

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
Midland Asphalt Materials, Inc.	:	U.S. EPA Docket No. CWA-03-2019-0128
640 Young Street	:	
Tonawanda, New York 14151,	:	Proceeding under Sections 311(j) and
	:	311(b)(6)(B)(ii) of the Clean Water Act,
Respondent.	:	33 U.S.C. §§ 1321(j) and 1321(b)(6)(B)(ii)
	:	
Clearfield Emulsion Plant	:	
88 Barrett Road	:	
Woodland, Pennsylvania 16881,	:	
	:	
Facility.	:	
	:	

U.S. EPA-REGION 3-RHC
FILED-26SEP2019PM2:58

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Midland Asphalt Materials, Inc., (“Respondent”) (collectively the “Parties”), pursuant to Section 311(b)(6)(B)(ii) of the Clean Water Act (“CWA” or “Act”), as amended, 33 U.S.C. § 1321(b)(6)(B)(ii), and 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. Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under the CWA for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual or legal allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
11. Pursuant to 40 C.F.R. § 22.45(b)(1), this CAFO shall be issued after a 40-day public notice period is concluded.

EPA's FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), defines "oil" as "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."
14. In Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), Congress required the President to promulgate regulations which would, among other things, establish procedures, methods, and other requirements for preventing discharges of oil from onshore facilities into navigable waters and for containing such discharges.
15. By Executive Order 12777, the President delegated the authority to promulgate regulations under Section 311(j) of the CWA to EPA for non-transportation-related onshore and offshore facilities.

16. Pursuant to its delegated authority under Section 311(j) of the CWA, EPA promulgated the Oil Pollution Prevention Regulations, codified at 40 C.F.R. Part 112 (the “Regulations”).
17. Pursuant to 40 C.F.R. § 112.1(b), the Regulations apply to any owner or operator of a non-transportation-related onshore or offshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil or oil products, which due to its location, could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines. Pursuant to 40 C.F.R. § 112.1(d), the Regulations do not apply to any owner or operator of a facility with an aggregate aboveground oil storage capacity of 1,320 gallons or less.
18. According to 40 C.F.R. § 112.3, an owner or operator subject to the Regulations must prepare in writing and implement a Spill Prevention, Control, and Countermeasure (“SPCC”) plan, in accordance with § 112.7 and any other applicable section.
19. For violations of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), EPA has authority, under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), as amended by the Debt Collection Improvement Act and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and implemented by 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation, to file an Administrative Complaint seeking a civil penalty of \$18,943 per violation, up to a maximum of \$47,357, or seeking \$18,943 per day for each day during which a violation continues, up to a maximum of \$236,783 for violations occurring after November 2, 2015.
20. Respondent is a New York corporation with corporate headquarters located at 640 Young Street, Tonawanda, New York 14151.
21. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.
22. Respondent is the owner and operator of an asphalt emulsion facility known as the Clearfield Emulsion Plant, located at 88 Barrett Road, Woodland, Pennsylvania 16881 (the “Facility”).
23. Respondent is, and has been at all times relevant to this CAFO, the owner and/or operator of the Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.
24. According to Respondent’s SPCC plan, the Facility has a total above-ground oil storage capacity of approximately 1.7 million gallons.
25. The Facility is located on a hill approximately 650 feet east of Roaring Run, which is a tributary to the West Branch of the Susquehanna River.

26. The Facility could reasonably be expected to discharge oil in harmful quantities into Roaring Run and the Susquehanna River.
27. The Susquehanna River is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
28. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.
29. The Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2 and Appendix A of 40 C.F.R. Part 112, as incorporated by reference within 40 C.F.R. § 112.2.
30. Due to its location, the Facility could reasonably be expected to discharge oil in harmful quantities, as defined by 40 C.F.R. § 110.3, into or upon navigable waters of the United States or adjoining shorelines.
31. Pursuant to 40 C.F.R. § 112.1, Respondent, as the owner and operator of the Facility, is subject to the Regulations codified at 40 C.F.R. Part 112.
32. Pursuant to 40 C.F.R. § 112.3, Respondent was required to prepare in writing and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
33. EPA conducted an inspection of the Facility on March 20, 2018 to evaluate Respondent's compliance with Section 311(j) of the CWA and the Regulations (the "Inspection").

