

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**FILED**

**21 AUG 24 PM 03:53**

**REGIONAL HEARING CLERK  
EPA REGION 6**

REGION 6

IN THE MATTER OF

Vizion Environmental  
Solutions, LLC  
Vizion Environmental  
Solutions Facility  
Grady County, OK

Respondent.

---

CWA SECTION 311 CLASS I  
CONSENT AGREEMENT  
AND FINAL ORDER  
UNDER 40 CFR § 22.13(b)

Docket No. CWA-06-2023-4812

**LEGAL AUTHORITY**

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 311(b)(6)(B)(i) of the Clean Water Act (Act), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 CFR §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6. Pursuant to the April 17, 2019, Region 6 Realignment: General Delegation Memo (General Delegation Memo), the Regional Administrator delegated these authorities to the successor Division Director or Office Director in accordance with the Region 6 2019 reorganization, to wit: the Enforcement and Compliance Assurance Division of EPA, Region 6. The General Delegation Memo has, in turn, further redelegated these authorities to the comparable official subordinate to the Enforcement and Compliance Assurance Division Director, to wit: the Branch Chief, Water Enforcement Branch in Region 6.

**CONSENT AGREEMENT**

**SPCC Stipulations**

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

2. Section 311(j)(1)(C) of the Act, 33 USC § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil from onshore or offshore vessels and from onshore or offshore facilities, and to contain such discharges."

3. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.

4. EPA subsequently promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 et seq., which established certain procedures, methods and other requirements upon each owner and operator of a non-transportation-related onshore or off-shore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as EPA has determined in 40 CFR § 110.3 may be harmful to the public health or welfare or the environment of the United States (harmful quantity).

5. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 USC § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

6. Respondent is a firm conducting business in the State of Oklahoma, with a place of business located at 1202-B County Road 1390, Chickasha, OK 73018, and is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 CFR § 112.2.

7. Respondent is the owner within the meaning of Section 311(a)(6) of the Act, 33 USC § 1321(a)(6), and 40 CFR § 112.2 of a crude oil and oil-based drilling mud storage facility, located in Grady County, OK (the facility). The approximate coordinates of the facility are 35.00254° N and -97.89544° W. Drainage from the facility drains into Washita River.

8. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons. Facility capacity is approximately 4,215,764 gallons.

9. The Washita River is a navigable water of the United States within the meaning of 40 CFR § 112.2.

10. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the facility.

11. The facility is therefore a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity (an SPCC-regulated facility).

12. Pursuant to Section 311(j)(1)(C) of the Act, E.O. 12777, and 40 CFR § 112.1 Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

#### **SPCC Allegations**

13. Paragraphs 6 through 12 above are re-stipulated as though fully set forth herein.

14. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing and implement that plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

15. On August 1, 2023, EPA inspected the facility and found that Respondent had failed to develop and implement an SPCC plan for the facility as follows:

- a. Respondent failed to develop a plan that follows sequence of the rule or is an equivalent Plan meeting all applicable rule requirements and includes a cross-reference of provisions in accordance with 40 CFR § 112.7.
- b. Respondent failed to address in the plan and maintain at the facility discharge prevention measures, including procedures for routine handling of products (loading, unloading, and facility transfers, etc.) in accordance with 40 CFR § 112.7(a)(3)(ii).
- c. Respondent failed to address in the plan and maintain at the facility discharge or drainage controls, such as secondary containment around containers, and other structures, equipment, and procedures for the control of a discharge in accordance with 40 CFR § 112.7(a)(3)(iii).
- d. Respondent failed to discuss in the plan countermeasures for discharge discovery, response, and cleanup as required in accordance with 40 CFR § 112.7(a)(3)(iv).

- e. Respondent failed to address in the plan a prediction of the direction, rate of flow, and total quantity of oil that could be discharged for each type of major equipment failure where experience indicates a reasonable potential for equipment failure in accordance with 40 CFR § 112.7(b).
- f. Respondent failed to adequately address in the plan appropriate containment and/or diversionary structures or equipment for bulk storage containers, mobile/portable containers, piping and related appurtenances, and transfer areas as required in 40 CFR § 112.7(c).
- g. Respondent failed to maintain at the facility plan appropriate inspections and tests in accordance with written procedures. Specifically, respondent failed to provide a time frame and procedures for tank inspections in accordance with 40 CFR § 112.7(e).
- h. Respondent also failed to maintain at the facility training of oil-handling personnel in operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and contents of SPCC Plan in accordance with 40 CFR § 112.7(f)(1).
- i. Respondent failed to provide within the plan and at the facility person designated as accountable for discharge prevention at the facility and reports to facility management in accordance with 40 CFR § 112.7(f)(2).
- j. Respondent also failed to maintain at the facility discharge prevention briefings conducted at least once a year for oil handling personnel to assure adequate understanding of the Plan in accordance with 40 CFR § 112.7(f)(3).
- k. Respondent failed to provide within the plan how to secure and control access to the oil handling, processing and storage areas, secure master flow and drain valves, prevent unauthorized access to starter controls on oil pumps, secure out-of-service and loading/unloading connections of oil pipelines, and address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges in accordance with 40 CFR § 112.7(g).
- l. Respondent failed to maintain at the facility drainage from diked storage areas by valves to prevent a discharge into the drainage system or facility effluent treatment system, except where facility systems are designed to control such discharge. Respondent also failed to maintain at the facility if drainage is released directly to a watercourse and not into an onsite wastewater treatment plant, retained storm water is inspected and

