

RECEIVED
JUN 25 PM 2:16

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:	:	
	:	
	:	
Compass Energy, Inc.	:	Proceeding under Section 311(c) of the
1014 S. Central Avenue	:	Clean Water Act, as amended, 33 U.S.C.
Laurel, DE 19956,	:	§ 1321(c)
	:	
Respondent.	:	
	:	Docket No. CWA-03-2018-0009CW
	:	
10 th and Wolfe Streets	:	
Laurel, DE 19956,	:	
	:	
Facility.	:	
	:	
	:	

ADMINISTRATIVE ORDER ON CONSENT

The parties to this Administrative Order on Consent ("Consent Order"), the United States Environmental Protection Agency ("EPA") and Compass Energy, Inc. ("Compass Energy" or "Respondent"), having agreed to entry of this Consent Order, it is therefore Ordered and Agreed that:

I. Jurisdiction and General Provisions

1. This Consent Order is issued to Respondent pursuant to the authority vested in the President of the United States by Section 311(c) of the Federal Water Pollution Control Act ("Clean Water Act" or "CWA"), as amended, 33 U.S.C. § 1321(c), and the authority vested in the Administrator of EPA by Executive Order 12777 (56 Fed. Reg. 54757, October 22, 1991). These authorities were delegated to the Regional Administrator of EPA Region III on January 19, 1993 (and updated on October 25, 2016) by Delegation No. 2-89. These authorities were further delegated by the Regional Administrator to the Director of the Hazardous Site Cleanup Division on September 1, 2005 by Regional Delegation No. 2-89.
2. EPA and Respondent acknowledge that this Consent Order requires the performance of actions to ensure the mitigation or prevention of a substantial threat of a discharge of oil within the meaning of Section 311(c)(1)(A) of the CWA, 33 U.S.C. § 1321(c)(1)(A), from Respondent's facility located at the intersection of 10th Street and Wolfe Street, Laurel, DE 19956 (hereafter, known as "the Facility" or "Tank Farm").

3. All terms and conditions of this Consent Order, including any modifications hereto, are required by this Consent Order. Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order and to comply with all such terms and conditions as set forth herein.
4. In executing this Consent Order, Respondent neither admits nor denies liability, and neither admits nor denies **EPA's Findings of Fact and EPA's Conclusions of Law and Determinations** set forth in Sections IV and V of this Consent Order. Respondent acknowledges EPA's authority to issue this Consent Order and consents to its terms. Respondent further agrees that in any proceeding to enforce this Consent Order, it will not contest **EPA's Findings of Fact and EPA's Conclusions of Law and Determinations** set forth in Sections IV and V of this Consent Order, respectively, EPA's authority or jurisdiction to issue or to enforce this Consent Order, the basis or validity of this Consent Order, or its terms.
5. The purpose of this Consent Order is to require Respondent to perform the actions described herein as authorized by Section 311(c) of the CWA, 33 U.S.C. § 1321(c), in order to mitigate and prevent a substantial threat of discharge of oil from the Facility into the navigable waters of the United States or on its adjoining shorelines.

II. Statutory and Regulatory Background

6. Congress enacted the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, in 1972. 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 to prevent discharges of oil and hazardous substances from vessels and onshore facilities, and to contain such discharges.
7. Pursuant to its delegated authority under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), EPA promulgated the Oil Pollution Prevention Regulations, codified at 40 C.F.R. Part 112, Subparts A through C (hereinafter, "Spill Prevention, Control, and Countermeasure Regulations" or "SPCC Regulations").
8. The SPCC Regulations, 40 C.F.R. Part 112, establish the procedures, methods, and requirements necessary to prevent the discharge of oil from facilities into or upon the navigable waters of the United States and adjoining shorelines in such quantities that may be harmful to the public health or welfare or the environment.
9. The SPCC 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 and 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. Certain facilities are exempt from the SPCC regulations, including facilities with an

aggregate above-ground oil storage capacity of 1,320 gallons or less or completely-buried oil storage capacity of 42,000 gallons or less. 40 C.F.R. § 112.1(d).

