UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
BUCKEYE TERMINALS, LLC	:	**U.S. EPA Docket No. CWA-03-2022-0014**
5 TEK PARK	:	
9999 HAMILTON BLVD.	:	**Proceeding under Sections 311(j) and**
BREINIGSVILLE, PA 18031,	:	**311(b)(6)(B)(ii) of the Clean Water Act, 33**
	:	**U.S.C. §§ 1321(j) and 1321(b)(6)(B)(ii)**
Respondent.	:	
	:	
BUCKEYE TERMINALS, LLC	:	
134 BP TANK LANE	:	
GREENSBURG, PA 15601,	:	
	:	
Facility.	:	

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" or "EPA") and Buckeye Terminals, LLC ("Respondent") (collectively the "Parties"), pursuant to Section 311(b)(6)(B)(ii) of the Clean Water 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 Clean Water Act, as amended, 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 "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under the Clean Water Act ("CWA" or the "Act") 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 Consent Agreement and Final Order.

6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual 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 Consent Agreement and Final Order.

8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.

9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

11. EPA will provide public notice and an opportunity to comment on the claims set forth in this Consent Agreement and Final Order in accordance with Section 311(b)(6)(C)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(C)(i), and 40 C.F.R. § 22.45. Those submitting comments to the Consent Agreement, if any, shall have the rights afforded to them by 40 C.F.R. § 22.45(c)(4).

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. Respondent is a corporation with a principle place of business located at 134 BP Tank Lane, Greensburg, PA 15601 (hereinafter "the Facility").

14. Respondent is a "person" as that term is defined in 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 and is subject to the assessment of civil penalties for the violations alleged herein.

15. Respondent is and, at all times relevant to the violations alleged herein, was the owner and operator of the Facility, as that term is defined in Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.

16. At all times relevant to the allegations herein, Respondent was the owner and operator of the Facility and was engaged in the storage and distribution of petroleum products. Petroleum is an "oil" as that term is defined by Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 112.2.

17. The Facility is an onshore facility as that term is defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

18. The Facility is a non-transportation-related facility as that term is defined in 40 C.F.R. § 112.2, App. A.

19. On June 23, 2019, the EPA conducted a Spill Prevention, Control, and Countermeasure ("SPCC") and Facility Response Plan inspection ("Inspection") of the Facility.

20. On September 5, 2019, the EPA sent Respondent an Inspection Report outlining the potential violations EPA noted during its Inspection.

21. On September 19, 2019, Respondent replied to the EPA's Inspection Report.

22. On December 10, 2020, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter, describing the potential violations observed during the Inspection.

23. According to the Facility's May 26, 2020 SPCC Plan, the Facility has a total aboveground oil storage capacity of approximately 8.4 million gallons.

24. The Facility is located approximately 0.25 miles from an unnamed tributary to Jack's Run. Jack's Run is a tributary to Sewickley Creek. The EPA has determined that Sewickley Creek is a traditional navigable water and a water of the United States as that term is defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

25. 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 its adjoining shoreline.

26. Pursuant to 40 C.F.R. § 112.1, Respondent, as the owner and/or operator of the Facility, is subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.

27. The EPA believes that, at the time of the Inspection, Respondent failed to adequately implement the Oil Pollution Prevention Regulations, as set forth in Paragraphs 28 through 63 below.

Count I
Failure to Prepare a Complete SPCC Plan

28. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

29. Pursuant to 40 C.F.R. § 112.3, the owner or operator of a non-transportation-related onshore or offshore facility with an aggregate aboveground oil storage capacity of over 1,320 gallons, and that 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, must prepare in writing and implement an SPCC Plan for the facility in accordance with 40 C.F.R. § 112.7 and any other applicable section.

30. As the owner or operator of an onshore facility (excluding a production facility), Respondent is required to meet the general requirements for the SPCC Plan listed under 40 C.F.R. § 112.7 and the specific discharge prevention and containment procedures listed in 40 C.F.R.§ 112.8.