discharge per §§112.8(c)(3)(ii), (iii), and (iv) or §§112.12(c)(3)(ii), (iii), and (iv) in accordance with 40 CFR § 112.8(b)(1) and 40 CFR § 112.8(b)(2).

- m. Respondent failed to discuss in the plan and maintain at the facility drainage from undiked areas with a potential for discharge are designed to flow into ponds, lagoons, or catchment basins to retain oil or return it to the facility. Specifically, the facility failed to provide adequate discussion based on site specific information and therefore, not in accordance with 40 CFR § 112.8(b)(3).
- n. Respondent failed to discuss in the plan and maintain at the facility containers materials and construction are compatible with material stored and conditions of storage such as pressure and temperature in accordance with 40 CFR § 112.8(c)(1).
- o. Respondent failed to discuss in the plan and maintain at the facility all bulk storage tank installations with secondary containment to hold capacity of largest container and sufficient freeboard for precipitation, and diked areas sufficiently impervious to contain discharged oil or any discharge to a drainage trench system will be safely confined in a facility catchment basin or holding pond in accordance with 40 CFR § 112.8(c)(2).
- p. Respondent failed to implement at the facility bypass valve normally sealed, retained rainwater is inspected to ensure that its presence will not cause a discharge, bypass valve opened and resealed under responsible supervision, and adequate records of drainage are kept in accordance with 40 CFR § 112.8(c)(3).
- q. Respondent failed to adequately address in the plan and maintain at the facility the standard for testing or inspection of each aboveground container for integrity on a regular schedule and whenever material repairs are made, appropriate qualifications for personnel performing tests and inspections, frequency and type of testing and inspections documented in accordance with the industry standards, maintaining comparison records of aboveground container integrity testing, container supports and foundations regularly inspected, outside of containers frequently inspected for signs of deterioration, discharges, or accumulation of oil inside diked areas, and maintaining records of all inspections and tests as required in 40 CFR § 112.8(c)(6).
- r. Respondent failed to adequately discuss in the plan and maintain at the facility the specific liquid level sensing devices used to prevent discharges from each container as required in 40 CFR § 112.8(c)(8).

- s. Respondent failed to address in the plan and maintain at the facility positioning of mobile or portable containers to prevent a discharge described in 40 CFR § 112.1(b). Respondent also failed to address in the plan and maintain at the facility secondary containment for mobile or portable containers (excluding mobile refuelers and other non-transportation-related tank trucks), with sufficient capacity to contain the largest single compartment or container and sufficient freeboard to contain precipitation in accordance with 40 CFR § 112.8(c)(11).
- t. Respondent failed to address in the plan and maintain at the facility buried piping installed or replaced on or after August 16, 2022 has protective wrapping or coating, buried piping installed or replaced on or after August 16, 2022 is also cathodically protected or otherwise satisfies corrosion protection standards for piping in 40 CFR part 280 or 280, buried piping exposed for any reason in inspected for deterioration; corrosion damage is examined; and corrective action is taken in accordance with 40 CFR § 112.8(d)(1).
- u. Respondent failed to address in the plan and maintain at the facility piping terminal connection at the transfer point is marked as to origin and capped or blank-flanged when not in service or in standby service for an extended time in accordance with 40 CFR § 112.8(d)(2).
- v. Respondent failed to address in the plan and maintain at the facility how pipe supports are properly designed to minimize abrasion and corrosion and allow for expansion and contraction as required in 40 CFR § 112.8(d)(3).
- w. Respondent failed to address in the plan and maintain at the facility how aboveground valves, piping, and appurtenances such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces are inspected regularly to assess their general condition. Respondent also failed to adequately address in the plan and maintain at the facility integrity and leak testing conducted on buried piping at time of installation, modification, construction, relocation, or replacement in accordance with 40 CFR § 112.8(d)(4).
- x. Respondent failed to address in the plan and maintain at the facility vehicles warned so that no vehicle endangers aboveground piping and other oil transfer operations in accordance with 40 CFR § 112.8(d)(5).

16. Respondent's failure to fully develop and implement its SPCC plan for the facility violated 40 CFR § 112.3 and impacted its ability to prevent an oil spill.

