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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

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EPA REGION III PHILA. PA

IN THE MATTER OF:

Woodford Transport, LLC  
P.O. Box 567  
Elkins, WV 26241

Respondent.

EPA Docket No. CWA-03-2016-0035

Proceedings Pursuant to Section 311(b)(3) and  
311(b)(6)(B)(i) of the Clean Water Act,  
33 U.S.C. § 1321(b)(3) and 1321(b)(6)(B)(i)

**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)(3) and 311(b)(6)(B)(i) of the Clean Water Act ("Act"), as amended, 33 U.S.C. § 1321(b)(3) and 1321(b)(6)(B)(i), and under the authority provided by 40 C.F.R. § 22.13(b), 22.18(b)(2) and (3), and 22.50(a)(1) and (b). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director of the Region's Hazardous Site Cleanup Division ("Complainant").

**CONSENT AGREEMENT**

**Factual Allegations and Conclusions of Law**

2. For the purpose of this proceeding, and with the exception of Paragraph 13, below, Respondent neither admits nor denies the following factual allegations and conclusions of law, but expressly waives its rights to contest said allegations.

**Count I**

3. Respondent is a limited liability corporation registered in West Virginia with a place of business located in Elkins, West Virginia 26241. Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7), and 40 C.F.R. § 112.2.

4. Respondent is the owner and operator of an independent-for-hire carrier, serving industrial, wholesale and retail clients, including refineries, distributors, convenience stores and service stations.

5. Respondent is the owner and operator of a truck tractor with semi-trailer and is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), which defines “onshore facility,” in relevant part, to mean “any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land.”

6. Section 311(b)(3) of the Act prohibits the discharge of oil or hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

7. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters and adjoining shorelines of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that violate applicable water quality standards or cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.

8. On January 23, 2015, the truck tractor with a semi-trailer, owned and operated by Woodford, containing 7,500 gallons of diesel fuel overturned along Route 92 in White Sulphur Springs, Greenbrier County, West Virginia and spilled approximately 3,975 gallons of diesel fuel oil near White Sulphur Springs, Greenbrier County, West Virginia (the “discharge”).

9. Fuel oil, including diesel, is an “oil,” pursuant to Section 311(a)(1), 33 U.S.C. § 1321 (a)(1).

10. The West Virginia Department of Environmental Protection reported to EPA that approximately 1,500 gallons of the discharged diesel fuel reached an unnamed tributary of Anthony Creek, which is a tributary of the Greenbrier River, a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

11. EPA’s On-Scene Coordinator observed that the discharge on January 23, 2015, from Respondent’s onshore facility, caused a film, sheen, emulsion or discoloration of the surface of Anthony Creek and the Greenbrier River and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R § 110.3, which implements Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4).

12. Respondent’s discharge on January 23, 2015, from its onshore facility violated Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

**Waiver of Rights**

For the purpose of this proceeding, Respondent:

13. Admits only the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA’s jurisdiction with respect to the execution of this Consent Agreement, the

issuance of the attached Final Order, and the enforcement of this Consent Agreement and Final Order.

14. Waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act 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.

**Penalty**

15. Section 311(b)(6) of the Act, as amended, 33 U.S.C. §1321(b)(6), authorizes EPA to assess administrative penalties for violations of Section 311(b)(3) of the Act. Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$14,400. The civil penalty is based upon Complainant's consideration of a number of factors including the penalty criteria set forth in Section 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8), and has been calculated in accordance with Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Debt Collection Improvement Act of 1996, as implemented by Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, and with EPA's *Civil Penalty Policy For Section 311(b)(3) and Section 311(j) of the Clean Water Act*, dated August 1998.

**Payment Terms**

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

16. Within thirty (30) days of the effective date of the Final Order, Respondent shall pay the amount of \$14,400 by means of a cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF – 311." If 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  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Contact: Heather Russell, (513) 487-2044

If Respondent sends payment by a private delivery service, the payment shall be addressed to:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Attn: Heather Russell, (513) 487-2044

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA 021030004  
Account 68010727  
Swift Address FRNYUS33  
33 Liberty Street  
New York, NY 10045

If paying by EFT, field tag 4200 of the Fedwire message shall read: (D 68010727 Environmental Protection Agency).

