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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the matter of:)	
)	DOCKET NO. CWA-10-2000-0139
GARDNER OIL COMPANY)	
)	CONSENT AGREEMENT AND FINAL
)	ORDER
)	
)	
Respondent.)	
_____)	

I. AUTHORITY

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6). The Administrator has delegated the authority to issue the Final Order contained in Part IV of this CAFO to the Regional Administrator of EPA, Region 10.

2. In accordance with Section 22.18 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Part 22”), EPA hereby issues, and Respondent Gardner Oil Company (“Respondent”) hereby agrees to issuance of, the Final Order contained in Part IV of this CAFO.

II. PRELIMINARY STATEMENT

3. On June 27, 2000, EPA initiated this proceeding against Respondent pursuant to

Section 311(b)(6) of the CWA, 33 U.S.C. § 1319(b)(6), by filing an administrative Complaint.

4. The Complaint alleged that Respondent's violations of the CWA had subjected Respondent to penalties and proposed that Respondent be assessed an administrative civil penalty of \$11,000.

5. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference.

6. In accordance with Section 311(b)(6)(C) of the CWA, 33 U.S.C. § 1321(b)(6)(C), and 40 C.F.R. § 22.38(b), EPA has issued a public notice to inform the public of its intent to assess administrative penalties against Respondent and to invite public comment. EPA has received no public comments on this proceeding.

III. CONSENT AGREEMENT

The parties to this action hereby stipulate as follows:

7. Respondent admits the jurisdictional allegations of the Complaint.
8. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.
9. Respondent expressly waives any rights to contest the allegations and to appeal the Final Order contained herein.
10. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.
11. Except as provided in Paragraph 17 below, each party shall bear its own costs in bringing or defending this action.

12. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is in the amount of SEVEN THOUSAND SEVEN HUNDRED DOLLARS (\$7,700.00). This penalty amount has been agreed upon in consideration of the statutory penalty factors identified in Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8).

13. Respondent consents to the issuance of the Final Order recited herein and to payment of the penalty cited in the foregoing paragraph within thirty (30) days of the effective date of the Final Order.

14. Pursuant to 40 C.F.R. § 22.38(d), Payment under this CAFO shall be made by cashier's check or certified check, payable to the "Oil Spill Liability Trust Fund" and shall be mailed to the following address:

Commander, National Pollution Funds Center
United States Coast Guard
Ballston Common Office Building, Suite 1000
4200 Wilson Boulevard
Arlington, VA 22203.

Respondent shall note on the check the title and docket number of this case.

15. Respondent shall provide photocopies of the check to the Regional Hearing Clerk and Complainant at the following two addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Stop ORC-158
Seattle, Washington 98101

Office of Environmental Cleanup
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Stop ECL-116
Seattle, Washington 98101
attn: Mary Matthews

16. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of the penalty and accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to an administrative action to collect payment under the federal Debt Collection Act of 1982, as amended, or to a civil action to collect the assessed penalty under the CWA. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

17. Should Respondent fail to pay any portion of the penalty assessed by this CAFO in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of the Final Order contained herein.


b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than thirty (30) days past due.

c. Attorney Fees, Collection Costs, Nonpayment Penalty. Pursuant to

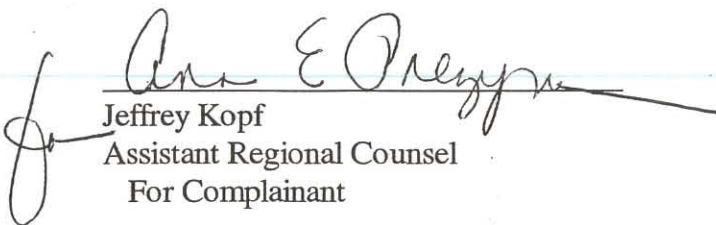
Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), should Respondent fail to pay on a timely basis the amount of the penalty assessed by the Final Order contained herein, Respondent shall pay (in addition to any assessed penalty, interest, and monthly handling charges) attorney fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

18. The penalty described above represents a civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

STIPULATED AND AGREED this 11 day of August, 2000:


Gordon Gardner, Jr.
For Respondent

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10


Jeffrey Kopf
Assistant Regional Counsel
For Complainant


IV. FINAL ORDER

19. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of settlement.

20. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the particular violations alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations and permits issued thereunder.

21. This Final Order shall become effective upon filing.

SO ORDERED this 18th day of August, 2000.



CHARLES E. FINDLEY, Acting Regional Administrator
U.S. Environmental Protection Agency, Region 10

CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement and Final Order" was sent to the following persons, in the manner specified, on the date below:

Original and one copy, hand-delivered:

Mary Shillcutt, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Stop ORC-158
Seattle, Washington 98101

A true and correct copy, by certified mail, return receipt requested:

Gordon Gardner, Jr.
Gardner Oil Company
P.O. Box 107
Oakesdale, WA 99158

Dated:

9/16/00



U.S. EPA Region 10