 150.00

☐ Secondary containment inadequate for mobile or portable storage tanks- *112.8(c)(11)*..... 500.00

■ Plan has inadequate or no discussion of bulk storage tanks-*112.7(a)(1)* 75.00

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)

☐ Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -*112.8(d)(1)*. ..150.00

☐ Corrective action is not taken on exposed sections of buried piping when deterioration is found- *112.8(d)(1)* 450.00

☐ Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- *112.8(d)(2)*..... 75.00

☐ Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- *112.8(d)(3)*. 75.00

☐ Aboveground valves, piping and appurtenances are not inspected regularly- *112.8(d)(4)* 300.00

☐ Periodic integrity and leak testing of buried piping is not conducted- *112.8(d)(4)* 150.00

■ Vehicle traffic is not warned of aboveground piping or other oil transfer operations- *112.8(d)(5)*..... 150.00

■ Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process-*112.7(a)(1)*..... 75.00

■ Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(c) 150.00
(Do not use this if FRP subject, go to traditional enforcement)

TOTAL $1,350.00.

Docket No. CWA-06-2011-4332

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 6-23, 2011, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Copy by certified mail,
return receipt requested:

NAME: Jeff Sorrells
ADDRESS: P. O. Box 9208
Fayettville, AR 72703

Frankie Markham

Frankie Markham
OPA Enforcement Administrative Assistant