



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

May 3, 2022

TRANSMITTED VIA E-MAIL

Mr. Trey Harper
Public Works Director
City of Skiatook
1501 South Lombard, P.O. Box 399
Skiatook, OK 74070
trey@cityofskiatook.com

Re: Expedited Settlement Offer for Violations of Spill Prevention Control and Countermeasure Regulations
Docket No. CWA-06-2022-4314
Skiatook Municipal Airport
Osage County, Oklahoma

Dear Mr. Harper:

On April 12, 2022, Region 6 of the U.S. Environmental Protection Agency (EPA) conducted an inspection of the City of Skiatook Skiatook Municipal Airport. The purpose of the inspection was to evaluate City of Skiatook's 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") (commonly known as the Spill Prevention Control and Countermeasure or "SPCC" regulations).

The inspection revealed instances in which the City of Skiatook appeared not to have complied with the SPCC requirements. The apparent violations are outlined in the enclosed SPCC Inspection Findings, Alleged Violations, and Proposed Penalty Form (Violations Form).

The EPA has authority under Section 311(b) of the Act to take enforcement actions, including seeking civil penalties, for the alleged violations outlined in the Violations Form. At this time, rather than undertake a more traditional enforcement action for civil penalties, the EPA is offering the City of Skiatook the opportunity to enter into the enclosed Expedited Settlement Agreement (ESA), provided the City of Skiatook (1) corrects the deficiencies cited in the inspection report and in the Violations Form and (2) agrees to pay an administrative civil penalty of \$1,688.00.

It is important for all deficiencies identified in the Violations Form and inspection report to be corrected promptly. Before the EPA agrees to enter into the ESA, you will need to submit evidence, including photographs, demonstrating all such deficiencies have been corrected. Please note that by signing the ESA, the City of Skiatook will certify all violations alleged in the Violations Form have been corrected.

If you intend to enter into this ESA, please sign and return the original, together with documentation of the deficiencies having been corrected, within 30 days of your receipt of this letter to:

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

Although the ESA will commit the City of Skiatook to pay a civil administrative penalty, you do **not** need to make that payment at the time you return the signed ESA to the EPA. Upon EPA's receipt of the signed Settlement Agreement, it will be forwarded to the Director, of the Enforcement and Compliance Assurance Division to issue a Final Order approving the ESA. You will then be notified of the issuance of the Final Order, and your penalty will be due 10 days after the Final Order is signed. The mechanics for payment are set forth in the Expedited Settlement Agreement Payment Instructions accompanying the ESA.

Entering into the enclosed ESA and paying the penalty will resolve the City of Skiatook's liability for federal civil penalties for the violations alleged in the Violations Form. In other words, for all violations alleged in the Violations Form there will be no additional civil penalties. As with any settlement of administrative civil penalties, regardless of whether you enter into the ESA, the EPA reserves its rights to issue an administrative compliance order, to seek a court injunction directing compliance, and/or to pursue criminal sanctions, in the event any such actions are appropriate.

This offer is open for a period of 30 days from your receipt of this letter. EPA may, at its discretion, grant up to a 90 day extension for you to come into compliance with the SPCC requirements but only if you demonstrate that it is technically infeasible or impracticable to achieve compliance within 30 days. You must submit a request for an extension to Energy Sector Compliance Section at the above address within 14 days of your receipt of this letter. If EPA grants the extension request, you will receive an approval letter. You must correct the violations within the approved time frame.

If you do not return the signed ESA and documentation of corrective action within the allotted time, this offer will be automatically withdrawn, and the EPA may pursue a more formal enforcement action for penalties. This could involve a longer process and result in a greater penalty. Under the Clean Water Act, the EPA is authorized to seek civil penalties of up to \$20,719 per day of violation, 33 U.S.C. §1321(b)(6). In addition, the EPA may take further enforcement action if you sign the ESA but do not pay the penalty.

The EPA acknowledges that the COVID-19 pandemic may impact your business. If this is the case, please contact us regarding any specific issues you need to discuss.

The EPA encourages expeditious settlements and is committed to settling this matter fairly and expeditiously. If you have any questions or comments, such as how to document corrective actions, please contact Michael Blaha at 214-665-8574. If you are represented by an attorney in this matter who has questions, please ask the attorney to contact Amy Salinas at 214-665-8063 or Edwin Quinones at 214-665-8035.