III. Definitions

10. "Adjoining shorelines" shall mean the area of land from which, absent intervention, oil may reach a navigable water of the United States.
11. "Calendar Days" or "days" as used in this Consent Order shall mean every day of the week, including Saturdays, Sundays and federal holidays.
12. "CWA" shall mean the Federal Water Pollution Control Act, as amended, commonly referred to as the Clean Water Act, 33 U.S.C. §§ 1251-1387.
13. "Discharge" as used in this Consent Order shall have the meaning set forth in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2), and 40 C.F.R. §§ 112.2 and 300.5.
14. "Effective Date" shall have the meaning as set forth in Section XII, below.
15. "Facility" as used in this Consent Order shall mean Respondent's facility located at the intersection of 10th Street and Wolfe Street, Laurel, DE 19956, and shall have the meaning set forth in Section 311(a)(10) of the CWA, 33 U.S.C § 1321(a)(10), and 40 C.F.R. § 112.2, and in Section 1001(24) of the Oil Pollution Act ("OPA"), 33 U.S.C § 2701(24).
16. "Tank Farm" refers to the Facility, which consists of a 24,000-gallon above-ground heating oil storage tank, an 18,000-gallon above-ground kerosene oil storage tank, an 8,000-gallon above-ground storage tank, an unloading area, and a loading rack. The Tank Farm's total above-ground oil-storage capacity is approximately 50,000 gallons.
17. "National Contingency Plan" or "NCP" as used in this Consent Order shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300, including, but not limited to, any amendments thereto.
18. "Navigable water(s)" as used in this Consent Order shall have the meaning set forth in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
19. "Oil" as used in this Consent Order shall have the meaning set forth in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. §§ 112.2 and 300.5.
20. "OPA" shall mean the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701-2762.
21. "Consent Order" shall mean this Administrative Order on Consent, Docket Number CWA-03-2018-0009CW, as set forth herein, and all attachments hereto.

22. "Permanently closed" with respect to any container, including tanks, shall mean: (1) all liquid and sludge have been removed from each container and connecting line; and (2) all connecting lines and piping have been disconnected from the container and blanked off, all valves (except for ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that is a permanently closed container and noting the date of closure. 40 C.F.R. § 112.2.
23. "Work" shall mean all the requirements of this Consent Order and any modifications thereto.
24. All terms not defined herein shall have the meanings set forth in the CWA or 40 C.F.R. Part 112.

IV. EPA's Findings of Fact

25. Respondent owns and operates the Tank Farm located at the intersection of 10th Street and Wolfe Street, Laurel, DE 19956.
26. Compass Energy purchased the Facility on September 2, 2014.
27. EPA conducted an inspection of the Facility on November 30, 2016 (hereinafter, "Inspection") at which time EPA inspectors observed two tanks at the Tank Farm used to store heating oil and kerosene in connection with Respondent's operations.
28. The two tanks located at the Tank Farm have a capacity to hold 24,000 gallons and 18,000 gallons, respectively.
29. During the Inspection, EPA inspectors also observed an 8,000-gallon above-ground storage tank on the ground, which appeared disconnected and empty ("8,000-gallon tank"). Respondent asserted the 8,000-gallon tank had never been used; however, EPA inspectors observed that locks were not apparent on all non-ventilation valves and the 8,000-gallon tank did not have a conspicuous sign on it indicating that the tank was a permanently closed container and noting the date of the closure.
30. According to information provided to EPA by Respondent, the Tank Farm has an aggregate above-ground oil storage capacity of 50,000 gallons.
31. The Tank Farm is located approximately half a mile to the east of Little Creek, a tributary of Broad Creek, which is a tributary to the Nanticoke River.
32. A stormwater drain is located on the edge of 10th Street, approximately 25 feet from the Tank Farm's 18,000-gallon and 24,000-gallon storage tanks. EPA inspectors observed a seal next to the drain which states "drains to waterways."