Count I
Failure to Amend SPCC Plan

34. The allegations of Paragraphs 1 through 33 of this Consent Agreement are incorporated herein by reference.
35. 40 C.F.R. § 112.5(a) requires the owner or operator of a facility to amend its SPCC plan whenever there is a change in facility design, construction, operation or maintenance which materially affects the facility's potential for the discharge of oil as described in 40 C.F.R. § 112.1(b).
36. At the time of the Inspection, the Facility's SPCC plan was dated October 2015, with certain sections updated in March 2016, March 2017, and February 2018.
37. During the Inspection, EPA inspectors observed several aboveground oil storage tanks that were not included in the Facility's SPCC plan.
38. Documentation provided by Respondent to EPA following the Inspection showed that Respondent had removed and installed aboveground oil storage tanks in 2016 and 2017.

39. In October 2015, the Facility's oil storage capacity was approximately 700,000 gallons. Following the removal and installation of aboveground oil storage tanks in 2016 and 2017, the Facility's oil storage capacity increased to approximately 1.7 million gallons.
40. At the time of the inspection, Respondent had not updated the Facility's SPCC plan to include the aboveground oil storage tanks installed in 2016 and 2017.
41. By not updating the Facility's SPCC plan following the installation of aboveground oil storage tanks that more than doubled the Facility's oil storage capacity, Respondent was in violation of 40 C.F.R. § 112.5(a).
42. By failing to comply with 40 C.F.R. § 112.5(a), Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

Count II

Failure to Obtain Certification from Professional Engineer

43. The allegations of Paragraphs 1 through 42 of this Consent Agreement are incorporated herein by reference.
44. 40 C.F.R. § 112.5(c) requires owners or operators to have a licensed Professional Engineer certify any technical amendments to an SPCC plan.
45. Respondent amended the Facility's SPCC plan on March 10, 2016, March 16, 2017, and February 28, 2018.
46. Respondent failed to have a licensed Professional Engineer certify the amendments to the Facility's SPCC plan referred to in Paragraph 45, in violation of 40 C.F.R. § 112.5(c).
47. By failing to comply with 40 C.F.R. § 112.5(c), Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

Count III

Failure to Include Required Information in Facility Diagram

48. The allegations of Paragraphs 1 through 47 of this Consent Agreement are incorporated herein by reference.
49. 40 C.F.R. § 112.7(a)(3) requires owners or operators to include a facility diagram in a facility's SPCC plan that marks the location of the storage area where mobile or portable oil storage containers are located and include all transfer stations and connecting pipes.
50. Upon review of the Facility's SPCC plan during the Inspection, EPA inspectors observed that the Facility's SPCC plan had not marked the location of the storage area where mobile or portable oil storage containers were located and did not include all transfer stations and connecting pipes.

51. By not marking the location of the storage area where mobile or portable oil storage containers were located and not including all transfer stations and connecting pipes in the Facility's SPCC plan, Respondent violated 40 C.F.R. § 112.7(a)(3).
52. By failing to comply with 40 C.F.R. § 112.7(a)(3), Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

Count IV

Failure to Address Facility Tank Truck Loading/ Unloading Rack in SPCC Plan

53. The allegations of Paragraphs 1 through 52 of this Consent Agreement are incorporated herein by reference.
54. 40 C.F.R. § 112.7(h) requires an SPCC plan to address the design, protective features and operational procedures of a facility's tank truck loading/unloading rack.
55. During the Inspection, EPA inspectors observed a tank truck loading/ unloading rack at the Facility; however, the Facility's SPCC plan did not address the Facility's tank truck loading/ unloading rack.
56. By failing to address the Facility's tank truck loading/ unloading rack, Respondent violated 40 C.F.R. § 112.7(h).
57. By failing to comply with 40 C.F.R. § 112.7(h), Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

Count V

Failure to Include Requirements for Bulk Storage Containers in SPCC Plan

58. The allegations of Paragraphs 1 through 57 of this Consent Agreement are incorporated herein by reference.
59. 40 C.F.R. § 112.8(c)(2) requires an owner or operator to provide sufficiently impervious secondary containment for the largest single container in all container installations plus sufficient freeboard to allow for precipitation and ensure that diked areas are sufficiently impervious to contain discharged oil.
60. During the Inspection, EPA inspectors observed that the Facility's SPCC plan did not describe the containment capacity of the Facility's secondary containment systems and did not indicate that the Facility's secondary containment systems are sufficiently impervious to retain discharged oil.
61. By failing to describe the containment capacity of the Facility's secondary containment systems and failing to indicate that the Facility's secondary containment systems are sufficiently impervious to retain discharged oil, Respondent is in violation of 40 C.F.R. § 112.8(c)(2).