31. 40 C.F.R. § 112.7(a)(1) requires an owner or operator to "include a discussion of the facility's conformance with the requirements listed in [Part 112]" in its SPCC plan.

32. 40 C.F.R. § 112.7(a)(3)(i) requires the owner or operator of a facility subject to 40 C.F.R. § 112, Subpart A to include in its SPCC Plan a discussion of the facility's conformance with the requirement for mobile or portable containers, to either provide the type of oil and storage capacity for each container or provide an estimate of the potential number of mobile or portable containers, the types of oil, and anticipated storage capacities.

33. Based on the EPA's observations and information gathered during the Inspection, the Facility's SPCC Plan's oil storage container inventory did not include a mobile/portable 300-gallon tank, which was located near the Facility's additive offloading area (hereinafter referred to as the "additive offloading area tank").

34. 40 C.F.R. § 112.7(h)(2) requires the owner or operator of a facility subject to 40 C.F.R. § 112, Subpart A to include in its SPCC Plan a discussion of the facility's conformance with the requirement to provide an interlocked warning light or physical barrier system, warning signs, wheel chocks or vehicle brake interlock system in the area adjacent to a loading/unloading rack, to prevent vehicles from departing before complete disconnection of flexible or fixed oil transfer lines.

35. Based on information gathered during the Inspection, the EPA determined that the Facility's SPCC Plan did not include a discussion of the Facility's means of preventing

vehicles from departing from loading racks before complete disconnection of oil transfer lines.

36. 40 C.F.R. § 112.7(i) requires the owner or operator of a facility subject to 40 C.F.R. § 112, Subpart A to include in its SPCC Plan a discussion of the facility's conformance with the requirement to evaluate a field-constructed aboveground container that undergoes a repair, alteration, reconstruction, or a change in service for risk of discharge or failure due to brittle fracture or other catastrophe, and as necessary, take appropriate action.

37. Based on information gathered during the Inspection, the EPA determined that the Facility's SPCC Plan did not include a discussion of the brittle fracture evaluations of the aboveground storage containers at the Facility.

38. 40 C.F.R. § 112.7(j) requires the owner or operator of a facility subject to 40 C.F.R. § 112, Subpart A to include in its SPCC Plan a discussion of conformance with the applicable requirements and other effective discharge prevention and containment procedures listed in Part 112 or any applicable more stringent State rules, regulations, and guidelines.

39. Based on information gathered during the Inspection, the EPA determined that the Facility's SPCC Plan did not include a discussion of applicable State rules, regulations, and guidelines, including the registration of bulk storage tanks with the State of Pennsylvania and the discharge of storm water runoff from the Facility in accordance with the Facility's National Pollutant Discharge Elimination System permit.

40. 40 C.F.R. § 112.8(c)(2) requires the owner or operator of a facility subject to 40 C.F.R. § 112, Subpart A to include in its SPCC Plan a discussion of the facility's conformance with the requirement to construct all bulk storage tank installations, except mobile refuelers and other non-transportation-related tank trucks, to provide secondary containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation.

41. Based on information gathered during the Inspection, the EPA determined that the Facility's SPCC Plan oil storage container inventory described the secondary containment volumes for Tanks 1201 and 1202 as 6,662 gallons each, which would not provide for adequate secondary containment for either tank, as Tank 1201 has an oil storage capacity of 844,200 gallons and Tank 1202 has an oil storage capacity of 214,200 gallons. The actual secondary containment volume for Tanks 1201 and 1202, as stated in the Facility's May 26, 2020 SPCC Plan, is 1,102,122 gallons and 273,336 gallons, respectively. Additionally, at the time of the Inspection, the Facility's SPCC Plan described the secondary containment capacity for Tank 1205, a bulk storage tank in service at the time of the Inspection, as "N/A".

