



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9, 75 Hawthorne Street, San Francisco CA 94105**

**EXPEDITED SPILL PREVENTION, CONTROL, AND COUNTERMEASURE
SETTLEMENT AGREEMENT**

In the matter of Hawai'i Department of Transportation,
Airports Division
Docket No. SPCC-09-2020-0034

On July 30, 2019, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility known as the Kona International Airport at Keahole located at 73-200 Kupipi Street in Kailua-Kona, Hawai'i to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, as amended, (33 U.S.C. §1321(j)), (the "Act" or "CWA"). EPA determined that Respondent, as owner or operator of the facility, violated regulations implementing Section 311(j) of the Act by failing to comply with the Oil Pollution Prevention regulations as noted on the attached Spill Prevention Control and Countermeasure Plan ("SPCC") Inspection Findings, Alleged Violations, and Proposed Penalty Form ("Violations Form") which is hereby incorporated by reference. By its signature below, EPA ratifies the inspection findings and alleged violations set forth in the Violations Form.

The parties enter into this Expedited Settlement in order to settle the civil violations described in the Violations Form for a penalty of \$1,150. The parties are authorized to enter into this Expedited Settlement under the authority of Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), and by 40 C.F.R. § 22.13(b).

This settlement is subject to the following terms and conditions:

EPA finds the Respondent is subject to the Oil Pollution Prevention regulations, and has violated the regulations as further described in the Violations Form. Respondent admits it is subject to the Oil Pollution Prevention regulations and that EPA has jurisdiction over Respondent and Respondent's conduct as described in the Violations Form. Respondent admits to the facts in the first paragraph of this Settlement Agreement, and waives any objections it may have to EPA's jurisdiction. Respondent consents to the assessment of the penalty stated above.

Respondent further certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations identified in the Violations Form have been corrected and the facility is now in full compliance with the Oil Pollution Prevention

regulations (or that the violations will be corrected and the facility brought into full compliance with the Oil Pollution Prevention regulations within an alternative time frame agreed to by EPA in writing). Respondent, in accordance with the attached Payment Instructions, has provided payment of the civil penalty.

The payment made pursuant to this Consent Agreement 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.

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. Moreover, in entering into this Consent Agreement, the Respondent agrees to bear its own costs and attorney's fees related to this Consent Agreement.

This Expedited Settlement 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). The parties consent to service of this Expedited Settlement Agreement and Final Order by e-mail at the following valid e-mail addresses: witul.janice@epa.gov and helmlinger.andrew@epa.gov (for Complainant), and stacy.a.paquette@hawaii.gov (for Respondent).

Once the Expedited Settlement is signed by the Regional Judicial Officer, the original Expedited Settlement will be filed with the Regional Hearing Clerk and a copy will be mailed to: U.S. EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive (MS-WG32B), Cincinnati, OH 45268. A copy of the Expedited Settlement will also be mailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Violations Form.

After this Expedited Settlement becomes effective, EPA will take no further civil penalty action against Respondent for the alleged violations of the Oil Pollution Prevention regulations described in the Violations Form through the order date of this Expedited Agreement. However, EPA does not waive any rights to take any enforcement action for any other past, present, or

future violations by Respondent of the Oil Pollution Prevention regulations or of any other federal statute or regulations.

APPROVED BY EPA:

AMY MILLER-
BOWEN Digitally signed by AMY MILLER-
BOWEN
Date: 2020.05.27 09:49:13 -07'00' Date: _____
Delegated Official

APPROVED BY RESPONDENT:

Name (print): STACY A PAQUETTE
Title (print): ENVIRONMENTAL HEALTH SPECIALIST SECTIONHEAD
Signature: Stacy A Paquette Date: 5/26/2020

IT IS SO ORDERED:

STEVEN JAWGIEL Digitally signed by STEVEN JAWGIEL
Date: 2020.05.29 09:14:24 -07'00' Date: _____

Regional Judicial Officer

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER in conjunction with an Expedited Settlement Agreement (ESA) in the matter of *Hawaii Department of Transportation, Airports Division (Kona International Airport)*, Docket Number SPCC-09-2020-0034, has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

Accordingly, the Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY ELECTRONIC MAIL:

Respondent-

Stacey Paquette
EHS Manager
Hawai'i DOT, Airports Division
stacy.a.paquette@hawaii.gov

BY ELECTRONIC MAIL:

Complainant-

Andrew Helmlinger.
Office of Regional Counsel
Environmental Protection Agency
helmlinger.andrew@epa.gov

Date: May 29, 2020

**Steven
Armsey** Digitally signed
by Steven Armsey
Date: 2020.05.29
17:47:12 -07'00'

Regional Hearing Clerk
EPA, Region 9