62. By failing to comply with 40 C.F.R. § 112.8(c)(2), Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

Count VI

Failure to Include Required Information Relating to Portable Oil Storage Containers in SPCC Plan

63. In relevant part, 40 C.F.R. § 112.7(a)(3)(i) requires an owner or operator to provide in the SPCC plan either the type of oil and storage capacity for each mobile or portable container or provide an estimate of the potential number of mobile or portable containers, the types of oil, and anticipated storage capacities.
64. During the Inspection, EPA inspectors observed that several of the Facility's portable oil storage containers were not included in the container inventory of the Facility's SPCC plan.
65. By failing to include all of the Facility's portable oil storage containers in the container inventory of the Facility's SPCC plan, Respondent failed to provide the required information. Respondent is therefore in violation of 40 C.F.R. § 112.7(a)(3).
66. By failing to comply with 40 C.F.R. § 112.7(a)(3), Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

CIVIL PENALTY

67. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Forty-Eight Thousand Eight Hundred and Three Dollars (\$48,803)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
68. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), including, the following: the seriousness of the violation; the economic benefit to the violator, if any; the degree of culpability; any other penalty for the same incident; history of prior violations, if any; the nature, extent, and degree of success of the violator's mitigation efforts; the economic impact of the penalty on the violator; and other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act* (August 1998), which reflects the statutory penalty criteria and factors set forth at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
69. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, CWA-03-2019-0128;
- b. All checks shall be made payable to "Environmental Protection Agency," and bear the notation "OSLTF-311";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Mark Bolender
Sr. Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029
bolender.mark@epa.gov

70. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

71. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

72. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed

and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

73. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
74. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
75. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

GENERAL SETTLEMENT CONDITIONS

76. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
77. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

78. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

79. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

80. This CAFO resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

EXECUTION /PARTIES BOUND

81. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

EFFECTIVE DATE

82. Pursuant to 40 C.F.R. § 22.45(b), this CAFO shall be issued only after a 40-day public notice and comment period is concluded. This CAFO will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, filed with the Regional Hearing Clerk, and served on Respondent by certified mail, or ten (10) days after conclusion of the public notice and comment period described in 40 C.F.R. § 22.45(b), whichever is later.

ENTIRE AGREEMENT

83. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

In Re: Midland Asphalt Materials, Inc.
EPA Docket No. CWA-03-2019-0128

For Respondent: Midland Asphalt Materials, Inc.


Date: 9/16/2019

By: William Coleman
William Coleman
President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.


Date: SEP 23 2019

By: 

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 9/17/19

By: 

Mark Bolender
Sr. Assistant Regional Counsel
U.S. EPA – Region III

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U.S. EPA-REGION 3-RHC
FILED-26SEP2019PM2:58

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Rapidan Service Authority, 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 Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated 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 CWA, 33 U.S.C. § 1321(b)(8)*.

NOW, THEREFORE, PURSUANT TO Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FORTY-EIGHT THOUSAND EIGHT HUNDRED AND THREE DOLLARS (\$48,803)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CWA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after the Final Order, having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

Sept 26, 2019
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

In the Matter of:	:
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	:
Clearfield Emulsion Plant	:
88 Barrett Road	:
Woodland, Pennsylvania 16881	:
	:
Facility.	:
	:

CERTIFICATE OF SERVICE

I certify that on SEP 26 2019, the original and one (1) copy of the foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via Certified Mail, Return Receipt Requested, Postage Prepaid, to:

Kevin J. Garber, Esq.
Babst Calland
Two Gateway Center
Pittsburgh, PA 15222

Copies served via Hand Delivery or Inter-Office Mail to:

Mark Bolender
Sr. Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029

Dated: SEP 26 2019

Berwin Esposito
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBERS: 70171450 0000 2083 9250