33. The storm drain empties into Rossakatum Branch, a tributary of Broad Creek, which, in turn, empties into the Nanticoke River
34. The waters of Broad Creek have been designated as waters of exceptional recreational or ecological significance (“ERES”) under Title 7 of the Delaware Code of Regulations, Section 7401. Waters designated as ERES waters are defined as important, unique, or sensitive from a recreational and/or ecological perspective, but which may or may not have excellent water quality, and shall normally have regional significance with respect to recreational use (fishing, swimming and boating), or have significant or widespread riverine, riparian, or wetland natural areas. 7 Del. Code Ann. § 7401-2.
35. The Nanticoke River is a tidal river running through the Delmarva Peninsula from Kent County, Delaware to the Chesapeake Bay. The Nanticoke River was historically used as a means for exploration and trade, and is frequently traversed by eco-tourists and others recreating in boats, kayaks, and other watercrafts such that it has been and is presently used as “[a] highway[] for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on the water.” The Daniel Ball, 77 U.S. 557, 563 (1870).
36. During the Inspection, EPA identified the following failures to comply with the SPCC Regulations:
 - a) The SPCC Regulations provide that the owner or operator of an onshore or offshore facility must prepare in writing and implement an SPCC plan in accordance with § 112.7 and any other applicable section. 40 C.F.R. § 112.3. For a facility that becomes operational after November 10, 2011, the owner or operator must prepare and implement a plan before operations begin. Id. at § 112.3(a)(1). A licensed Professional Engineer must review and certify a plan for it to be effective to satisfy the requirements. Id. at § 112.3(d). Respondent has owned and operated the Tank Farm since September 2014. During the Inspection, Respondent presented a 5-page document entitled “Laurel Petroleum Plan for Spill Protection” (“Lauren Petroleum Plan”), which included a title page, a page providing some spill response instructions, a page with a hand-drawn diagram of the Facility, a page with four emergency telephone contacts, and a page with part of a 1986 letter from Exxon Company to Laurel Petroleum explaining terms included in Material Safety Data Sheets, without including the Material Safety Data Sheets themselves. The Laurel Petroleum Plan includes some countermeasures for discharge discovery, response, and cleanup, as required under 40 C.F.R. § 112.7(a)(3)(iv); however, EPA inspectors determined that the 5-page document does not otherwise provide information to satisfy the requirements of 40 C.F.R. § 112.7 and other applicable sections, as required of SPCC plans under 40 C.F.R. § 112.3, and, therefore, does not constitute an SPCC plan. Therefore, Respondent has not prepared or implemented an SPCC Plan for the Facility.

- b) The SPCC Regulations provide that the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented must conduct inspections and tests in accordance with written procedures in the SPCC plan and keep records of inspections and tests for three years. See 40 C.F.R. § 112.7(e). At the time of the Inspection, Respondent could not produce any records to show that daily inspections or tests were conducted.
- c) The SPCC Regulations provide that the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented must train oil-handling personnel in operation and maintenance of equipment to prevent discharges, discharge procedure protocols, applicable pollution control laws and regulations, general facility operations, the contents of the SPCC plan; the owner or operator must also conduct discharge prevention briefings for oil-handling personnel at least once a year to assure adequate understanding of the facility's SPCC plan. See 40 C.F.R. § 112.7(f). During the Inspection, Respondent indicated that it holds monthly safety meetings, but could not present any training materials or otherwise establish that oil-handling employees received adequate training regarding the Facility's operation and maintenance, discharge procedure protocols, applicable pollution control laws and regulations, general facility operations, or its SPCC plan at the monthly meetings.
- d) The SPCC Regulations provide that the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented must protect against oil spills from tank truck loading and unloading racks if present at a facility. See 40 C.F.R. § 112.7(h). Such protections include utilizing catchment basins designed to hold at least the maximum capacity of any single compartment of a tank car or tank truck loaded or unloaded at the facility and to handle quick drainage flow from the loading racks, utilizing interlocking warning signs or physical barriers to prevent vehicles from prematurely departing prior to complete disconnection of oil transfer lines, and utilizing an inspection system to ensure that tank trucks' drains and outlets are tightened or replaced to prevent liquid discharge while in transit. Id. At the time of the Inspection, Respondent's loading rack and unloading area at the Tank Farm did not include a containment system.
- e) The SPCC Regulations provide that the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented must construct all bulk storage tank installations with secondary containment to hold the entire capacity of the largest single container and have sufficient freeboard for precipitation. 40 C.F.R. § 112.8(c)(2). Diked areas must be sufficiently impervious to contain discharged oil. Id. EPA inspectors observed several large cracks in the containment walls surrounding the 24,000-gallon and 18,000-gallon tanks, with some estimated to be approximately half an inch wide. The secondary containment did not appear sufficiently impervious to contain discharged oil.