Sincerely,



Bryant Smalley
Chief
Water Enforcement Branch

Enclosures:

SPCC Inspection Findings and Violations Form
Expedited Settlement Agreement
Payment Instructions



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6, 1201 ELM STREET, DALLAS, TEXAS 75270-2102

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

In the matter of City of Skiatook (Respondent)
Docket No. CWA-06-2022-4314

On April 12, 2022, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of Respondent's facility known as Skiatook Municipal Airport, located at 1501 South Lombard in Skiatook, Osage County, Oklahoma 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 Agreement in order to settle the civil violations described in the Violations Form for a penalty of \$1,688.00. The parties are authorized to enter into this Expedited Settlement Agreement 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 Expedited 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, shall provide payment of the civil penalty.

The payment made pursuant to this Expedited Settlement 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 Agreement 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 Agreement without further notice. Moreover, in entering into this Expedited Settlement Agreement, the Respondent agrees to bear its own costs and attorney's fees related to this Agreement.

This Expedited Settlement Agreement 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 by e-mail at the following valid e-mail addresses: smalley.bryant@epa.gov (for Complainant), and trev@cityofskiatook.com (for Respondent).

Once the Expedited Settlement Agreement is signed by the Director, of the Enforcement and Compliance Assurance Division, the original Expedited Settlement Agreement 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 Agreement will also be mailed to the Respondent.

If Respondent does not sign and return this Expedited Settlement Agreement as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, the proposed Expedited Settlement Agreement 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 Agreement 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 Settlement 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:

 Date: 5/3/2022
Bryant Smalley
Chief
Water Enforcement Branch

APPROVED BY RESPONDENT:

Name (print): Brad White

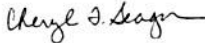
Title (print): City Manager

Signature:  Date: 5/4/2022

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

\$ 1688.

IT IS SO ORDERED:

 Digitally signed by CHERYL SEAGER
Date: 2022.06.08 15:46:03 -05'00' Date: 6/8/2022

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

**Spill Prevention Control and Countermeasure Inspection
Findings, Alleged Violations, and Proposed Penalty Form**

These Findings, Alleged Violations and Penalties are issued by EPA under the authority vested in the Administrator of the EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name
City of Skiatook, OK

Docket Number
CWA-06-2022-4314

Facility Name
Skiatook Municipal Airport

Date
4/12/2022

Address
1501 South Lombard

Facility ID Number
SPCC-OK-2022-00079

City
Skiatook

Inspector's Name
Tom McKay

State **Zip Code**
OK 74070

EPA Approving Official
Chris Perry

Contact
Trey Harper, Public Works Director

Enforcement Contact
Michael Blaha

Total Storage Capacity
10,000 gallons



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

GENERAL TOPICS: 40 C.F.R.112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

-
- Failure to have a Spill Prevention Control and Countermeasure Plan 112.3 (\$1,750) \$1,750
 - Plan or sections of the hybrid plan are not certified by a professional engineer * 112.3(d) (\$500)
*Not applicable to Qualified facilities unless a hybrid (PE/QF plan) see Qualified facility 112.6 section
 - Certification lacks one or more required elements 112.3(d)(1) (\$125)
 - Plan not maintained on site (if manned at least four hrs/day) or not available for review 112.3(e)(1) (\$350)
 - No evidence of five-year review of plan by owner/operator 112.5(b) (\$100)
 - 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) (\$100)
 - Amendment(s) not certified by a professional engineer 112.5(c) (\$175)
 - No management approval of plan 112.7 (\$500)
 - Plan does not follow sequence of the rule and/or cross-reference not provided 112.7 (\$175)
 - Plan does not discuss additional procedures/methods/equipment not yet fully operational 112.7 (\$100)

Skiatook Municipal Airport - City of Skiatook, OK
R6-OK-01735; SPCC-OK-2022-00079

