

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Cynthia T Weiss 9/2/10
Name of Contact person Date

in the ORC at (215)814-2659
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment
Willison Oil, Inc.

The Total Dollar Amount of Receivable \$12,570.81

The Case Docket Number CWA-03-2010-0357
(If in installments, attach schedule of amounts and respective due dates)

The Site-Specific Superfund Acct. Number —
The Designated Regional/HQ Program Office HSCD

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____
If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005
- 2. Originating Office (ORC)
- 3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- 1. Originating Office
- 2. Designated Program Office
- 3. Regional Hearing Clerk
- 3. Regional Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

U.S. Coast Guard
Finance Center (OGR)
1430 Kristina Way
Chesapeake, VA 23326

**Re: In the Matter of Willison Oil, Inc.
U.S. EPA Docket No. CWA-03-2010-0357
Consent Agreement/Final Order**

Dear Sir/Madam:

Enclosed please find an Enforcement Accounts Receivable Control Number Form, a copy of a signed Consent Agreement/Final Order, and a Certificate of Service, for the above-referenced matter.

Sincerely,

A handwritten signature in black ink that reads "Cynthia T. Weiss".

Cynthia T. Weiss
Senior Assistant Regional Counsel

Enclosures

cc: Regional Hearing Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

In The Matter of:	:	CONSENT AGREEMENT
	:	
Willison Oil Inc.	:	PROCEEDING UNDER SECTION 311
12900 Ali Ghan Road Northeast	:	OF THE CLEAN WATER ACT, AS
Cumberland, Maryland 21502,	:	AMENDED, TO ASSESS A CLASS I
	:	CIVIL PENALTY FOR SPCC
	:	VIOLATIONS
	:	
Respondent	:	Docket No. CWA-03-2010-0357

CONSENT AGREEMENT

1. This Consent Agreement (“CA”) is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(ii) of the Clean Water Act, as amended, (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(ii) and under the authority provided by Section 22.18(b) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation Termination or Suspension of Permits” (“Part 22 Rules”), 40 C.F.R. Part 22. The Administrator has delegated this authority to the Regional Administrator of EPA, Region III, who in turn has delegated it to the Director of the Region’s Hazardous Site Cleanup Division (“Complainant”).
2. The parties agree to the commencement and conclusion of this cause of action by issuance of this CA and Final Order (“FO”), which are collectively referred to as the “CA/FO”, as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.
3. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA/FO.
4. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 3, above.
5. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution and issuance of this CA/FO, or the enforcement of the CA/FO.
6. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.

7. Respondent consents to the issuance of this CA/FO and agrees to comply with its terms.
8. Respondent shall bear its own costs and attorneys fees.

Findings of Fact and Conclusions of Law

9. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil... from onshore facilities...and to contain such discharges”
10. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.
11. EPA subsequently promulgated the Spill Prevention, Control and Countermeasure (“SPCC”) regulations (“SPCC regulations”) which are codified at 40 C.F.R. Part 112 Subparts A, B, and C, pursuant to the delegated statutory authorities referred to above, and pursuant to its authorities under the CWA, which established certain procedures, methods and requirements upon each owner and operator of a non-transportation-related onshore facility if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as EPA has determined in 40 C.F.R. § 110.3 may be harmful to the public health or welfare or the environment of the United States (“harmful quantity”).
12. Respondent is a corporation organized under the laws of Maryland, with a place of business located at 12900 Ali Ghan Road Northeast in Cumberland, Maryland. 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 CFR § 112.2.
13. Respondent is engaged in storing, transferring, or distributing oil or oil products located at an onshore bulk oil storage facility located at 12900 Ali Ghan Road Northeast in Cumberland, Maryland (“the Facility”).
14. The Facility is located approximately 50 feet from Evitts Creek, which is a drinking water supply for Cumberland, Maryland.
15. Evitts Creek is a tributary of the Potomac River, which is a navigable water of the United States, and therefore, Evitts Creek is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 112.2.

16. The Facility has a total oil storage capacity of greater than or equal to 82,620 gallons.
17. Respondent is the owner and operator of the Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 CFR § 112.2.
18. 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 CFR § 112.2.
19. The Facility is a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity (“an SPCC-regulated facility”) within the meaning of 40 C.F.R. Part 112.
20. Respondent began operating the Facility in approximately 1960.
21. Pursuant to Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C) and 40 C.F.R. § 112.1 Respondent, as the owner and operator of an SPCC-regulated facility, is subject to the SPCC regulations.
22. EPA conducted a compliance inspection at the Facility on April 9, 2008 (“the Inspection”).
23. During the Inspection, EPA reviewed the Facility’s SPCC Plan, dated February 13, 2006.

COUNT I

(Failure to Prepare, Certify and Implement An SPCC Plan)

24. 40 C.F.R. § 112.3 requires the owner or operator of a facility for which an SPCC Plan is required to prepare, certify and implement an SPCC Plan that contains a discussion of the facility’s conformance with all of the SPCC regulations codified at 40 C.F.R. Part 112.
25. On December 8, 2008, EPA determined, based on the Inspection and its review of documentation provided by Respondent, that Respondent had prepared an SPCC Plan that was not in accordance with 40 C.F.R. § 112.7.
26. 40 C.F.R. § 112.7(e)(2)(viii) requires an SPCC Plan to contain a discussion of the system to determine the liquid level of each bulk storage container present at the Facility.
27. Respondent’s SPCC Plan did not address or provide a complete and adequate discussion of the system to determine the liquid level of each bulk storage container in accordance with 40 C.F.R. § 112.7(e)(2)(viii), and Respondent is therefore in violation of the requirements of 40 C.F.R. § 112.3.