- f) The SPCC Regulations provide that the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented must have a qualified individual test or inspect each aboveground container for integrity on a regular schedule, in accordance with industry standards, and maintain records of the types and frequency of inspections and tests. See 40 C.F.R. § 112.8(c)(6). Additionally, the outside of containers must be frequently inspected for signs of deterioration or discharges, and container supports and foundations must be inspected. Id. At the time of the Inspection, Respondent had not established an integrity testing or inspection schedule, beyond informal daily walk-throughs at the Tank Farm, and Respondent was unable to produce records of regular inspections or integrity testing at the Tank Farm by a qualified individual in accordance with industry standards.
37. Based on the foregoing, the Director of the Hazardous Site Cleanup Division has determined that there is a substantial threat of a discharge of oil from the Tank Farm into or on the navigable waters or adjoining shorelines.

V. EPA's Conclusions of Law and Determinations

38. Respondent is a "person" as defined by Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7), and 40 C.F.R. §§ 112.2 and 300.5.
39. Compass Energy, Inc. is an "owner" and an "operator" of the Facility as those terms are defined by Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.
40. The Facility is an "onshore facility" as defined by Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. §§ 112.2 and 300.5.
41. Respondent's Facility is a "non-transportation-related facility" as defined by Appendix A to 40 C.F.R. Part 112, as incorporated by reference within 40 C.F.R. § 112.2.
42. "Oil," as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. §§ 112.2 and 300.5, in the form of kerosene and heating oil, is present at the Facility.
43. As of the date of Inspection, the 8,000-gallon tank was not "permanently closed," as defined by 40 C.F.R. § 112.2 and as set forth in Paragraph 22, above, and, therefore, was subject to the SPCC Regulations under 40 C.F.R. § 112.1(b)(3).
44. The Nanticoke River, as well as its tributaries, Little Creek and Broad Creek, are "navigable water[s]" of the United States as that term is defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 112.2 and 300.5.
45. A discharge of oil from the Facility into or upon the navigable waters of the United States and adjoining shorelines would be in a "harmful quantity," within the meaning of Section

311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), and 40 C.F.R. § 110.3(b), because the discharge would cause a sheen on the surface water of and a sludge or emulsion beneath the surface of Little Creek, Broad Creek, and/or the Nanticoke River or on their adjoining shorelines; thus, such a discharge of oil from the Facility would be in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

46. As the owner and operator of a non-transportation-related facility with an aggregate above-ground oil storage capacity that exceeds 1,320 gallons which, because of the Facility's 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, Respondent is subject to Section 311(j)(5) of the CWA and the SPCC regulations at 40 C.F.R. Part 112.
47. As evidenced by the lack of compliance with the SPCC Regulations identified by EPA during the Inspection and as detailed in Paragraph 36, above, there is a substantial threat of a discharge of oil from the Facility into the navigable waters of the United States or upon its adjoining shorelines, as set forth in Section 311(c)(1)(A) of the CWA, 33 U.S.C. § 1321(c)(1)(A).

VI. Work to be Performed

48. Based upon **EPA's Findings of Fact** and **EPA's Conclusions of Law and Determinations** set forth in Sections IV and V, above, EPA hereby **Orders** Respondent to perform the actions set forth in this Consent Order, and Respondent agrees to perform such actions in accordance with the schedules, terms, and conditions set forth below.
 - a. Within ten (10) calendar days from the Effective Date of this Consent Order, Respondent shall submit to EPA the name and qualifications/resume of an independent consultant with sufficient qualifications and experience to evaluate the condition of each above-ground oil storage tank at the Facility, in accordance with applicable industry standards and professional judgment, and develop a schedule and method to regularly test or inspect the Facility's above-ground oil storage tanks consistent with 40 C.F.R. § 112.8(c)(6). The regular schedule and integrity testing or inspection method shall be included in the SPCC plan required to be prepared in writing and implemented by 40 C.F.R. § 112.3, and by Paragraph 48.c, below. EPA shall review the resume of the proposed consultant for acceptability and notify Respondent in writing of EPA's determination. If any proposed consultant is deemed unacceptable by EPA, Respondent will submit the name and qualifications of another proposed consultant within seven (7) calendar days of receiving EPA's determination.
 - b. Within ten (10) calendar days from the Effective Date of this Order, Respondent shall also submit to EPA the name and license number of a licensed Professional Engineer that Respondent proposes to hire to review and certify the SPCC plan for the Facility, in accordance with 40 C.F.R. § 112.3 and as required to be submitted to EPA in accordance with Paragraph 48.c, below. The licensed Professional Engineer may be

