UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

DEC 16 2015

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-101

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Robert Evert
Manager, Permits and Projects
Port of Astoria
10 Pier One, Suite 308
Astoria, Oregon 97103

Re: Expedited SPCC Settlement Agreement
Docket No. CWA-10-2016-0043
Port of Astoria West Mooring Basin

Dear Mr. Evert:

On July 9, 2015, the Port of Astoria's West Mooring Basin (Marina) was inspected by the U.S. Environmental Protection Agency (EPA). During the inspection, apparent violations of the Spill Prevention, Control and Countermeasures (SPCC) regulations were found. The specific allegations are identified in the enclosed SPCC Inspection Findings, Alleged Violations and Proposed Penalty Form (Penalty Form).

EPA has authority under Section 311 of the Clean Water Act (CWA) to pursue civil penalties for violations of the SPCC regulations. EPA encourages the expedited settlement approach for minor, easily correctable violations and provides a discounted, non-negotiable settlement offer in lieu of a more formal, traditional administrative penalty action. For additional information on the EPA Expedited SPCC Settlement Agreement policy, please refer to the December 2, 2003 memorandum at *http://www.epa.gov/enforcement/documents/policies/expeditedsettlements-guid120203.pdf.*

The enclosed Expedited SPCC Settlement Agreement (Expedited Settlement Agreement), if executed by both parties, will be issued in accordance with 40 C.F.R. 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."

You may resolve the cited violations quickly by **correcting the cited violations**, mailing a certified check for the penalty as described below, inserting in the space provided on the Expedited Settlement Agreement the estimated cost for correcting the violations, and signing and returning the original Expedited Settlement Agreement **within 30 days** of your receipt of this letter.

In addition, please provide documentation such as photographs, an updated SPCC plan or other relevant materials showing that your facility has met the requirements and has come into compliance with 40 C.F.R. Part 112. As previously stated, as a condition of the settlement, you must correct the violations within 30 days of your receipt of this letter. EPA, at its discretion, may grant one 30-day extension to

come into compliance if you demonstrate that it is technically infeasible or impractical to achieve compliance within 30 days. A request for a 30-day extension should be sent to:

Rick Cool, Compliance Officer
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900 (M/S OCE-101)
Seattle, WA 98101

The Expedited Settlement Agreement, when executed by both parties, is binding on both you and EPA. Upon receipt of the signed document and a certified check for the amount of the penalty, EPA will take no further action against you for the violations cited in the Expedited Settlement Agreement. EPA will neither accept nor approve the Expedited Settlement Agreement if returned more than 30 days after the date of your receipt of this letter unless an extension has been granted by EPA.

If you do not pay the penalty and return the Expedited Settlement Agreement within 30 days of your receipt of this letter, unless an extension has been granted by EPA, the Settlement Agreement will be automatically withdrawn without prejudice to EPA's ability to file an enforcement action for the cited violations. Failure to sign and return the Expedited Settlement Agreement and pay the penalty within the approved time does not relieve you of the responsibility to comply fully with the SPCC regulations, including correcting the violations that have been specifically identified in the Penalty Form. If you decide not to sign and return the Settlement Agreement and pay the penalty, EPA can pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to $37,500 per day of violation.

You are required in the Expedited Settlement Agreement to certify that you have corrected the violations and paid the penalty. As noted above, **you are also required to document the corrections you have made by providing adequate documentation addressed to the above referenced Compliance Officer in Seattle**. The payment for the penalty amount must be in the form of a certified check payable to the Oil Spill Liability Trust Fund, with EPA and the Docket Number of the Expedited Settlement Agreement on the certified check. The Docket Number (CWA-10-2016-0043) is also located at the top of the left column of the Expedited Settlement Agreement. The certified check is to be sent by certified mail to:

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

You are also required to send a copy of the certified check and the original Expedited Settlement Agreement to:

Rick Cool, Compliance Officer
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900 (M/S OCE-101)
Seattle, WA 98101

You should retain a copy of the Expedited Settlement Agreement and of the penalty payment. EPA will forward to you a copy of the fully executed Expedited Settlement Agreement.

By terms of the Expedited Settlement Agreement, and upon EPA's receipt of the signed Expedited Settlement Agreement and a certified check for the amount of the penalty, you waive your opportunity for a hearing pursuant to Section 311 of the CWA. EPA will treat any response to the proposed Expedited 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, please contact Rick Cool, Compliance Officer, at (206) 553-6223.

Sincerely,

Edward J. Kowalski
Director

Enclosures

cc w/enc.: Michael Zollitsch
Oregon Department of Environmental Quality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10, 1200 6th Avenue, Suite 900, Seattle, Washington, 98101

EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO. **CWA-10-2016-0043**

On: **July 9, 2015**
At: **Port of Astoria's West Mooring Basin in Astoria, Oregon**
Owned or operated: **Port of Astoria (Respondent)**

An authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (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 **$2,325.00**

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 **$2,325.00**, payable to the "**Oil Spill Liability Trust Fund**" to: "**U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000**". Respondent has noted on the penalty payment check "EPA" and the docket number of this case, "**CWA-10-2016-0043**."

