

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Jeffrey Kopf 9/13/12  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number CWA-01-2012-0093

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Stephen Kircher  
Boyer USA, Inc's, Sugarloaf Resort  
5092 Access Rd.  
Carrabassett, ME

Total Dollar Amount of Receivable \$ 10,000 Due Date: 10/12/12

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

- 1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office Phone Number





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 Post Office Square, Suite 100  
Mail Code: OES04-4  
BOSTON, MASSACHUSETTS 02109-3912**

**September 13, 2012**

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

**BY HAND**

Re: In the Matter of: Boyne USA, Inc.,  
Docket No.'s: CWA-01-2012-0091, 0092, 0093  
Expedited Settlement Agreements

Dear Ms. Santiago,

Enclosed for filing, please find three Expedited Settlement Agreements both initiating and settling the matters referenced above.

Pursuant to EPA Order Classification No. 2551.1A dated June 7, 2006, the Regional Hearing Clerk (RHC) shall send a copy of the Consent Agreement and Final Order in any Clean Water Act (CWA) case assessing a penalty under the authority of Section 311 of the CWA to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000


In addition, the RHC must pass along the name and address of the regional attorney responsible for any collection recommendation if the civil debt becomes delinquent. Respondent has already indicated to EPA that it has sent in the penalty payment checks to the Cincinnati Finance Center. For this case, the responsible attorney is:

Jeffrey Kopf, Senior Enforcement Counsel  
EPA Region I  
5 Post Office Square, Suite 100 (OES04-4)  
Boston, MA 02109-3912  
Tel: 617-918-1796



Thank you for your attention to this matter.

Sincerely,



Jeffrey Kopf  
Senior Enforcement Counsel  
U.S. EPA, Region 1

Enclosures (3)

cc: Kenneth F. Gray, Pierce Atwood, LLC





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1, 5 POST OFFICE SQUARE, BOSTON, MASSACHUSETTS 02109-3912  
EXPEDITED SPCC SETTLEMENT AGREEMENT**

**DOCKET NO. CWA-01-2012-0093**

On July 10, 2012 at Boyne USA, Inc.'s ("Respondent's") Sugarloaf resort, located at 5092 Access Rd., Carrabassett, ME, an authorized representative of the United States Environmental Protection Agency ("EPA") conducted an inspection to determine compliance with the Oil Pollution Prevention regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act (the "Act"), 33 U.S.C. § 1321(j). 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 and Alleged Violations Form ("Violation Form") which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection Findings and Alleged Violations set forth in the Violation Form.

The parties enter into this Expedited Settlement in order to settle the civil violations described in the Violation Form for a penalty of **\$10,000**. 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 CFR § 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 Violation 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 Violation Form. Respondent does not contest the Inspection Findings, 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: (1) the violations identified in the Violation Form will be corrected and the facility brought in full compliance with the Oil Pollution Prevention regulations subject to the deadlines described in Administrative Order on Consent CWA 12- 007; and (2) Respondent has sent a certified check to EPA in the amount of **\$10,000**, payable to the Environmental Protection Agency. Respondent shall send the check to: U.S. Environmental Protection Agency, Fines and Penalties, P.O. Box 979077, St. Louis, MO 63197-9000. Respondent shall send a copy of the check to Diane Boisclair, Environmental Protection Agency, Region 1, 5 Post Office Square (OES04-3), Boston, Massachusetts 02109-3912. The check should reference the docket number of the case and the "Oil Spill Liability Trust Fund - 311".

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.

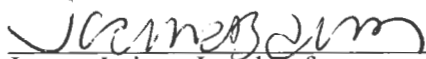
This Expedited Settlement is binding on the parties signing below, and is effective upon filing with the Regional Hearing Clerk pursuant to 40 CFR § 22.31(b).

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-002), 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, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Violation Form.

After this Expedited Settlement becomes effective, EPA will take no further civil penalty action against Respondent for the violations of the Oil Pollution Prevention regulations described in the Violation 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:

 Date: 9/10/12  
Joanna Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship

APPROVED BY RESPONDENT:

Name(print): Stephen Kircher  
Title(print): President - Eastern Operations  
Signature:  Date: 9/3/12

IT IS SO ORDERED:

 Date: 9/13/12  
LeAnn Jensen  
Acting Regional Judicial Officer





## Spill Prevention Control and Countermeasure Inspection Findings and Alleged Violations Form

These Findings, Alleged Violations and Penalties are issued by EPA Region 1 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: <b>Boyne Resorts</b>		Docket Number:  	
Facility Name/Address: <b>Sugarloaf Mountain Corporation 5092 Access Road Carrabassett Valley, ME 04947</b>		Date of Inspection: <b>July 10, 2012</b>	
Mailing/Corporate Address: <b>Boyne Resorts 600 Highlands Drive</b>		<b>Joel M. Woods V.P. of Engineering &amp; Amusements</b>	
City: <b>Harbor Springs</b>		Inspector's Name: <b>Joseph Canzano</b>	
State: <b>MI</b>	Zip Code: <b>49740</b>	Enforcement Contact: <b>Joseph Canzano, Region I SPCC Compliance Coordinator Tel: 617-918-1763</b>	
Facility Contact: <b>Joseph Aloisio</b>		<b>207-237-6870</b>	



### Summary of Findings

*Boyne Resorts, operates a dozen ski resorts throughout the United States, including Sugarloaf and Sunday River in Maine and Loon Mountain in New Hampshire. The resorts offer accommodations, and other amenities in addition to skiing; during warmer months certain properties also offer golf, and other outdoor activities. The family-owned company was founded in 1947.*

*On July 10, 2012, the Region conducted an inspection at the facility. At the time of the inspection, the facility failed to maintain an up-to-date SPCC Plan. The SPCC Plan was not reviewed by a P.E. within 5-years from its previous review. The facility has a total aboveground and below ground oil storage capacity of 30,075-gallons and 10,000-gallons respectively.*

*In the event of an oil spill there is a probability of an oil discharge to the South Branch of the Carrabassett River and/or several unnamed mountain streams which drain into the South Branch of the Carrabassett River.*

(Bulk Storage Facilities)

GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

- No Spill Prevention Control and Countermeasure Plan-112.3.
- Plan not certified by a professional engineer- 112.3(d)
- Certification lacks one or more required elements - 112.3(d)(1)
- No management approval of plan- 112.7
- Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1)
- No evidence of five-year review of plan by owner/operator- 112.5(b). *The facility failed to have a P.E. review the SPCC Plan within 5-years of its pervious review. The SPCC Plan was prepared in May 2004, and signed and stamped by the P.E. on February 3, 2005.*
- 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)
- Amendment(s) not certified by a professional engineer- 112.5(e)
- Plan does not follow sequence of the rule and/or cross-reference not provided- 112.7
- Plan does not discuss additional procedures/methods/equipment not yet fully operational- 112.7
- Plan does not discuss alternative environmental protection to SPCC requirements- 112.7(a)(2)
- Plan has inadequate or no facility diagram- 112.7(a)(3) *The SPCC Plan did not include a facility site diagram illustrating the location and contents of each fixed oil storage container and the storage area where mobile or portable containers are located, and all transfer stations and connecting pipes, including intra-facility gathering lines*
- Inadequate or no listing of type of oil and storage capacity layout of containers- 112.7(a)(3)(i) *The SPCC Plan failed to include certain fixed and mobile oil filled containers, the type of oil in each container and its storage capacity.*
- Inadequate or no discharge prevention measures- 112.7(a)(3)(ii)
- Inadequate or no description of drainage controls- 112.7(a)(3)(iii)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup- 112.7(a)(3)(iv)
- Recovered materials not disposed of in accordance with legal requirements- 112.7(a)(3)(v)
- No contact list & phone numbers for response & reporting discharges- 112.7(a)(3)(vi)
- Plan has inadequate or no information and procedures for reporting a discharge- 112.7(a)(4)
- Plan has inadequate or no description and procedures to use when a discharge may occur- 112.7(a)(5)
- Inadequate or no prediction of equipment failure which could result in discharges- 112.7(b)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment-

112.7(c)

- If claiming impracticability of appropriate containment/diversionary structures:

- Impracticability has not been clearly denoted and demonstrated in plan- 112.7(d)
- No contingency plan- 112.7(d)(1)
- No written commitment of manpower, equipment, and materials- 112.7(d)(2)

No periodic integrity and leak testing, if impracticability is claimed - 112.7(d). *The SPCC Plan fails to specifically indicate by what year/date the 12,000-gallon gasoline and 10,000-gallon diesel tanks shall undergo integrity testing as required by STI-SP001 and/or API 653. Permit to install the tanks from the State of Maine's State Fire Marshal was September 1, 1993. As of September 2012, the tanks will have been installed and operational for 19-years.*