the same person as the consultant required by Paragraph 48.a, above. EPA shall review the name and license number of the proposed licensed Professional Engineer for acceptability and notify Respondent in writing of EPA's determination. If the Professional Engineer is deemed unacceptable by EPA, Respondent will submit the name and qualifications of another proposed licensed Professional Engineer within seven (7) calendar days of receiving EPA's determination.

- c. Within one hundred and eighty (180) calendar days from the Effective Date of this Order, Respondent shall submit it to EPA for its review an SPCC plan for the Facility, reviewed and certified by the licensed, EPA-accepted Professional Engineer, and written in accordance with 40 C.F.R. § 112.7 and any other applicable section of Part 112.
- d. Within one hundred and eighty (180) calendar days from the Effective Date of this Order, Respondent shall also submit to EPA a schedule to implement the SPCC Plan and come into compliance with the SPCC Regulations ("Work Plan and Schedule"). The Work Plan and Schedule shall specifically include, but not be limited to, the following tasks which shall also be identified in the SPCC plan:
 1. Ensure that secondary containment of bulk storage tank installations have capacity to hold the entire contents of the largest tank plus sufficient freeboard for precipitation and are sufficiently impervious to contain oil by directing the licensed, EPA-accepted Professional Engineer to complete an inspection. If necessary, as determined by the licensed Professional Engineer, construct or repair secondary containment for the Tank Farm in accordance with the SPCC plan and 40 C.F.R. § 112.8(c)(2).
 2. Conduct integrity testing or inspection of the Facility's above-ground oil storage tanks, on a schedule determined by an EPA-accepted, qualified independent consultant.
 3. Conduct routine inspections at the Facility, on a schedule determined by Respondent or an EPA-accepted certified engineer.
 4. Conduct adequate initial training for oil-handling personnel and hold annual discharge prevention briefings for oil-handling personnel.
- e. EPA will review the Work Plan and Schedule submitted pursuant to Paragraph 48.d, and either approve it or direct Respondent to make changes and resubmit the Work Plan and Schedule within thirty (30) days.
- f. Within sixty (60) calendar days of receipt of EPA's written approval of Work Plan and Schedule, submitted pursuant to Paragraph 48.e, Respondent shall commence

implementation of the EPA-approved Work Plan and thereafter complete the Work Plan in accordance with the EPA-approved Schedule.

- g. Within sixty (60) calendar days after completing the work required by Paragraph 48.f. above, Respondent shall submit to EPA, for EPA's approval, a written report describing how Respondent has implemented the SPCC plan (e.g., itemizing any changes Respondent has made to the Facility's infrastructure and procedures in order to be in compliance with the SPCC plan) ("Completion Report"). The Completion Report shall also include a detailed agenda for the training of oil-handling personnel and for the annual discharge prevention briefing for oil-handling personnel, to demonstrate that Respondent has satisfied 40 C.F.R. § 112.7(f) by, at a minimum, training oil-handling personnel in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general Facility operations; and the contents of the Facility SPCC plan. The Completion Report, with the following certification, shall be signed by a responsible official of Respondent:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

EPA will review the Completion Report and will either approve it in writing or identify deficiencies in writing ("Notice of Completion Report Deficiencies") and direct Respondent to correct and/or re-perform all work disapproved by EPA and resubmit the report for EPA approval within sixty (60) days of receiving the Notice of Completion Report Deficiencies.

49. Any notice, report, plan, certification, data presentation or other document submitted by Respondent under or pursuant to this Consent Order which discusses, describes, demonstrates or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirement(s) of this Consent Order shall be certified by a responsible official of Respondent. The term "responsible official" means: (i) the president, secretary or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The

responsible official of a partnership or sole proprietorship means the general partners or the proprietor, respectively.

