UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

2 7 SEP 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Article Number: 7014 1200 0000 6118 6290

Mr. Greg Armstrong
Owner/Operator
Swain Construction, Inc.
6002 North 89th Circle
Omaha, Nebraska 68134

Dear Mr. Armstrong:

On or about July 16-17, 2019, a representative of the U.S. Environmental Protection Agency inspected the Swain Construction facility located at approximately 6002 North 89th Circle, Omaha, Nebraska. The inspection was conducted under the authority of Section 308 of the Clean Water Act, 33 U.S.C. § 1318. Following the inspection, on or about August 23, 2019, the EPA transmitted the results of the inspection. Through this letter, the EPA is requesting follow-up information about the facility's compliance with the Spill, Prevention, Control and Countermeasure regulations pursuant to 40 CFR § 112.

Section 311(j) of the Clean Water Act, as amended, requires the EPA to establish regulations to prevent the discharge of oil from onshore facilities. The EPA's SPCC regulations are found at 40 CFR § 112 and civil penalties for violations of these regulations are governed by Section 311(b)(6)(B) of the CWA, 33 U.S.C. § 1321 (b)(6)(B).

Pursuant to the authority of Sections 308 and 311(m) of the CWA, 33 U.S.C. §§ 1318 and 1321(m), Swain Construction, Inc., is required to furnish the information and documents asked for in Enclosure 1 of this letter that are in its possession, custody or control, or in the possession, custody or control of any of its employees or agents, that concern, refer or relate to the facility's compliance with the SPCC regulations.

The required information must be submitted no later than thirty (30) calendar days after receipt of this letter to:

U.S. Environmental Protection Agency, Region 7
ATTN: ECAD/WATR (Mark Aaron)
11201 Renner Boulevard
Lenexa, Kansas 66219

Any request for an extension to the time limit for responding must be in writing to Mr. Mark Aaron and must be made within five (5) calendar days of receipt of this information request. In accordance with the provisions of 40 CFR §2.203, you may assert a business confidentiality claim covering part or all of the information by clearly identifying it as "confidential" using a cover sheet, stamped or typed legend,

or other suitable form of notice employing language such as trade secret, proprietary or company confidential. You should clearly mark as "confidential" any parts of otherwise non-confidential documents and may submit them separately to help the EPA handle and identify them. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public without further notice.

Please carefully read and follow the instructions in Enclosure 1 (Section A). The information you provide may be used by the EPA in administrative or judicial enforcement proceedings. Furthermore, failure to provide all the information required (without explaining adequately the basis for such failure), or the making of any false material statement or representation in response to this letter, constitute violations of Section 308 and 311(m) of the CWA and may result in an enforcement action and the imposition of civil and/or criminal sanctions pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 *et seq.*

A Statement of Certification is enclosed that must be completed by the owner, CEO, president, or other chief official of your company.

If you have any questions, please contact Mr. Mark Aaron at (913) 551-7205, or Ms. Shane McCoin, the attorney assigned to this matter, at (913) 551-7955.

Sincerely,

DeAndré Singletary
Acting Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1
CLEAN WATER ACT SECTION 308 and 311(m)
REQUEST FOR INFORMATION

A. Instructions for Response

When responding, please follow these instructions:

1. Respond to each numbered item in the Request for Information (Section B) separately and identify each answer with the number of the item to which it responds.

2. For each numbered item in the Request for Information, identify all documents consulted, examined or referred to in the preparation of the answer, or that contain information responsive to the requested item. Provide true, accurate and legible copies of all such documents. (If information responsive to an item is available but there are no relevant source documents, you must still provide the information.)

3. For each document provided in your response, indicate on the document (or in some similar manner) the number of the item to which it responds.

4. For each numbered item in the Requested Information, identify all persons consulted in the preparation of the answer.

5. If information responsive to a requested item is not in respondent's possession, identify the person(s) from whom the information may be obtained.

6. If information that is not known or available at the time response is made later becomes known or available to respondent, the response must be supplemented.

7. If, at any time after response is submitted, respondent finds that any part of the information submitted is incomplete, false or misrepresents the truth, respondent must notify the EPA immediately.

8. This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, *et seq.*

B. Requested Information:

Requested Respondent Information

1. Identify the person(s) answering these questions on behalf of Swain Construction, Inc. (hereafter Swain or facility) including full name, business mailing address, business telephone number and relationship to Swain.

2. Provide the names, titles, addresses and phone numbers of employees and officials of Swain who may have knowledge of the matters identified in this information request.

Requested Spill Prevention, Control and Countermeasure Plan Information

3. For the facility, provide the complete address of the facility owned and/or operated by Swain that has an aboveground storage capacity for oil of 1,320 gallons or more.

4. For the facility identified in response to Item 3 above, provide the total volume of aboveground oil storage capacity.

5. For the facility identified in response to Item 3 above, provide the following information for each of the oil storage containers with a capacity equal to or greater than 55-gallons [including but not limited to, tanks, drums, appurtenances (including piping, valves, pumps, and transfer and dispensing devices), containers or other equipment, including oil filled operational equipment (such as generators and/or engines, used oil burners) and oil filled manufacturing equipment (flow-through process equipment)]:

    a. the type of construction and configuration;
    b. capacity;
    c. contents of the container;
    d. the age and date each container was first put into service (applicable to tanks put into service at another facility prior to installation and commissioning at the facility); and
    e. the age and date of installation of each container at the facility.

6. For the facility identified in response to Item 3 above, provide the date the facility first began operations.

7. For the facility identified in response to Item 3 above, state whether a Certification of the Applicability of Substantial Harm Criteria, as found in Appendix C to 40 CFR § 112, has been completed for the facility. If so, provide a copy of the certification.

