

FILED

October 20, 2025

9:11AM

**U.S. EPA REGION 7
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	Docket No. CWA-07-2025-0228
ContiTech USA, LLC,	)	
	)	Consent Agreement and Final
Respondent.	)	
	)	
Proceedings under Section 311(b)(6) of	)	
the Clean Water Act, 33 U.S.C.	)	
§ 1321(b)(6).	)	

COMPLAINT

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Sections 311(b)(6) of the Clean Water Act (CWA or the Act), 33 U.S.C. § 1321(b)(6), as amended by the Oil Pollution Act of 1990, and 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), 40 C.F.R. Part 22.

2. The United States Environmental Protection Agency, Region 7 (EPA or Complainant), and ContiTech USA, LLC (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

3. This Complaint and Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated Section 311(b)(3), 33 U.S.C. § 1321(b)(3) of the CWA.

Parties

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA, with concurrence by the Office of Regional Counsel.

5. Respondent is a limited liability company organized under the laws of Delaware with a place of business located at 4021 North 56th Street, Lincoln, Nebraska (the Facility). ContiTech USA, LLC is a rubber hosing and belting manufacturer.

Statutory and Regulatory Framework

6. The objective of the CWA, 33 U.S.C. § 1251 et seq., is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

7. Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil, as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), into or upon the navigable waters of the United States or adjoining shorelines in such quantities as may be harmful, as determined under Section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4).

8. In promulgating 40 C.F.R. § 110.3, which implements Section 311(b)(4) of the Act, EPA has determined that an oil discharge “may be harmful” to the public health or welfare or the environment of the United States if it causes either: (1) a violation of applicable water quality standards; (2) a film or sheen upon, or discoloration of the surface of the water or adjoining shorelines; or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

9. Section 311(b)(6)(A)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(A)(i), provides for the assessment of penalties for owners, operators, or persons in charge of onshore facilities from which oil or a hazardous substance is discharged in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

EPA’s Factual Allegations

10. On January 2, 2025, approximately 125 gallons of hydraulic oil was released from the Facility as a result of a mechanical failure of a portion of a heat exchanger at the Facility. This oil entered a cistern which discharges into a drainage ditch, then into a tributary of Salt Creek and adjoining shorelines causing a yellow sheen on the surface of the water and shorelines in violation of Section 311 of the Act.

11. Respondent notified state and federal authorities on January 3, 2025, NRC report #1420279, following the oil discharge.

12. Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7), defines “person” to include “an individual, firm, corporation, association, [or] partnership.” Respondent is therefore a “person” under the Act.

13. Respondent is the “owner or operator” of the Facility within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6).

14. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10) and 40 C.F.R. § 112.2.

15. The release of hydraulic oil from the Facility on January 2, 2025, constitutes a “discharge” as defined by Section 311(a)(2) of the Act, 33 U.S.C. § 1321(a)(2) of “oil,” as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1).

16. The tributary has at least seasonal flow and Salt Creek is a perennial stream that flows year-round.

17. The tributary and Salt Creek are “waters of the United States” as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7) and are therefore subject to the jurisdiction of Section 311 of the Act, 33 U.S.C. § 1321.

18. The January 2, 2025, release constitutes a discharge of oil that “may be harmful,” pursuant to 40 C.F.R. § 110.3.

19. Respondent’s discharge of oil into navigable waters of the U.S. caused a sheen upon or discoloration of the surface of the tributary of Salt Creek and the adjoining shoreline, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3 is a violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

Consent Agreement

20. Respondent and the EPA agree to the terms of this Consent Agreement and Final Order.

21. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Consent Agreement and Final Order and agrees not to contest the EPA’s jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement and Final Order.

22. Respondent neither admits nor denies the factual allegations asserted by the EPA in this Consent Agreement and Final Order.

23. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

24. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and agree to bear their own costs and attorney’s fees incurred as a result of this action.

25. The undersigned representative of Respondent certifies that they are fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

26. Respondent understands and agrees that this Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent’s agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other

persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

27. Respondent certifies by the signing of this Consent Agreement and Final Order that Respondent's Facility has returned to compliance the CWA, and applicable regulations.