42. 40 C.F.R. § 112.8(c)(3) requires the owner or operator of a facility subject to 40 C.F.R. § 112, Subpart A to include in its SPCC Plan a discussion of the facility's conformance

with the requirement to not allow drainage of uncontaminated rainwater from diked areas into a storm drain or discharge of an effluent into an open watercourse, lake, or pond, bypassing the facility treatment system unless the owner or operator keeps adequate records of such events.

43. Based on information gathered during the Inspection, the EPA determined that the Facility's SPCC Plan did not include a discussion of the Facility's retention of records of drainage events from diked areas.

44. At the time of the Inspection**,** Respondent violated 40 C.F.R. § 112.3 by failing to include a complete discussion of the Facility's conformance with the requirements listed in Part 112 of the Oil Pollution Prevention Regulations, including 40 C.F.R. §§ 112.7(a)(3)(i), (h)(2), (i), and (j) and 40 C.F.R. §§ 112.8(c)(2) and (c)(3)(iv) in its SPCC plan.

45. In failing to comply with 40 C.F.R. § 112.3, Respondent is subject to the assessment of penalties under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii).

Count II
Failure to Keep Complete Inspection Records

46. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

47. 40 C.F.R. § 112.7(e) requires an owner or operator to conduct inspections and tests required by Part 112 in accordance with written procedures that the owner or operator or the certifying engineer develops for the facility and must keep written procedures and a record of the inspections and tests, signed by the appropriate supervisor or inspector, with the SPCC Plan for a period of three years.

48. EPA observed that the SPCC plan for the Facility at the time of the Inspection stated that "all storage tanks undergo periodic inspection and testing."

49. Based on information gathered during the Inspection, the EPA determined that the Facility's inspection records did not include a record of inspections and/or tests conducted for the additive offloading area tank.

50. At the time of the Inspection, Respondent violated 40 C.F.R. § 112.7(e) by failing to keep complete inspection records.

51. In failing to comply with record-keeping requirements in accordance with 40 C.F.R. § 112.7(e), Respondent is subject to the assessment of penalties under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii).

Count III
Failure to Comply with Bulk Storage Container Requirements

52. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

53. 40 C.F.R. § 112.8(c) requires an owner or operator to comply with Bulk Storage Container Requirements.

54. 40 C.F.R. § 112.8(c)(2) requires an owner or operator to construct all bulk storage tank installations, except mobile refuelers and other non-transportation-related tank trucks, to provide secondary containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. Diked areas must be sufficiently impervious to contain discharged oil.

55. At the time of the Inspection, the EPA observed an open pipe penetrating the walls of the dike surrounding Tanks 1200 and 1210. The EPA also observed that the dike surrounding Tanks 1200 and 1210 was not adequately sized to contain the entire capacity of the largest single container (5,961-gallons) plus sufficient freeboard to contain precipitation because the walls of the dike were eroding. In addition, the EPA observed that the secondary containment bin for the additive offloading area tank had an open, un-restrained drain.

56. 40 C.F.R. § 112.8(c)(3)(ii), (iii), and (iv) prohibits an owner or operator from allowing drainage of uncontaminated rainwater from a diked area into a storm drain or discharge of an effluent into an open watercourse, lake, or pond, bypassing the Facility treatment system, unless retained rainwater is inspected to ensure that discharge of uncontaminated rainwater does not result in an oil discharge, the bypass valve is opened and resealed following drainage under responsible supervision and adequate records are kept.

57. At the time of the Inspection, EPA observed an open pipe penetrating the dike wall surrounding Tanks 1200 and 1210 and a containment bin surrounding the additive offloading area tank with an open, un-restrained drain. Because the pipe and drain, respectively, were unrestrained, rainwater could freely discharge from the dikes into a watercourse prior to being inspected for the presence of oil.

58. 40 C.F.R. § 112.8(c)(6) requires an owner or operator to test or inspect each aboveground container for integrity on a regular schedule.