- Plan does not discuss alternative environmental protection to SPCC requirements 112.7(a)(2) (\$225)
- Plan has inadequate or no facility diagram 112.7(a)(3) (\$100)
- Inadequate or no listing of type of oil and storage capacity of containers 112.7(a)(3)(i) (\$75)
- Inadequate or no discharge prevention measures 112.7(a)(3)(ii) (\$75)
- Inadequate or no description of drainage controls 112.7(a)(3)(iii) (\$75)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup 112.7(a)(3)(iv) (\$75)
- Methods of disposal of recovered materials not in accordance with legal requirements 112.7(a)(3)(v) (\$75)
- No contact list & phone numbers for response & reporting discharges 112.7(a)(3)(vi) (\$75)
- Plan has inadequate or no information and procedures for reporting a discharge 112.7(a)(4) (\$125)
- Plan has inadequate or no description and procedures to use when a discharge may occur 112.7(a)(5) (\$175)
- Inadequate or no prediction of equipment failure which could result in discharges 112.7(b) (\$175)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/ equipment 112.7 (\$450)
- Inadequate containment or drainage for Loading Area- 112.7(c) (\$450)
- Plan has no or inadequate discussion of any applicable more stringent State rules, regulations, and guidelines- 112.7(j) (\$100)
- Plan does not include a signed copy of the Certification of Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e) (\$175)
- If claiming impracticability of containment and appropriate diversionary structures:**
- Impracticability has not been clearly denoted and demonstrated in plan 112.7(d) (\$125)
- No periodic integrity and leak testing 112.7(d) (\$175)
- No contingency plan 112.7(d)(1) (\$175)
- No written commitment of manpower, equipment, and materials 112.7(d)(2) (\$175)
- No periodic integrity and leak testing , if impracticability is claimed 112.7(d) (\$175)
- Plan has no or inadequate discussion of general requirements not already specified 112.7(j) (\$100)

QUALIFIED FACILITY REQUIREMENTS: 40 C.F.R. 112.6

- Qualified Facility: No Self certification 112.6(a) (\$500)
- Qualified Facility: Self certification lacks required elements 112.6(a) (\$125)
- Qualified Facility: Technical amendments not certified 112.6(b) (\$175)
- Qualified Facility: Qualified Facility Plan includes alternative measures not

certified by licensed Professional Engineer 112.6(b) \$175

- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE 112.6(b)(4) (\$400)

WRITTEN PROCEDURES AND INSPECTION RECORDS: 40 C.F.R. 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 112.7(e) (\$100)
- Inspections and tests required are not in accordance with written procedures developed for the facility 112.7(e) (\$100)
- No Inspection records were available for review 112.7(e) (\$225)
- (Written procedures and/or a record of inspections and/or customary business records)
- Inspection records are not signed by appropriate supervisor or inspector 112.7(e) (\$100)
- Inspection records are not maintained for three years 112.7(e) (\$100)

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES: 40 C.F.R. 112.7(f)

- No training on the operation and maintenance of equipment to prevent discharges and/or facility operations 112.7(f)(1) (\$100) \$100
- No training on discharge procedure protocols 112.7(f)(1) (\$100) \$100
- No training on the applicable pollution control laws, rules and regulations, and/or SPCC plan 112.7(f)(1) (\$100) \$100
- No designated person accountable for spill prevention 112.7(f)(2) (\$100) \$100
- Spill prevention briefings are not scheduled and conducted at least once a year 112.7(f)(3) (\$100) \$100
- Plan has inadequate or no discussion of personnel and spill prevention procedures 112.7(a)(1) (\$100)

SECURITY (excluding Production Facilities): 40 C.F.R. 112.7(g)

- Plan does not describe how the facility secures and controls access to the oil handling, processing and storage areas 112.7(g)(1) (\$175)
- Master flow and drain valves not secured 112.7(g)(2) (\$350)
- Starter controls on pumps not secured to prevent unauthorized access- 112.7(g) (\$100)
- Out-of-service and loading/unloading connection(s) of piping/pipelines not adequately secured 112.7(g)(4) (\$100)
- Plan does not address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges 12.7(g) (\$175)

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING: 40 C.F.R. 112.7(c) and/or (h-j)

- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin treatment system, or quick drainage system 112.7(h)(1) (\$850)
- 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) (\$525)

- 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) (\$350)
- 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) (\$175)
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack 112.7(a)(1) (\$100)

QUALIFIED OIL OPERATIONAL EQUIPMENT: 40 C.F.R. 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) (\$175)
- Failure to provide an oil spill contingency plan 112.7(k)(2)(ii)(A) (\$175)
- No written commitment of manpower, equipment, and materials 112.7(k)(2)(ii)(B) (\$175)