**FRP Stipulations**

17. Paragraphs 6 through 12 above are re-stipulated as though fully set forth herein.

18. The facility is a non-transportation-related facility within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

19. The facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 USC § 1321(a)(11), 40 CFR § 112.2, and 40 CFR § 112 Appendix B.

20. Section 311(j)(5)(A) of the Act, 33 U.S.C. § 1321(j)(5)(A), provides that the President shall issue regulations requiring each owner or operator of certain facilities to "submit to the President a plan for responding, to the Maximum extent practicable, to a worst-case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance."

21. By Section 2(d)(1) of Executive Order 12777 (October 18, 1991), the President delegated to the Administrator of EPA the authorities under Section 311(j)(5)(A) of the Act.

22. The Administrator of EPA promulgated regulations, codified within Subparts A and D of 40 CFR Part 112 (the [Facility Response Plan] FRP regulations), implementing these delegated statutory authorities.

23. The facility has a total oil storage capacity of at least one (1) million U.S. gallons and the facility is located at a distance such that a discharge could cause injury to fish and wildlife and sensitive environments.



24. The facility is therefore a non-transportation related, onshore facility within the meaning of 40 CFR § 112.2 that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines, within the meaning of Section 311(j)(5)(B)(iii) of the Act, 33 U.S.C. § 1321(j)(5)(B)(iii), and 40 CFR § 112.20(f)(1) (an FRP-regulated facility).

25. Therefore, Respondent, as the owner/operator of an FRP-regulated facility, is subject to the FRP regulations found at 40 CFR. § 112.20.

26. It is stipulated that pursuant to Section 311(j)(5) of the Act and 40 CFR § 112.20, the owner or operator of an FRP-regulated facility in operation on or before February 18, 1993, must no later than that date submit a Facility Response Plan (FRP) that satisfies the requirements of Section 311(j)(5).

#### **FRP Allegations**

27. Paragraphs 6 through 12 and 18 through 26 above are re-stipulated as though fully set forth herein.

28. On August 1, 2023, EPA inspected the facility and found that Respondent had failed to properly develop and implement an FRP plan in accordance with 40 CFR § 112.20, as follows:

- a. Respondent failed to provide an FRP in accordance with 40 CFR § 112.20.

29. Respondent's failure to properly develop and implement an FRP violates the requirements of Section 311(j)(5) of the Act and 40 CFR § 112.20.

**Waiver of Rights**

30. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. Respondent waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the consent agreement, pursuant to 40 CFR § 22.18(b)(2).

**Penalty**

31. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$55,600.00**.

**Payment Terms**

Based on the forgoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

32. The Respondent shall pay to the United States a civil penalty in the amount of **\$55,600.00**, to settle the violations as alleged in the CAFO, in accordance with 40 C.F.R. 22.18(c). The Respondent shall make monthly installment payments of **\$1,634.54** per month, which includes principal and interest, for 36 months, until the total amount paid is **\$58,843.44**. The first payment must be made within thirty (30) days after the effective date of this CAFO, and each subsequent payment will be due on the 15th day of each month. The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment via Mail and E-Mail to:

Energy Sector Compliance Section  
U. S. Environmental Protection Agency  
Region 6 (6ECD-WE)  
1201 Elm Street  
Dallas, TX 75270-2102  
[blaha.michael@epa.gov](mailto:blaha.michael@epa.gov)

- If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "**OSTLF-311**" and docket number **CWA-06-2023-4812**. If you use the U.S. Postal Service, address the payment to:

U.S. Environmental Protection Agency, Fines & Penalties  
P.O. Box 979078, St. Louis, MO 63197-9000

- If you use a private delivery service, address the payment to:

U.S. Bank  
1005 Convention Plaza, Mail Station SL-MO-C2GL  
St. Louis, MO 63101

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

Lorena Vaughn  
Regional Hearing Clerk (6RC)  
U.S. Environmental Protection Agency  
Region 6  
1201 Elm Street  
Dallas, TX 75270-2102

33. Failure by the Respondent to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 USC §1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

**General Provisions**

34. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

35. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

Vizion Environmental Solutions, LLC

Date: 8-20-24



Todd Smith  
Managing Owner  
Vizion Environmental Solutions, LLC

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8 - 21 - 2024



Bryant Smalley  
Chief  
Water Enforcement Branch

**FINAL ORDER**

Pursuant to Section 311(b)(6) of the Act, 33 USC §1321(b)(6) and the delegated authority of the undersigned, and in accordance with the “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,” codified at 40 CFR Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties and Allegations by the Complainant are adopted as Findings in this Final Order.

The Respondent is ordered to comply with the terms of the Consent Agreement.

Date: August 21, 2024

\_\_\_\_\_  
Cheryl T Seager, Director  
Enforcement and  
Compliance Assurance Division