59. At the time of the Inspection, the EPA determined that Respondent did not provide records of integrity testing for Tank 1210. Upon the EPA's request on February 7, 2020, Respondent provided records of integrity testing for Tank 1210 performed in October 2019. However, Respondent did not provided records of integrity testing performed on Tank 1210 prior to October 2019, and Respondent has not indicated any knowledge of integrity tests being conducted on this tank prior to October 2019. Additionally, at the

time of the Inspection, Respondent was unable to demonstrate, by records or otherwise, that the additive offloading area tank had been regularly inspected by Facility personnel.

60. 40 C.F.R. § 112.8(c)(10) requires an owner or operator to promptly correct visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts. An owner or operator must promptly remove any accumulations of oil in diked areas.

61. At the time of the Inspection, the EPA observed that the gravel below the additive offloading area tank at the Facility was stained by a small volume of oil that had discharged through the open valve in that tank's secondary containment bin.

62. At the time of the Inspection, Respondent violated 40 C.F.R. § 112.8(c) by failing to comply with Bulk Storage Container Requirements.

63. In failing to comply with Bulk Storage Requirements in accordance with 40 C.F.R. §§ 112.8(c)(2), (3), (8) and (10), Respondent is subject to the assessment of penalties under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii).

CIVIL PENALTY

64. 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 **SIX-SEVEN THOUSAND EIGHT HUNDRED AND FIFTY-SIX DOLLARS ($67,856),** which Respondent shall be liable to pay in accordance with the terms set forth below.

65. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in the CWA, Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), including, the following: the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation; the degree of culpability involved; any other penalty for the same incident; any history of prior violations; the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge; the economic impact of the penalty on the violator; and any 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.

66. 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-03-2022-0014**;

b. All checks shall be made payable to the "Environmental Protection Agency," and bearing 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 by email to:

Hannah G. Leone
Assistant Regional Counsel
leone.hannah@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov

67. 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.

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

69. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. 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 effective date of this Consent Agreement and Final Order. 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).

70. 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.

71. 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).

72. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

73. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

74. 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 Consent Agreement and Final Order, 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

75. 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

76. Nothing in this Consent Agreement and Final Order 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 Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CWA**,** or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

77. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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 Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

78. This Consent Agreement and Final Order 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 Consent Agreement and Final Order.

EFFECTIVE DATE

79. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent

Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

ENTIRE AGREEMENT

80. This Consent Agreement and Final Order 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 Consent Agreement and Final Order.

For Respondent: BUCKEYE TERMINALS, LLC

Date: October 26, 2021 By: _____

Name: Michael Ricke
Title: Vice President, Operations – West Region

Counsel for Respondent:
Morgan, Lewis & Bockius LLP
Stephen E. Fitzgerald
1717 Main Street #3200
Dallas, TX 75201-7347
tel: 214-466-4130
email: stephen.fitzgerald@morganlewis.com

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & 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: 11/30/21 By: KAREN MELVIN Digitally signed by KAREN MELVIN Date: 2021.11.30 08:28:02 -05'00'

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

Attorney for Complainant:

Date: 10/26/21 By: HANNAH LEONE Digitally signed by HANNAH LEONE Date: 2021.10.26 16:47:30 -04'00'

Hannah G. Leone
Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
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	:	**U.S.C. §§ 1321(j) and 1321(b)(6)(B)(ii)**
Respondent.	:	
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134 BP TANK LANE	:	
GREENSBURG, PA 15601,	:	
	:	
Facility.	:	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Buckeye Terminals, LLC 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, Sections 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 Clean Water Act, 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 ***SIX-SEVENVTHOUSAND EIGHT HUNDRED AND FIFTY-SIX DOLLARS ($67,856),*** 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 Clean Water Act and the regulations promulgated thereunder.

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

Date: 12/9/21 By: JOSEPH LISA Digitally signed by JOSEPH LISA Date: 2021.12.09 09:21:54 -05'00'

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