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 the 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:

_____ Date: 12/16/2015

Edward J. Kowalski, Director
Office of Compliance and Enforcement

APPROVED BY RESPONDENT:

Name (print):_____

Title (print):_____

_____ Date_____
Signature

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

IT IS SO ORDERED:

_____ Date_____

M. Socorro Rodriguez
Regional Judicial Officer
EPA Region 10

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

These Findings, Alleged Violations and Penalties are issued by EPA Region 10 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:	**Docket Number:**
Port of Astoria	CWA-10-2016-0043
Facility Name:	**Penalty Form Date:**
Port of Astoria West Mooring Basin	November 30, 2015
Address:	**Inspection Date:**
10 Pier One, Suite 308	July 9, 2015
City:	**Inspector Name:**
Astoria	Rick Cool (accompanied by Matt Carr, Wally Moon)
State:	**EPA Approving Official:**
Oregon	Edward J. Kowalski
Zip Code:	**Enforcement Contact:**
97103	Rick Cool

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 enter only the maximum allowable of $1,500.)

☐	No Spill Prevention Control and Countermeasure Plan -*112.3*	**$1,500**
☒	Plan not certified by a professional engineer- *112.3(d)*	**$450**
☒	Certification lacks one or more required elements - *112.3(d)(J)*	**$100**
☐	Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review- *112.3(e)(J)*	**$300**
☒	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**
☒	No evidence of five-year review of plan by owner/operator - *112.5(b)*	**$75**
☐	Amendment(s) not certified by a professional engineer- *112.5(c)*	**$150**

☒	No management approval of plan- *112.7*	**$450**
☐	Plan does not follow sequence of the rule and/or cross-reference not provided - *112.7*	**$150**
☐	Plan does not discuss additional procedures/methods/equipment not yet fully operational- *112. 7*	**$75**
☒	Plan does not discuss conformance with SPCC requirement- *112. 7(a)(1)*	**$75**
☐	Plan does not discuss alternative environmental protection to SPCC requirements - *112. 7(a)(2)*	**$200**
☐	Plan has inadequate or no facility diagram,- *112. 7(a)(3)*	**$75**
☐	Inadequate or no listing of type of oil and storage capacity of containers- *112. 7(a)(3)(i)*	**$50**
☐	Inadequate or no discharge prevention measures- *112. 7(a)(3)(ii)*	**$50**
☐	Inadequate or no description of drainage controls- *112. 7(a)(3)(iii)*	**$50**
☐	Inadequate or no description of countermeasures for discharge discovery, response and cleanup- *112. 7(a)(3)(iv)*	**$50**
☐	Methods of disposal of recovered materials not in accordance with legal requirements- *112. 7(a)(3)(v)*	**$50**
☐	No contact list & phone numbers for response & reporting discharges- *112. 7(a)(3)(vi)*	**$50**
☐	Plan has inadequate or no information and procedures for reporting a discharge - *2. 7 (a)(4)*	**$100**
☐	Plan has inadequate or no description and procedures to use when a discharge may occur - *112.7(a)(5)*	**$150**
☐	Inadequate or no prediction of equipment failure which could result in discharges- *112. 7(b)*	**$150**
☐	Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- *112. 7(c)*	**$400**
☐	Inadequate containment or drainage for Loading Area - *112. 7(c)*	**$400**
☒	Plan has no or inadequate discussion of any applicable more stringent State rules, regulations, and guidelines -*112. 70)*	**$75**
☒	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)	**$150**
	-If claiming impracticability of appropriate containment/diversionary structures:	
☐	Impracticability has not been clearly denoted and demonstrated in plan - *112. 7 (d)*	**$100**
☐	No periodic integrity and leak testing- *112. 7(d)*	**$150**
☐	No contingency plan - *112. 7(d)(l)*	**$150**
☐	No written commitment of manpower, equipment, and materials - *112. 7(d)(2)*	**$150**
☐	Plan has no or inadequate discussion of general requirements not already specified - *112. 70(j)*	**$75**
	QUALIFIED FACILITY REQUIREMENTS: §112.6	

