



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1, 5 POST OFFICE SQUARE, BOSTON, MASSACHUSETTS 02109-3912

EXPEDITED SPCC SETTLEMENT AGREEMENT

In the matter of Continental Paving, Inc.  
Docket No. CWA-01-2019-0034

On March 19, 2019 at Continental Paving Inc.'s ("Respondent's") sand and gravel facility, located at 16 Morgan Road, Litchfield, NH, 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 C.F.R. 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 Violations Form ("Violations Form") which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection Findings and Violations set forth in the Violations Form.

The parties enter into this Expedited Settlement in order to settle the civil violations described in the Violations Form for a penalty of \$3,200. 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 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 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 will be corrected and the facility brought in full compliance with the Oil Pollution Prevention regulations by May 2019. Respondent has sent a certified check in the amount of \$3,200, payable to the Environmental Protection Agency, to: U.S. Environmental Protection Agency, Fines and Penalties, P.O. Box 979077, St. Louis, MO 63197-9000. This check shall reference the docket number of the case and the "Oil Spill Liability Trust Fund - 311." Respondent shall send a copy of the check to Diane Boudrot, Environmental Protection Agency, Region 1, 5 Post Office Square (04-4), Boston, Massachusetts 02109-3912, and to the Regional Hearing Clerk, Environmental Protection Agency, Region 1, 5 Post Office Square (04-6), Boston, Massachusetts 02109-3912.

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 C.F.R. § 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-WG32B), Cincinnati, OH 45268. A copy of the Expedited Settlement will also be mailed to the Respondent.

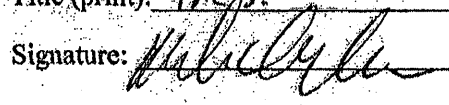
If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Violations Form.

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 Violations 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.

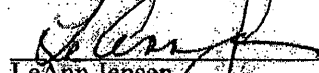
APPROVED BY EPA:

 Date: 5-14-19  
Karen McGuire, Director  
Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT:

Name (print): Mark Charbonneau  
Title (print): Pres.  
Signature:  Date: 5/24/19

IT IS SO ORDERED:

 Date: 6/7/19  
LeAnn Jensen  
Regional Judicial Officer

RECEIVED

JUN 11 2019

EPA ORG WS  
Office of Regional Hearing Clerk

**Spill Prevention Control and Countermeasure Inspection  
Findings and Violations Form  
As of 4/29/19**

Company Name: <b>Continental Paving, Inc.</b>		Docket Number: <b>CWA-01-2019-0034</b>
Facility Name: <b>Continental Paving, Inc.</b>		Date of Inspection: <b>March 19, 2019</b>
Address: <b>16 Morgan Road</b>		
City: <b>Litchfield</b>		Inspector's Name(s): <b>Joe Canzano &amp; Beth Kaudaurakus</b>
State: <b>NH</b>	Zip Code: <b>03052</b>	
Facility Contact: <b>Mark Charbonneau, President &amp; Owner (603) 437-5387</b>		Enforcement Contact: <b>Joseph Canzano, SPCC Compliance Coordinator Tel: 617-918-1763</b>



**Summary of Findings**

*On March 19, 2019, the Region conducted an inspection at Continental Paving, Inc.'s Litchfield Sand & Gravel facility. The facility is a quarry (crushed stone aggregate) and hot-mix asphalt plant and operates numerous oil-filled containers including liquid asphalt cement tanks, diesel underground storage tanks and oil drum and tote storage areas, as well as oil off-loading and transfer stations including an oil truck loading rack. Total amount of oil in aboveground tanks equals 145,000-gallons, and the facility is located ~1/2 mile from the Merrimack River which is a drinking water supply source for several downstream communities.*

*The following violations described below were documented on the day of the inspection.*

**(Bulk Storage Facilities)**

**GENERAL TOPICS: 40 CFR §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)
- Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1)
- 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)

- No evidence of five-year review of plan by owner/operator - 112.5(b)
  - Amendment(s) not certified by a professional engineer - 112.5(c)
  - No management approval of plan - 112.7
  - 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 conformance with SPCC requirement - 112.7(a)(1)
  - 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)
  - Inadequate or no listing of type of oil and storage capacity of containers - 112.7(a)(3)(i)
  - 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)
  - Methods of disposal of recovered materials not 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)
  - Inadequate containment or drainage for Loading Area - 112.7(c)
  - Plan has no or inadequate discussion of any applicable more stringent State regulations, and guidelines - 112.7(j)
  - 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).
- If claiming impracticability of appropriate containment/diversionary structures:**
- Impracticability has not been clearly denoted and demonstrated in plan - 112.7(d)
  - No periodic integrity and leak testing - 112.7(d)
  - No contingency plan - 112.7(d)(1)
  - No written commitment of manpower, equipment, and materials - 112.7(d)(2)
  - Plan has no or inadequate discussion of general requirements not already specified - 112.7(j)