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

**QUALIFIED FACILITY REQUIREMENTS: 112.6**

- Qualified Facility: No Self certification- 112.6(a)(1)(Tier I) or (b)(1)(Tier II)
- Qualified Facility: Self certification lacks required elements- 112.6(a)(1)(Tier I) or (b)(1)(Tier II)
- Qualified Facility: Technical amendments not certified- 112.6(a)(2)(Tier I) or (b)(2)(Tier II)
- Qualified Facility: Un-allowed deviations from requirements- 112.6(a)(Tier I) or (b)(Tier II)
- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE- 112.6(b)(3)(Tier II)

**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)
- Inspections and tests required are not in accordance with written procedures developed for the facility- 112.7(e)
- No Inspection records were available for review - 112.7(e)

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

- Are not signed by appropriate supervisor or inspector- 112.7(e)
- Are not maintained for three years- 112.7(e) *Monthly tank inspection reports, testing and maintenance of oil filled containers and/or equipment are not being maintained as stated in Appendix E of the May 2008 SPCC Plan.*

**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)
- No training on discharge procedure protocols- 112.7(f)(1)
- No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- 112.7(f)(1)
- Training records not maintained for 3 years- 112.7(f)(1). *According to facility personnel, employee training is*

*conducted; however training records are not maintained.*

- No designated person accountable for spill prevention- 112.7(f)(2)
- Spill prevention briefings are not scheduled and conducted at least annually- 112.7(f)(3)
  
- Plan has inadequate or no discussion of personnel and spill prevention procedures-112.7(a)(1)

---

**SECURITY (excluding Production Facilities) 112.7(g)**

---

- 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).
- 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)
- Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- 112.7(g)
- Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- 112.7(g). *Storage area for the facility's 10,000-gallon diesel and 12,000-gallon gasoline tanks is remote from fill and dispensing area. The Storage area fails to have adequate lighting and security to discover a spill during hours of darkness and deter vandalism respectively.*
- Plan has inadequate or no discussion of facility security-112.7(a)(1), (g)

---

**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)
- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- 112.7(h)(1).
- 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)
- 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)
- 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)
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack-112.7(a)(1)

---

**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)
- Failure to provide an oil spill contingency plan- 112.7(k)(2)(ii)(A)
- No written commitment of manpower, equipment, and materials- 112.7(k)(2)(ii)(B)

### 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)
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision- 112.8(c)(3)(ii)&(iii)
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained- 112.8(c)(3)(iv)
- 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)
- Two "lift" pumps are not provided for more that one treatment unit- 112.8(b)(5)
- Plan has inadequate or no discussion of facility drainage-112.7(a)(1)

### 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)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i)
- 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)
- Secondary containment appears to be inadequate- 112.8(c)(2). *Secondary containment associated with the facility's 10,000-gallon diesel and 12,000-gallon gasoline tanks is failing. The containment is inadequate. The P.E. notes in the May 2004 SPCC Plan that the containment system requires attention and improvement.*
- Containment systems, including walls and floors are not sufficiently impervious to contain oil- 112.8(c)(2)
- Excessive vegetation which affects the integrity
- Walls of containment system slightly eroded or have low areas
- Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- 112.8(c)(4)
- Partially buried tanks do not have buried sections protected from corrosion- 112.8(c)(5)
- Aboveground tanks are not subject to visual inspections- 112.8(c)(6)
- Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- 112.8(c)(6)
- 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)
- 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)
- Tank battery installations are not in accordance with good engineering practice because none of the following are present- 112.8(c)(8)

- No testing of liquid level sensing devices to ensure proper operation- 112.8(c)(8)(v)
- Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- 112.8(c)(9)
- Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- 112.8(c)(10)
- Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- 112.8(c)(11)
- Secondary containment inadequate for mobile or portable storage tanks- 112.8(c)(11). *During the inspection, EPA observed a 200-gallon mobile storage tank located in an area at the golf course maintenance yard that did not have general secondary containment.*
- Plan has inadequate or no discussion of bulk storage tanks-112.7(a)(1)

**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)
- Corrective action is not taken on exposed sections of buried piping when deterioration is found- 112.8(d)(1)
- Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- 112.8(d)(2)
- Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- 112.8(d)(3)
- Aboveground valves, piping and appurtenances are not inspected regularly- 112.8(d)(4)
- Periodic integrity and leak testing of buried piping is not conducted- 112.8(d)(4)
- Vehicle traffic is not warned of aboveground piping or other oil transfer operations- 112.8(d)(5)
- Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process-112.7(a)(1)
- Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e).