☐	Qualified Facility: No Self certification - *112. 6(a)*	**$450**
☐	Qualified Facility: Self certification lacks required elements- *112.6(a) or (b)*	**$100**
☐	Qualified Facility: Technical amendments not certified - *112.6(a) or (b)*	**$150**
☐	Qualified Facility: Qualified Facility Plan includes alternative measures not certified by licensed Professional Engineer- *112.6(b)*	**$150**
☐	Facility: Environmental Equivalence or Impracticability not certified by licensed Professional Engineer-*112.6(b)(4)*	**$350**
	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**
☐	Inspections and tests required are not in accordance with written procedures developed for the facility.- 112.7(e)	**$75**
☒	No Inspection records were available for review- *112.7(e)* - Written procedures and/or a record of inspections and/or customary business records:	**$200**
☐	Are not signed by appropriate supervisor or inspector- 112.*7(e)*	**$75**
☐	Are not maintained for three years- *112.7(e)*	**$75**
	PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES: §112.7(f)	
☐	No training on the operation and maintenance of equipment to prevent discharges and for facility operations - *112.7(f)(1)*	**$75**
☐	No training on discharge procedure protocols- *112.7(f)(1)*	**$75**
☐	No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- *112.7(f)(1)*	**$75**
☐	No designated person accountable for spill prevention - *112.7(f)(2)*	**$75**
☐	Spill prevention briefings are not scheduled and conducted at least once a year- *112.7(f)(3)*	**$75**
☐	Plan has inadequate or no discussion of personnel training and spill prevention procedures - *112.7(a)(l)*	**$75**
	SECURITY (excluding Production Facilities): §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)	**$150**
☐	Master flow and drain valves not secured- *112.7(g)*	**$300**
☐	Starter controls on oil pumps not secured to prevent unauthorized access - *112.7(g)*	**$75**
☒	Out-of-service and loading/unloading connections of oil pipelines not adequately secured- *112.7(g)*	**$75**
☒	Plan does not address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges- *112.7(g)*	**$150**
	FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING RACK: §112.7(h)	
☐	Inadequate secondary containment, and/ or rack drainage does not flow to catchment basin, treatment system, or quick drainage system- *112.7(h)(J)*	**$750**
☐	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**

☐	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**
☐	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**
☐	Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading *rack-112.7(a)(J)*	**$75**
	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**
☐	Failure to provide an oil spill contingency plan- *112.7(k)(2)(ii)(A)*	**$150**
☐	No written commitment of manpower, equipment, and materials - *112.7(k)(2)(ii)(B)*	**$150**
	FACILITY DRAINAGE: §112.8(b) & (c) and/or §112.12(b) & (c)	
☐	Two "lift" pumps are not provided for more than one treatment unit- *112.8(b)(5)*	**$50**
☐	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)(J)&(2) and 112.8(c)3)(i)*	**$600**
☐	Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision - *112. 8(c)(3)(ii)&(iii)*	**$450**
☐	Adequate records (or NPDES permit records) of drainage from diked areas not maintained- *112.8(c)(3)(iv)*	**$75**
☐	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**
☐	Plan has inadequate or no discussion of facility drainage - *112. 7(a)(J)*	**$75**
	BULK STORAGE CONTAINERS: § 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)*	**$300**
☐	Material and construction of containers not compatible with the oil stored and the conditions of storage such as pressure and temperature- *112.8(c)(1)*	**$450**
☐	Secondary containment capacity is inadequate - *112.8(c)(2)*	**$750**
☐	Secondary containment systems are not sufficiently impervious to contain *oil- 112.8(c)(2)*	**$375**
☐	Completely buried metallic tanks are not protected from corrosion or are not subjected to regular pressure testing - *112.8(c)(4)*	**$150**
☐	Buried sections of partially buried metallic tanks are not protected from corrosion- *112.8(c)(5)*	**$150**
☒	Above ground containers are not subject to periodic integrity testing techniques such as visual inspections, hydrostatic testing, or other nondestructive testing methods- *112.8(c)(6)*	**$450**
☐	Above ground tanks are not subject to visual inspections- *112.8(c)(6)*	**$450**
☐	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)*	**$75**
☐	Steam return /exhaust of internal heating coils that discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system- *112.8(c)(7)*	**$150**

	Container installations are not engineered or updated in accordance with good engineering practice because none of the following are present - *112.8(c)(8)* 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)*	**$450**
☐	No testing of liquid level sensing devices to ensure proper operation - *112.8(c)(8)(v)*	**$75**
☐	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)*	**$150**
☐	Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- *112.8(c)(10)*	**$450**
☐	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)*	**$150**
☐	Secondary containment inadequate for mobile or portable storage tanks- *112.8(c)(11)*	**$500**
☐	Plan has inadequate or no discussion of bulk storage tanks - *112. 7(a)(l)*	**$75**
FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS: §112.8(d) and §112.12(d)		
☐	Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection - *112.8(d)(l)*	**$150**
☐	Corrective action is not taken on exposed sections of buried piping when deterioration is found - *112.8(d)(1)*	**$450**
☐	Not-in-service or standby piping is not capped or blank-flanged and marked as to origin- *112.8(d)(2)*	**$75**
☐	Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction - *112.8(d)(3)*	**$75**
☐	Above ground valves, piping and appurtenances are not inspected regularly- *112.8(d)(4)*	**$300**
☐	Periodic integrity and leak testing of buried piping is not conducted at time of installation, modification, construction, relocation, or replacement- *112.8(d)(4)*	**$150**
☐	Vehicle traffic is not warned of aboveground piping or other oil transfer operations- *112.8(d)(5)*	**$150**
☐	Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process- *112. 7(a)(l)*	**$75**
	TOTAL	**$2,325**