28. 40 C.F.R. § 112.7(e)(4) requires an SPCC Plan to contain a discussion of tank truck loading/unloading racks.
29. Respondent's SPCC Plan did not address or provide a complete and adequate discussion of the loading/unloading rack adjoining the Facility's warehouse in accordance with 40 C.F.R. § 112.7(e)(4), and Respondent is therefore in violation of the requirements of 40 C.F.R. § 112.3.

Penalty

30. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondent agrees to pay a civil penalty of \$12,570.81. The civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CA/FO. Respondent must pay the civil penalty no later than THIRTY (30) CALENDAR DAYS after the date on which this CA/FO is mailed or hand-delivered to Respondent.
31. The proposed penalty was calculated after consideration of the applicable statutory penalty factors in Section 311(b)(8) of the CWA, 33 U.S.C. §1321(b)(8), including the seriousness of the violation; the nature, extent, and degree of success of the respondent's mitigation efforts; and other matters as justice may require.

Payment Terms

32. Payment shall be made by a cashier's or certified check, or by an electronic funds transfer ("EFT").
 - a. 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 paying by check, Respondent shall note on the penalty payment check the title and docket number (CWA-03-2010-0357) of this case.
 - b. 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
 - c. If Respondent sends payment by a private delivery service, the payment shall be addressed to:

U.S. Environmental Protection Agency
U.S. Bank

1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Attn: Natalie Pearson (314/418-4087)

- d. If paying by EFT, the Respondent shall make the transfer to:

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

- e. If paying by EFT, field tag 4200 of the Fedwire message shall read: "(D 68010727 Environmental Protection Agency)." In the case of an international transfer of funds, the Respondent shall use SWIFT address FRNYUS33.

- f. If paying through the Department of Treasury's Online Payment system, please access "www.pay.gov," enter sfo 1.1 in the search field. Open the form and complete the required fields and make payments. Note that the type of payment is "civil penalty," the docket number "CWA-03-2010-0357" should be included in the "Court Order # or Bill #" field and "3" should be included as the Region number.

33. 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 persons:

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

Cynthia T. Weiss
Senior Assistant Regional Counsel
(3RC42)
U.S. Environmental Protection Agency,
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

34. Failure by Respondent to pay the penalty assessed by the Final Order in full by due date set forth herein 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 CWA, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

Certification of Compliance

35. Within thirty (30) days of the Effective Date, Respondent shall submit to Cynthia T. Weiss, Senior Assistant Regional Counsel (at the address listed in Paragraph 33), a Certification of Compliance stating that it is in compliance with the statutory requirements for each violation alleged in this CA. The Certification of Compliance must include the following language:

Except as provided below, I certify that the information contained in or accompanying this Certification of Compliance is true, accurate and complete. As to (the/those) portion(s) of this Certification of Compliance, for which I cannot personally verify (its/their) accuracy, I certify under the penalty of law that this Certification of Compliance and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: _____

Name(print): _____

Title: _____

General Provisions

36. The undersigned officer of Respondent represents and warrants that he or she has the authority to bind the Respondent, and its successors or assigns.
37. The provisions of the FO, if issued, shall be binding upon Respondent and Respondent's successors or assigns.
38. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 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 applicable 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 and facts alleged in this CA.
39. As used in this CA, the term "Effective Date" shall mean the date on which the Final Order is filed with the Regional Hearing Clerk.

For the Respondent:

Willison Oil, Inc.

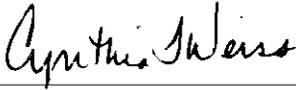
Date: 8/5/2010

By: 
Robert S. McIntyre, President

For the Complainant:

U.S. Environmental Protection Agency
Region III

Date: 8/12/10

By: 
Cynthia T. Weiss
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, Hazardous Site Cleanup Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: August 26, 2010

By: 
Ronald J. Borsellino, Director
Hazardous Site Cleanup Division
EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

In The Matter of:	:	FINAL ORDER
	:	
	:	
Willison Oil, Inc.	:	PROCEEDING UNDER SECTION 311
12900 Ali Ghan Road Northeast	:	OF THE CLEAN WATER ACT, AS
Cumberland, Maryland 21502	:	AMENDED, TO ASSESS A CLASS I
	:	CIVIL PENALTY FOR SPCC
	:	VIOLATIONS
	:	
Respondent.	:	Docket No. CWA-03-2010-0357
	:	

FINAL ORDER

Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. §1321(b)(6), and in accordance with 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,” codified at 40 CFR Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.

Nothing in the foregoing Consent Agreement relieves Respondent from otherwise complying with the applicable requirements set forth in the CWA.

Respondent is ordered to comply with the terms of the foregoing Consent Agreement.

Date: 9/2/10


Renée Sarajian
Regional Judicial Officer/Presiding Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SEP 10 2010
PHILADELPHIA, PA

In The Matter of: : **CONSENT AGREEMENT**
: :
: :
Willison Oil Inc. : **PROCEEDING UNDER SECTION 311**
12900 Ali Ghan Road Northeast : **OF THE CLEAN WATER ACT, AS**
Cumberland, Maryland 21502, : **AMENDED, TO ASSESS A CLASS I**
: **CIVIL PENALTY FOR SPCC**
: **VIOLATIONS**
: :
Respondent : **Docket No. CWA-03-2010-0357**
: :
_____ :

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent to:

Via certified mail, return receipt requested

Robert S. McIntyre, President
Willison Oil, Inc.
12900 Ali Ghan Road Northeast
Cumberland, Maryland 21502

9/2/2010
Date



Cynthia T. Weiss (3RC42)
Senior Assistant Regional Counsel