Penalty

28. Pursuant to Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), as adjusted pursuant to 40 C.F.R. § 19.4, Respondent is liable for civil penalties of up to \$23,647 per day for each day during which the violation continues, up to a maximum of \$59,114.

29. EPA proposes, and Respondent consents to, the assessment of a civil penalty of \$18,800 for the violations of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3) alleged in this Consent Agreement and Final Order.

30. In agreeing to the penalty, EPA has considered the statutory penalty factors at Sections 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8).

31. Respondent agrees to pay a civil penalty in the amount of \$18,800 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

Penalty Payment

32. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

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

For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-07-2025-0228,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Amy Gonzales
Regional Hearing Clerk
U.S. Environmental Protection Agency Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

R7_Hearing_Clerk_Filings@epa.gov

and
U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

33. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts:

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS standard underpayment rate.
- b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of collection proceedings.
- c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

34. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal

Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

35. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

36. Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

- a. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable.
 - i. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
 - ii. Respondent shall certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
 - iii. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at sherrer.dana@epa.gov within 30 days after the Final

Order ratifying this Agreement is filed, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. The EPA recommends encrypting IRS Form W-9 email correspondence; and

- b. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN then Respondent shall provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email with Respondent's TIN within 5 days of Respondent's receipt of a TIN issued by the IRS.

Effect of Settlement and Reservation of Rights

37. Respondent's payment of the entire penalty pursuant to this Consent Agreement and Final Order resolves all civil and administrative claims pursuant to Section 311 of the CWA, 33 U.S.C. § 1321, for violations alleged in this Consent Agreement and Final Order. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.

38. The effect of settlement described above is conditioned upon the accuracy of the Respondent's representations to the EPA, as memorialized in this Consent Agreement and Final Order.

39. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

40. Notwithstanding any other provision of this Consent Agreement and Final Order, the EPA reserves the right to enforce the terms of this Consent Agreement and Final Order by initiating a judicial or administrative action pursuant to Section 311 of the CWA, 33 U.S.C. § 1321, and to seek penalties against Respondent or to seek any other remedy allowed by law.

41. With respect to matters not addressed in this Consent Agreement and Final Order, the EPA reserves the right to take any enforcement action pursuant to the CWA and its implementing regulations, or any other available legal authority, including without limitation, the right to seek injunctive relief, penalties and damages.

General Provisions

42. Pursuant to 40 C.F.R. § 22.31(b), this Consent Agreement and Final Order shall be effective after signature by the authorized regional official and upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. All time periods herein shall be calculated therefrom in calendar days unless otherwise provided in this Consent Agreement and Final Order.

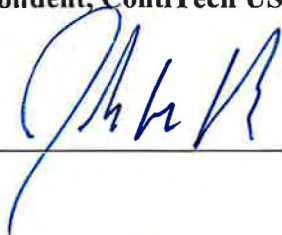
43. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

44. Respondent consents to service of this Consent Agreement and Final Order via electronic mail.

45. Respondent and Complainant agree that this Consent Agreement and Final Order may be signed in part and counterpart.

For the Respondent, ContiTech USA, LLC.:

Signature: _____



Date: _____

10/16/25

Name: _____

JOSEPH RUSCAN

Title: _____

SENIOR LEGAL COUNSEL
CONTITECH USA LLC

For the Complainant, U.S. Environmental Protection Agency, Region 7:

David Cozad
Director
Enforcement and Compliance Assurance Division

Kate Vetterick
Attorney-Advisor
Office of Regional Counsel

Final Order

Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. §1321(b)(6) and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. § 22.45(b), the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Date

Signature

Certificate of Service

I certify a fully executed copy of the Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy emailed to Respondent:

Joel.Eagle@thompsonhine.com
Joel Eagle
Thompson Hine LLP

Copy emailed to representatives for Complainant:

Vetterick.kate@epa.gov
Kate Vetterick
EPA Region 7 Office of Regional Counsel

Signature