



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2012 SEP -4 AM 9:44

FILED
EPA REGION VIII
DENVER, CO

DOCKET NO.: CWA-08-2012-0029

IN THE MATTER OF:)	
)	
)	
GILROY TRANSPORT, INC.)	FINAL ORDER
40830 Jade Drive)	
P. O. Box 353)	
Ault, CO 80610)	
)	
Respondent)	

Pursuant to 40 C.F.R. §22.18 and 22.13(b), of EPA's Consolidated Rules of Practice, the Expedited Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

The Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 4th Day of September, 2012

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 SEP -4 AM 9:44

In the Matter of:)
)
Gilroy Transport, Inc.)
40830 Jade Drive)
P.O. Box 353)
Ault, CO 80610)
)
Respondent.)

FILED
EPA REGION 8
HEARING ROOM

EXPEDITED CONSENT AGREEMENT

DOCKET NO. : CWA-08-2012-0029

1. Pursuant to 40 C.F.R. § 22.13(b), Complainant, United States Environmental Protection Agency, Region 8, and Respondent, Gilroy Transport, Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about November 16, 2010, and agree as follows:

2. The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C.

§ 1321(b)(6) and (b)(3). This determination includes discharges of oil that (1) violate applicable water quality standards; (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline; or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3. This authority has been properly delegated to the undersigned EPA official.

3. Respondent owned and/or operated a truck near Mile Post 144 on U.S. Highway 24 (latitude 39.6021130, longitude -106.43823656) in Eagle County, Colorado.

4. Respondent admits that on or about November 16, 2010, its truck discharged approximately 200 gallons or less of diesel fuel into or upon the Eagle River and/or its adjoining shorelines.
5. Respondent's discharge of diesel fuel from its truck caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the Eagle River and/or its adjoining shoreline.
6. Respondent's discharge of diesel fuel constitutes a violation of Section 311 (b)(3) of the Act.
7. Respondent admits that EPA has jurisdiction in this proceeding.
8. Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this Agreement.
9. This Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement.
10. This Agreement contains all terms of the settlement agreed to by the parties.
11. Respondent consents and agrees to the assessment of a civil penalty of \$500.00, for the discharge of oil in violation of Section 311(b)(3) of the Act, which, shall be paid no later than thirty (30) calendar days after the effective date of the Final Order by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF – 311" and the title and docket number of this case. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

12. If the Respondent sends payment by overnight mail, the payment should be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

13. Wire transfers should be directed to:

Federal Reserve Bank of New York
ABA: 021030004
Account: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

14. The Respondent shall submit copies of the check (or, in the case of a wire transfer, copies of the confirmation) to the following persons:

Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

and

Cynthia Peterson
Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

15. Respondent states, under penalty of perjury, that it has (1) investigated the cause of the spill; (2) cleaned up the spill pursuant to federal requirements; and (3) taken corrective measures to prevent future spills.

16. Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this Agreement once incorporated into the Final Order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, a motion may be filed to withdraw the Expedited Consent Agreement and Final Order. If that motion is granted, EPA may then file an administrative or civil enforcement action against Respondent for the violations addressed herein.

17. Respondent further agrees that this settlement Agreement pertains only to the discharge of diesel fuel, and that ongoing investigations into other pollutants spilled may result in additional enforcement actions.

18. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this Agreement and to bind Respondent to the terms and conditions of this Agreement.

19. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

20. Each party shall bear its own costs and attorneys fees in connection with this matter.

21. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this Agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By :  _____

Date: 8/20/12

Darcy O'Connor, Acting Director
UIC/FIFRA/OPA Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

GILROY TRANSPORT, INC., Respondent.

By : Gilroy Transport Inc. _____

Date: 08-09-12

Name: Robby Dyer _____

Title: owner _____

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT AND FINAL ORDER** in the matter of **GILROY TRANSPORT, INC.;** **DOCKET NO.: CWA-08-2012-0029**, was filed with the Regional Hearing Clerk on September 4, 2012.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail on September 4, 2012, to:

Robby Dyer, Owner
Gilroy Transport, Inc.
40830 Jade Drive/P. O. Box 353
Ault, CO 80610

And emailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

September 4, 2012


Tina Artemis
Paralegal/Regional Hearing Clerk