8. For the facility identified in response to Item 3 above, state whether the facility has prepared a SPCC Plan in accordance with the Oil Pollution Prevention regulations, 40 CFR § 112. If so, please attach a complete copy of the SPCC Plan to your response to this information request. Specify the date it was first prepared and provide a copy of amendments to the Plan, if any, that became effective within the last five years.

9. For the facility identified in response to Item 3 above, state whether appropriate containment and/or diversionary structures or equipment are provided to prevent a discharge of oil as described in 40 CFR §112.1(b). State whether the entire containment system, including walls and floors, are capable of containing oil and are constructed to prevent escape of a discharge from the containment system before cleanup occurs.

10. For the facility identified in response to Item 3 above, identify which of the following are present at the facility and describe the containment and/or diversionary structures or equipment for each:

a. bulk storage containers;
b. mobile/portable containers;
c. oil-filled operational equipment (as defined in §112.2);
d. other oil-filled equipment (i.e., manufacturing equipment);
e. piping and related appurtenances;
f. mobile refuelers or non-transportation related tank cars;
g. transfer areas, equipment and activities; and
h. identify any other equipment or activities that are not already listed.

11. For the facility identified in response to Item 3 above: For diked areas of aboveground storage of oil, describe whether drain valves or manual, open-and-closed design. If drainage is released directly to a watercourse and not to an on-site wastewater treatment plant, describe whether retained storm water is inspected and discharged per §§112.8(c)(3)(ii), (iii), and (iv).

12. For the facility identified in response to Item 3 above: For all undiked areas of aboveground storage of oil, describe whether drainage from the undiked area(s) is designed to flow into ponds, lagoons or catchment basins to retain oil or return it to the facility. If a catchment basin is provided, state whether it is located away from a flood area.

13. For the facility identified in response to Item 3 above: If the facility drainage is not engineered, describe whether the facility is equipped with a diversion system to retain oil in the facility in the event of an uncontrolled discharged.

14. For the facility identified in response to Item 3 above: State whether the bulk storage containers utilized for the storage of oil are of compatible material and construction with the contents stored and the conditions of storage such as pressure and temperature.

15. For the facility identified in response to Item 3 above: State whether the bulk storage containers were designed for the aboveground storage of fuels and/or oils.

16. For the facility identified in response to Item 3 above: Identify whether any bulk storage container areas have been constructed with secondary containment that is not adequate to contain the capacity of the largest container and sufficient freeboard for precipitation.

17. For the facility identified in response to Item 3 above: Provide secondary containment calculations for all bulk storage containers of aboveground storage of oil.

18. For the facility identified in response to Item 3 above: State whether the diked areas are sufficiently impervious to contain discharged oil; or, if any discharge to drainage trench system will be safely confined in a facility catchment basin or holding pond.

19. For the facility identified in response to Item 3 above: State whether each aboveground container has been tested or inspected for integrity on a regular schedule and identify whenever material repairs have been made pursuant to §112.8(c)(6), provide records of completed integrity testing, and provide a schedule of tanks to have integrity testing completed.

20. For the facility identified in response to Item 3 above: State whether each aboveground container is equipped with at least one liquid level sensing device pursuant to §112.8(c)(8). State how the liquid level sensing device is tested to ensure proper operation and provide the date of the last test pursuant to §112.8(c)(8)(v). If any aboveground storage container is not so equipped, identify the container by name/storage capacity.

21. For the facility identified in response to Item 3 above: Identify water bodies that receive surface water runoff or drainage from the facility.

22. For the facility identified in response to Item 3 above: Identify all storm drains, drainage ditches, other storm drainage structures, and drinking water intakes within a quarter mile of the facility. In addition, identify water body into which the storm water flows.

23. For the facility identified in response to Item 3 above: State whether there is drainage of accumulated, uncontaminated rainwater or surface water runoff from diked areas into a storm drain or open watercourse.

24. For the facility identified in response to Item 3 above: Provide copies of the last three years of the facility's inspection records, as required by 40 CFR. §112.7(e), 40 CFR §112.8(c)(6) and §112.8(d)(4).

25. For the facility identified in response to Item 3 above: State whether there is buried piping located at the facility. If yes, then provide answers to the following:

    a. date(s) of installation and/or replacement;
    b. if the date(s) of installation and/or replacement are on or after August 16, 2002, state whether the buried piping has protective wrapping or coating;
    c. if the date(s) of installation and/or repair are on or after August 16, 2002, state whether the buried piping satisfies the cathodic protection standards for piping in 40 CFR § 280 or § 281;
    d. state whether the buried piping has been exposed for any reason and whether it has been inspected for deterioration, corrosion damage has been examined, and, if corrective action has been taken;
    e. state whether integrity testing and leak testing have been conducted on buried piping at the time of installation, modification, construction, relocation, or replacement; and, if any records are available, please provide them.

26. For the facility identified in response to Item 3 above: Provide records for personnel training and discharge prevention procedures as described in 40 CFR 112.7(f)(1 thru 3) of the last three years.

Guidance documents pertaining to the EPA's oil pollution prevention regulations and development of SPCC Plans may be obtained by request or from the EPA's Oil Spill Program website, http://www.epa.gov/oilspill.

STATEMENT OF CERTIFICATION

The following Statement of Certification must be completed by the owner, CEO, president, or other chief official of the company responding to this information request:

STATEMENT OF CERTIFICATION

I certify under the penalty of law, that I have personally examined and am familiar with the information submitted in this document and all attachments and, that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

Signature	Date
Name	Title