**QUALIFIED FACILITY REQUIREMENTS: §112.6**

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- Qualified Facility: No Self certification - 112.6(a)
- Qualified Facility: Self certification lacks required elements - 112.6(a) or (b)
- Qualified Facility: Technical amendments not certified - 112.6(a) or (b)
- Qualified Facility: Qualified Facility Plan includes alternative measures not certified by licensed Professional Engineer - 112.6(b)
- Facility: Environmental Equivalence or Impracticability not certified by licensed Professional Engineer - 112.6(b)(4)

**WRITTEN PROCEDURES AND INSPECTION RECORDS: §112.7(e)**

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- 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)
- Are not signed by appropriate supervisor or inspector- 112.7(e)
- Are not maintained for three years - 112.7(e)

**PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES: §112.7(f)**

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- No training on the operation and maintenance of equipment to prevent discharges and for 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)
- No designated person accountable for spill prevention - 112.7(f)(2)
- Spill prevention briefings are not scheduled and conducted at least once a year - 112.7(f)(3)
- Plan has inadequate or no discussion of personnel training and spill prevention procedures - 112.7(a)(1)

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

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- Plan does not describe how the facility secures and controls access to the oil handling, processing and storage areas - 112.7(g)
- Master flow and drain valves not secured - 112.7(g)
- Starter controls on oil pumps not secured to prevent unauthorized access - 112.7(g)
- Out-of-service and loading/unloading connections of oil pipelines not adequately secured - 112.7(g)

- 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)

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**FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING RACK: §112.7(h)**

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- 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)

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**QUALIFIED OIL OPERATIONAL EQUIPMENT: §112.7(k)**

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- 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)

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**FACILITY DRAINAGE: §112.8(b) & (c) and/or §112.12(b) & (c)**

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- Two "lift" pumps are not provided for more than one treatment unit - 112.8(b)(5)
- 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 un-diked 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)
- Plan has inadequate or no discussion of facility drainage - 112.7(a)(1)

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**BULK STORAGE CONTAINERS: § 112.7(i), §112.8(c) and/or §112.12(c)**

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- 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)

- 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)
- Secondary containment capacity is inadequate - 112.8(c)(2)
- Secondary containment systems are not sufficiently impervious to contain oil - 112.8(c)(2)
- Completely buried metallic tanks are not protected from corrosion or are not subjected to regular pressure testing - 112.8(c)(4)
- Buried sections of partially buried metallic tanks are not protected from corrosion - 112.8(c)(5)
- Above ground container documentation for periodic integrity testing techniques such as visual inspections, hydrostatic testing, or other nondestructive testing methods - 112.8(c)(6)
- Above ground tanks are not subject to visual inspections - 112.8(c)(6)
- 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 that discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system - 112.8(c)(7)
- 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)
- No testing of liquid level sensing devices to ensure proper operation - 112.8(c)(8)(v)
- 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)
- 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 or located to prevent discharged oil from reaching navigable water, or have inadequate secondary containment - 112.8(c)(11)
- Secondary containment inadequate for mobile or portable storage tanks - 112.8(c)(11)
- Plan has inadequate or no discussion of bulk storage tanks - 112.7(a)(1)

**FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS: §112.8(d) and §112.12(d)**

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- 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 is 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)
- Above ground valves, piping and appurtenances are not inspected regularly- 112.8(d)(4)
- Periodic integrity and leak testing of buried piping is not conducted at time of installation, modification, construction, relocation, or replacement - 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)

**In the Matter of Continental Paving, Inc.**  
**EPA Docket No. CWA-01-2019-0034**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Expedited Settlement Agreement was transmitted to the following persons, in the manner specified, on the date below:


Original and one copy  
hand-delivered:

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

Copy by certified mail,  
return receipt requested:

Mark Charbonneau, President & Owner  
Continental Paving, Inc.  
Litchfield Sand & Gravel  
16 Morgan Road  
Litchfield, NH 03052

Dated: 6/11/19

  
Diane Boudrot  
Office of Regional Counsel  
U.S. Environmental Protection Agency,  
Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
Phone: (617) 918-1776  
Fax: (617) 918-0776



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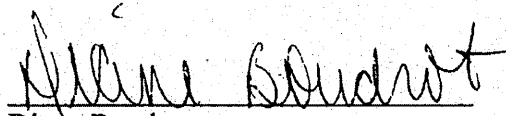
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