50. Respondent shall provide EPA and its representatives, including contractors and grantees, with access to the Facility for the purpose of assessing Respondent's compliance with this Order and with the CWA. Respondent shall also provide EPA and its representatives, including contractors and grantees, with access to all records relating to Respondent's implementation of this Consent Order. Respondent shall preserve all documents and information relating to the activities carried out pursuant to this Consent Order for six (6) years after completion of the work required by this Consent Order. At the end of the six-year period, Respondent shall notify EPA at least thirty (30) calendar days before any such document or information is destroyed and make such documents and information available for inspection by EPA. Upon request, Respondent shall provide EPA with copies of such documents and information.
51. All documents submitted by Respondent to EPA in the course of implementing this Consent Order shall be available to the public unless identified by Respondent as confidential and adequately substantiated at the time the assertion is made pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to require treatment as confidential business information in accordance with applicable law.
52. Documents, including plans, reports, and other correspondences required to be submitted to EPA under this Consent Order shall be sent by email to EPA's Project Coordinator, Arlín Galarza-Hernández, SPCC/FRP Inspector, at galarza-hernandez.arlin@epa.gov, with an electronic copy also sent by email to Lauren Ziegler, Assistant Regional Counsel, at ziegler.lauren@epa.gov.

In the event that EPA specifically requests a hard copy of any document required to be submitted to EPA under this Consent Order, Respondent shall also send a hard copy to:

Arlín Galarza-Hernández, SPCC/FRP Inspector
U.S. Environmental Protection Agency, Region III
Oil & Prevention Branch (3HS61)
1650 Arch Street
Philadelphia, Pennsylvania 19103
(215) 814-3223

53. Information required to be submitted to Respondent under this Consent Order must be sent or emailed to:

Andy Cannon
Compass Energy, Inc.
1014 S. Central Avenue
Laurel, DE 19956
andy@compassenergyinc.com

VII. Parties Bound

54. This Consent Order shall apply to and be binding upon Respondent and its agents, successors, and assigns. Neither a change in ownership or legal status of Respondent, nor a change in ownership or control of the Facility, shall in any way alter Respondent's obligations and responsibilities under this Consent Order.
55. In the event of any change of ownership or control of the Facility, Respondent shall notify EPA in writing at least thirty (30) calendar days in advance of such change and shall provide a copy of this Consent Order to the transferee-in-interest of the Facility prior to any agreement for transfer.

VIII. Failure to Perform

56. In the event of an inability or anticipated inability to perform any of the actions required by this Consent Order in the time and manner required herein, Respondent shall notify EPA as set forth in Paragraph 52, above, orally within twenty-four (24) hours of such event (or, if the event occurs on a Friday or Saturday, Sunday, or legal holiday, no later than the following business day) and in writing as soon as possible, but in no event more than three (3) calendar days after such action was due. Such notice shall set forth the reason(s) for, and the expected duration of, the inability to perform; the actions taken and to be taken by Respondent to avoid and mitigate the impact of such inability to perform; and the proposed schedule for completing such actions. Such notification shall not relieve Respondent of any obligation of this Consent Order. Respondent shall take all reasonable actions to prevent and minimize any delay.
57. Failure by Respondent to carry out any requirement of this Consent Order in accordance with the terms and conditions specified herein may result in the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law. Respondent reserves all rights, claims and defenses to respond to any enforcement by EPA pursuant to this paragraph or under any authority, except that Respondent shall not contest EPA's authority to enforce this Consent Order, as set forth in Paragraph 4 above.
58. Nothing in this Section VIII or any other provision of this Consent Order shall be construed to limit any powers EPA may have under the CWA or any other law or regulation, nor shall they be construed to limit any defenses that Respondent may have under the CWA or otherwise.