FACILITY DRAINAGE: 40 C.F.R 112.8(b) & (c) and/or 112.12(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)and(2), and 112.8(c)(3)(i) (\$700)
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision 112.8(c)(3)(ii)and(iii) (\$525)
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained 112.8(c)(3)(iv) (\$100)
- Drainage from undiked areas do not flow into catchment basins ponds or lagoons, or no diversion system to retain or return a discharge to the facility 112.8(b)(3)and(4) (\$525)
- Two "lift" pumps are not provided for more that one treatment unit 112.8(b)(5) (\$75)
- Plan has inadequate or no discussion of facility drainage 112.7(a)(1) (\$100)

BULK STORAGE CONTAINERS: 40 C.F.R. 112.7(i), 112.8(c) and/or 112.12(c)

- Failure to conduct evaluation of field-constructed aboveground containers for risk of discharge or failure due to brittle fracture or other catastrophe 112.7(i) \$350
- Material and construction of containers not compatible to the oil stored and the conditions of storage such as pressure and temperature 112.8(c)(1) (\$525)
- Secondary containment is inadequate 112.8(c)(2) (\$850)
- Secondary containment systems are not sufficiently impervious to contain oil 112.8(c)(2) (\$425)
- Completely buried tanks installed after August 16, 2002 are not protected from corrosion or are not subjected to regular pressure testing 112.8(c)(4) (\$175)
- Buried sections of partially burried metallic tans are not prootected from corrosion 112.8(c)(5) (\$175)
- Aboveground tanks are not subject to visual inspections 112.8(c)(6) (\$525)
- Aboveground tanks are not subject to periodic integrity testing techniques such as visual inspections hydrostatic testing, or other nondestructive methods 112.8(c)(6) (\$525)

- Records of inspections (or customary business records) do not include inspections of container supports/ foundation, signs of container deterioration, discharges and/or accumulations of oil inside diked areas 112.8(c)(6)
- 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) (\$175)
- Container installations are not engineered or updated in accordance with good engineering practice because none of the following are present: 112.8(c)(8) (\$525)
 - high liquid level alarm with audible or visual signal, or audible air vent 112.8(c)(8)(i)
 - high liquid level pump cutoff devices set to stop flow at a predetermined level 112.8(c)(8)(ii)
 - direct audible or code signal communication between container gauger and pumping station 112.8(c)(8)(iii)
 - fast response system for determining liquid level of each bulk storage container, or direct vision gauges with a person present to monitor gauges and the overall filling of bulk storage containers 112.8(c)(8)(iv)
- No testing of liquid level sensing devices to ensure proper operation 112.8(c)(8)(v) (\$100)
- Effluent treatment facilities not observed frequently to detect possible system upsets that could cause a discharge as described in §112.1(b)- 112.8(c)(9) (\$175)
- Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected 112.8(c)(10) (\$525)
- Mobile or portable storage containers are not positioned or located to prevent discharged oil from reaching navigable water or have inadequate secondary containment 112.8(c)(11) (\$175)
- Secondary containment inadequate for mobile or portable storage tanks 112.8(c)(11) (\$600)
- Plan has inadequate or no discussion of bulk storage tanks 112.7(a)(1) (\$100)

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS: 40 C.F.R. 112.8(d) and 112.12(d)

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- Buried piping is not corrosion protected with protective wrapping, coating or cathodic protection protection 112.8(d)(1) (\$175)
 - Corrective action is not taken on exposed sections of buried piping when deterioration is found 112.8(d)(1) (\$525)
 - Not-in-service or standby piping is not capped or blank-flanged and marked as to origin 112.8(d)(2) (\$100)
 - Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction 112.8(d)(3) (\$100)
 - Aboveground valves, piping and appurtenances are not inspected regularly 112.8(d)(4) (\$350)
 - Periodic integrity and leak testing of buried piping is not conducted at time of installation, modification, construction, relocation, or replacement 112.8(d)(4) (\$175)
 - Vehicle traffic is not warned of aboveground piping or other oil transfer operations 112.8(d)(5) (\$175)
 - Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process 112.7(a)(1) (\$100)

SUB TOTAL	\$2,250
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Multiplier	0.75
Total	\$1,688

Docket No. CWA-06-2022-4314

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 June 13, 2022, with the Regional Hearing Clerk, U.S. EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270-2102; and that on June 14, 2022, a copy of the same was sent to the following, in the manner specified below:

NAME: Trey Harper
ADDRESS: 1501 South Lombard, P.O. Box 399
Skiatook, OK 74070

Michael Blaha

Michael Blaha
OPA Enforcement Officer