

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
UNILATERAL ADMINISTRATIVE ORDER

2008 JUN 23 PM 3: 33

IN THE MATTER OF: Solar Transport Oil Spill, Mile Post 200.5, Hot Sulphur Springs,
Grand County, Colorado
Docket Number: CWA-08-2008-0015

FILED
EPA REGION VIII
HEARING CLERK

Proceedings under Section 311 (c) of the Clean Water Act (CWA), 33 U.S.C. § 1321 (c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq.

I. DEFINITIONS

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the CWA, 33U.S.C. §1321(a)(1)).

"Hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section (Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14)).

"Navigable water of the United States" means the waters of the United States, including the territorial seas (Section 502(7) of the CWA, 33 U.S.C. § 1362(7)).

"Facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than submerged land (Section 311(a)(10) of the CWA, 33U.S.C. §1321(a)(10)).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of CWA, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of CWA, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of CWA which are caused by events occurring within the scope of relevant operating or treatment systems (Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2)).

II. FINDINGS OF FACT AND VIOLATIONS

A. This Order is being issued under §311(c) of the Clean Water Act, 33 U.S.C. §1321 for a discharge or a substantial threat of discharge of oil and/or a hazardous substance into waters of the United States.

B. On June 11, 2008, at or about 23:26 hours, there was a single vehicle accident (tanker truck rollover) at Milepost 200.5 on Highway 40, about 1.5 miles west of Hot Sulphur Springs, Grand County, Colorado. As a result, approximately 6,000 gallons of gasoline and diesel fuel were discharged, reached or may reach the Colorado River which is a navigable water of the United States. The tanker was owned and or operated by Solar Transport. On June 17, 2008, at 14:30 hours the Solar Transport representative called EPA Region 8 to report that oil sheen had been seen in the Colorado River as a result of the tanker rollover accident. The discharge or substantial threat of discharge from the Solar Transport tanker on June 11, 2008, resulting in surface and subsurface gasoline and diesel fuel contamination on Highway 40 and the Colorado River, constitutes a substantial threat to the public health or welfare and the environment.

C. Respondent: Solar Transport
6400 West own Parkway
West Des Moines, IA 50266
(800) 397-9015

III. WORK TO BE PERFORMED

A. **RESPONDENT IS HEREBY ORDERED** to complete the tasks described below within the dates specified and in accordance with the National Contingency Plan, 40 CFR Part 300, and any appropriate area contingency plan, and any applicable §311(j) facility response plan.

B. IMMEDIATE STABILIZATION AND MITIGATION ACTIONS

By June 18, 2008, Solar Transport's contractor had deployed two layers (primary and secondary) of yellow booms, cotton booms, and absorbent pads to stabilize/contain the release of spilled oil into the Colorado River. Respondent shall continue:

- Conducting daily monitoring and maintenance of the deployed booms to ensure the oil releases into the River are contained; and
- Replacement of the booms and absorbent pads daily unless the site conditions change and the new measures are approved by the EPA On-Scene Coordinator.

C. REMOVAL ACTION

Within 7 days from the date this Order is signed by EPA, Respondent shall develop and submit to EPA the required documents for approval (See attached Statement of Work, SOW); these include a Work Plan, a Sampling and Analysis Plan, a Health and Safety Plan, and a Quality Assurance Project Plan (QAPP). The QAPP must satisfy the requirements as defined in "Emergency Response Program Generic Quality Assurance Project Plan", March 11, 1999, URS Operating Services.

Respondent(s) shall begin work within 1 days of EPA approval of the Work Plan.

D. REPORTING REQUIREMENTS

____ Respondent(s) shall prepare and submit to the On-Scene Coordinator the following reports:

- ____ Weekly Progress Reports due on Monday, 12 noon;
 - ____ Monthly Progress Reports due on the 1st Monday of the following month;
- and
- ____ Final Completion Report due 30 days after the completion of the Removal Action

E. OTHER REQUIREMENTS

____ Respondent shall designate a project manager who will direct Solar Transport's on-site resources pursuant to this Order. All directions undertaken pursuant to this Order will be issued through the EPA On-Scene Coordinator, Tien Nguyen.

IV. RESERVATION OF RIGHTS AND PENALTIES

- A. This Order does not preclude EPA from taking any actions authorized by CWA, the National Contingency Plan, or any other law. EPA reserves the right to direct all activities and to comment on and direct changes to deliverables, off-site shipping and disposal, and all other matters.
- A. Respondent shall notify EPA of any response actions it takes as to this discharge that are in addition to those described in this Order.
- B. Violation of any term of this ORDER may subject Respondents to an administrative civil penalty of up to \$27,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure. (Section 311(b)(7)(B) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(B) as amended by the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.)

V. EFFECTIVE DATE

The effective date of this ORDER shall be the date of the receipt of this Order by the Respondents.

On-Scene Coordinator *Tien H. Nguyen* Date *6/23/08*

Received by _____ Date *6/30/08*
Representing Respondent *[Signature]*

Attachment: Statement of Work

STATEMENT OF WORK

Solar Transport Oil Spill Site Grand County, Colorado

I. Introduction

The purpose of this Statement of Work (SOW) is to provide the Respondents with a conceptual description of the work to be performed at the Solar Transport Oil Spill (Site) at Mile Post 200.5 on Highway 40, near Hot Sulphur Springs, Grand County, Colorado. This SOW outlines the Removal Action requirements to assure that the gasoline and diesel fuel present at the Site, which cause an imminent and substantial endangerment to the public health or welfare or to the environment, are removed, treated, and/or disposed of in appropriate manner. This Removal Action addresses specifically the removal of oil product and sheen in the Colorado River and oily contaminated soil present at the Site.