IX. Reservation of Rights

59. EPA reserves all rights, claims, interests, and defenses it otherwise may have, including but not limited to, the right to pursue penalties for noncompliance. Nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Consent Order, including the right to seek injunctive relief and/or the imposition of statutory penalties. Further, nothing in this Consent Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against Respondent or any third parties with regard to the Facility pursuant to any federal or state law, regulation or permit condition. Nothing in this Consent Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against Respondent for Respondent's failure to comply with any of the requirements of this Consent Order.
60. Nothing herein affects the requirement that Respondent comply with all applicable federal, state, and local laws, regulations and other legal requirements, including but not limited to the applicable provisions in 40 C.F.R. Part 112.
61. Neither EPA nor the United States, by issuance of this Consent Order, assumes any liability for any acts or omissions by the Respondent, or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Consent Order, nor shall EPA or the United States be held out as a party to any contract entered into by the Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Consent Order.
62. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules or other submissions by the Respondent or the requirements of this Consent Order will be construed as relieving the Respondent of its obligation to obtain formal approval by EPA when required by this Consent Order, and to comply with the requirements of this Consent Order unless formally modified.
63. Nothing in this Consent Order shall constitute or be construed to be an admission of liability or wrongdoing or an admission of law or fact by Respondent. By entering into this Consent Order, the Respondent does not admit or deny any factual, legal or liability determinations express or implied. Respondent reserves all rights and defenses available regarding liability or responsibility in any proceeding regarding the Respondent other than proceedings, including administrative or civil, to enforce this Consent Order.

X. Severability

64. If any provision or authority of this Consent Order, or the application of this Consent Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Consent Order shall remain in full force and not be effected thereby.

XI. Notice of Termination

65. When EPA determines, after EPA's review and approval of the Completion Report required pursuant to Paragraphs 48.g, that the Work specified in this Consent Order has been fully performed, with the exception of any continuing obligations required by this Consent Order, EPA will provide Respondent a Notice of Termination.
66. Termination of this Consent Order shall not terminate Respondent's obligation to comply with any continuing obligations of any federal, state or local law, statute, ordinance, rule or regulation, and all continuing obligations shall continue as they did before the termination of the Consent Order.

XII. Effective Date and Subsequent Modification

67. This Consent Order shall be effective upon receipt by Respondent of a fully executed copy of the Consent Order ("Effective Date").
68. Any reports, plans, specifications, schedules, or other submissions required by this Consent Order are, upon approval by EPA, incorporated into this Consent Order. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Consent Order.
69. This Consent Order may be modified or amended by mutual agreement of EPA and the Respondent in a writing executed by the Director of the Hazardous Site Cleanup Division and Respondent. Such modifications or amendments shall be effective on the date they are fully executed by the Director of the Hazardous Site Cleanup Division or such other date as set by the Director of the Hazardous Site Cleanup Division. Minor modifications to the Consent Order and/or schedule thereto may be approved in writing by EPA's assigned Project Coordinator; in order to memorialize the agreed-upon minor modification(s) in writing and demonstrate the parties' mutual agreement, EPA's Project Coordinator and Respondent's Project Coordinator shall correspond by electronic mail to specify the desired minor modification and express the parties' mutual assent.

FOR U.S ENVIRONMENTAL PROTECTION AGENCY:

BY: 
Karen Melvin, Director
Hazardous Site Cleanup Division
U.S. Environmental Protection Agency, Region III

DATE: OCT 25 2017

FOR COMPASS ENERGY, INC.:

BY: Andy Cannon
Andy Cannon, President
Compass Energy, Inc.

DATE: 10.4.17

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

RECEIVED

2017 OCT 25 PM 2:16

In the Matter of: :
: :
: :
Compass Energy, Inc. : **Proceeding under Section 311(c) of the**
1014 S. Central Avenue : **Clean Water Act, as amended, 33 U.S.C.**
Laurel, DE 19956, : **§ 1321(c)**
: :
Respondent. : :
: **Docket No. CWA-03-2018-0009CW**
: :
10th and Wolfe Streets : :
Laurel, DE 19956, : :
: :
Facility. : :
: :
_____ :

CERTIFICATE OF SERVICE

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

Chad Lingenfelder, Esq.
The Smith Firm, LLC
8866 Riverside Drive
Seaford, DE 19973

I further certify that I have sent a pdf copy of the AOC by email to Respondent's counsel, Chad Lingenfelder, at lingenfelder@vslegal.net on this day.

10/25/17
Date


Lauren E. Ziegler
Assistant Regional Counsel