If paying through the Department of Treasury's Online Payment system, please access [www.pay.gov](http://www.pay.gov), and enter sfo 1.1 in the search field. Open the form and complete the required fields to make the payment. Note that the type of payment is "civil penalty," the docket number "CWA-03-2016-00 35" should be included in the "Court Order # or Bill #" field, and 3 should be included as the Region number.

17. If paying by check, Respondent shall note on the penalty payment check the title and docket number of this case. Respondent shall submit a copy of the check (or, in the case of an EFT transfer, a copy of the EFT confirmation) to the following person:

Lydia Guy  
Regional Hearing Clerk (3RC00)  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
guy.lydia@epa.gov

Respondent must also provide a copy of its check or EFT confirmation to the attorney representing EPA in this matter at the following address:

Suzanne M. Parent  
Associate Regional Counsel (3RC42)  
U.S. Environmental Protection Agency – Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
parent.suzanne@epa.gov  
(215) 814-2630

18. Failure by 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 U.S.C. § 1321(b)(6)(H), and 40 C.F.R. § 13.11. In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

**General Provisions**

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

20. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any appropriate 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 of the Act alleged herein.

21. The undersigned officer of Respondent represents and warrants that he or she has the authority to bind Woodford Transport, LLC and its successors or assigns to this Consent Agreement.

22. Each party to this action shall bear its own costs and attorney's fees.

WOODFORD TRANSPORT, LLC

Date: 2-25-16

Todd Woodford  
[Signature]

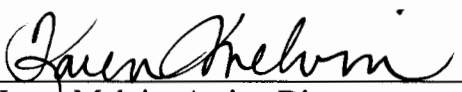
Todd Woodford  
Name (print or type)

Manager  
Title



U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: MAR 16 2016

  
\_\_\_\_\_  
Karen Melvin, Acting Director  
Hazardous Site Cleanup Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

IN THE MATTER OF:

Woodford Transport, LLC  
Box 567  
Elkins, WV 26241

Respondent.

EPA Docket No. CWA-03-2016-0035

Proceedings Pursuant to Section 311(b)(3) and  
311(b)(6)(B)(i) of the Clean Water Act,  
33 U.S.C. § 1321(b)(3) and 1321(b)(6)(B)(i)

**FINAL ORDER**

Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Woodford Transport, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Section 22.13(b), 22.18(b)(2) and (3), and 22.50(a)(1) and (b)). The terms of the foregoing Consent Agreement are hereby accepted by the undersigned and incorporated by reference into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act (August 1998) and the statutory factors set forth in Section 311(b)(8) of the Clean Water Act, 33 U.S.C. § 1321(b)(8).

**NOW, THEREFORE, PURSUANT TO** Section 311(b)(6)(B)(i) of the Clean Water Act, 33 U.S.C. § 1321(b)(6)(B)(i), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a penalty of **FOURTEEN THOUSAND FOUR HUNDRED DOLLARS (\$14,400)**, plus any applicable interest, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

**CONTACT INFORMATION**

**For Respondent, Woodford Transport LLC**

Todd Woodford  
Manager  
Woodford Transport, LLC  
1 13<sup>th</sup> Street, Box 567  
Elkins, WV 26241  
304-591-1165  
todd@woodfordoil.com

**For Complainant, EPA**

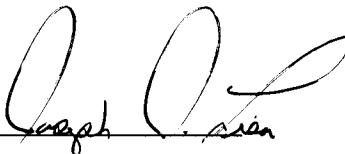
Suzanne M. Parent  
U.S. EPA Region 3  
1620 Arch Street  
Philadelphia, PA 19103  
215-814-2630  
parent.suzanne@epa.gov

cc: Todd Woodford, Woodford Transport, LLC

**Effective Date**

The effective date of the foregoing Consent Agreement and this Final Order, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region III, or the Regional Judicial Officer, is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: March 21, 2016

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
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) 33 U.S.C. § 1321(b)(3) and 1321(b)(6)(B)(i)  
)  
Respondent. )  
)

**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order ("CAFO") in the above-captioned matter have been filed with the EPA Region III Regional Hearing Clerk and that a copy of the CAFO was sent by UPS overnight mail to:

Todd Woodford  
Manager  
Woodford Transport, LLC  
1 13<sup>th</sup> Street, Box 567  
Elkins, WV 26241

3/21/2016  
Date

Catherine Mc Cool  
Catherine Mc Cool  
Lead Paralegal Specialist