II. Site Situation

As a result of the tanker rollover accident at 23:26 hours on June 11, 2008, about 6,000 gallons (1,500 gal. of gasoline and 4,500 gal. of diesel) was lost into the ground on Highway 40. The Respondent's removal contractor reportedly had been on site since the accident; however their work had only consisted of using absorbent to recover oil residue and covering the spilled area with visqueen to suppress the odor. However, at 14:30 hours on June 17, 2008, the Respondent called EPA Region 8 to report that oil sheen had been seen in the Colorado River as a result of the tanker rollover accident that occurred on June 11.

In responding to the sheen that appeared in the River on June 17, Belfor Environment (Respondent's contractor) deployed 100-foot sections of yellow boom and cotton booms, and applied absorbent pads to contain and recover the oil from the River. After the report, the EPA OSC responded immediately to the site to assess the situation. As a result of the site assessment, when more sheen was seen along the river bank, the Respondent's contractor subsequently agreed to mobilize more booms and deploy a secondary boom to contain the sheen in the River. Additional booms and a boat arrived at the site at 06:30 hours on June 18, 2008. By noon, the Respondent's contractor completed the deployment of a 350 ft section of yellow boom and two layers of cotton booms in the River.

III. Site Cleanup Goals

The goals of the Removal Action are:

- i) to remove all the oil product/sheen that reaches the River;
- ii) to mitigate the potential of continuing a release of spilled oil into the River; and

- iii) to remove the source of the release (oily contaminated soil present at the site) to the extent that is practicable.

This clean up goal is to ensure the protection of human health and the environment.

IV. Site Cleanup Options and Work Plan

It is the Respondent's responsibility to develop, test if necessary, and propose options for the site cleanup. Respondent shall develop and submit to EPA a Work Plan for the removal action at the Site. If EPA disapproves the Work Plan in whole or in part, Respondent shall amend and submit to EPA a revised Work Plan within 7 days of receipt of EPA's notification of disapproval. Upon EPA's approval of the Work Plan, Respondent shall carry out the removal action as described in the approved Work Plan.

The Work Plan must address the following subjects:

- A. Site Security
- B. Personnel and Equipment Requirements

Respondent shall furnish all personnel, equipment, materials, and services required to implement the Work Plan for this Removal Action. Respondent shall provide EPA a list of their employees and/or the Contractors' employees who will be assigned key roles in conducting the Work. Change in staffing of these key roles during the Work shall be preceded by notice in writing delivered to EPA's On-Scene Coordinator. The contractors shall have appropriate training and capabilities to perform the Work. The contractor's qualifications shall be reviewed by EPA based on the information provided by the Respondent.

- C. Removal Tasks

The following two main tasks shall be performed:

- Short term site stabilization and release control: the Respondent shall take all measures necessary to recover the product/shoen in the River and prevent further release of oil into the River. Release controls shall be maintained until the Work is completed.
- Long term site removal/ remediation: Shall include, but not be limited to all measures necessary to remove or mitigate the source of the release (contaminated soil).

- D. Waste Treatment / Disposal

Respondent shall analyze its own alternatives for on-site treatment or off-site disposal for the volume of waste requiring treatment. If on-site treatment is needed, Respondent shall evaluate the effectiveness of the process and submit

to EPA for approval. If the off-site disposal alternative is considered, this process also shall include identification of the proposed disposal facility and copy of its certification to indicate that the proposed facility has permits to receive the subject waste.

E. Site Closure

Site closure tasks include, but are not limited to:

- Backfilling of excavated soil areas: soils used for capping/filling the excavated areas shall be compatible with the surrounding area;
- Grading or sloping of the restored Site: must be consistent with the Site's existing elevation to allow natural drainage.

F. Project Schedule

The proposed schedule shall include key milestones of the removal activities and the date of the removal completion.

V. Requirements for Documentation

In addition to the Work Plan, the Respondent shall prepare the following documents to be submitted to EPA for approval prior to carrying out the removal actions at the Site.

1. Site Sampling and Analysis Plan

A Site-specific Sampling and Analysis Plan (SAP) is required for the Removal at the Site to evaluate appropriate handling and treatment and disposal options, and to provide data in sufficient quality and quantity in order to verify the site has achieved the cleanup goals.

If Respondent chooses to conduct additional sampling for further site characterization prior to remediation, then it must be addressed in the SAP. The SAP will cover sampling activities that may include:

- Sampling to determine the extent of soil contamination; and
- Sampling to characterize the wastes for off-site waste disposal approval.

2. Health and Safety Plan

Respondent shall develop and submit to EPA a Health and Safety Plan (HASP) for activities related to this removal action. The plan shall provide for compliance with applicable Occupational Safety and Health Administration (OSHA) regulations. OSHA regulations include, but are not limited to, 29CFR 1910.120 requirements for worker training, medical monitoring, and site-specific information.

The Respondent will ultimately be responsible for the health and safety of their workers on-site. However, if EPA disagrees with the Health and Safety Plan in whole or in part, Respondent shall amend and submit to EPA a revised Health and Safety Plan within 3 days of receipt of EPA's notification.

3. Quality Assurance Project Plan

Respondent shall develop and submit to EPA a Quality Assurance Project Plan (QAPP) that will address the requirements to ensure that all activities described in the SAP, HASP, Work Plan and other actions during the removal are followed in a proper manner.