

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
ADMINISTRATIVE ORDER

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FILED
EPA REGION VIII
MEMPHIS, TN

IN THE MATTER OF GTI Loveland Valley Diesel Spill Site

Docket Number: **CWA-08-2011-0027**

Proceedings under Section 311 (c) of the Clean Water Act (CWA), 33 U.S.C. § 1321 (c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq.

I. DEFINITIONS

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the CWA, 33U.S.C. §1321(a)(1)).

"Hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section (Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14)).

"Navigable water of the United States" means the waters of the United States, including the territorial seas (Section 502(7) of the CWA, 33 U.S.C. § 1362(7)).

"Facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than submerged land (Section 311(a)(10) of the CWA, 33U.S.C. §1321(a)(10)).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of CWA, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of CWA, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of CWA which are caused by events occurring within the scope of relevant operating or treatment systems (Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2)).

II. FINDINGS OF FACT AND VIOLATIONS

A. This Order is being issued under §311(c) of the Clean Water Act, 33 U.S.C. §1321 for a discharge or a substantial threat of discharge of oil and/or a hazardous substance into waters of the United States.

B. On or about 8/27/2011 (date of discharge), a discharge or a substantial threat of a discharge of 2465 gallons of oil and/or N/A, which is/are

hazardous substance(s), reached or may reach Clear Creek (body of water) which is a navigable water of the United States. This discharge or substantial threat of a discharge from the GTI tanker truck accident near milepost 228 on Highway 6 in Colorado (Name and address of facility) facility constitutes a substantial threat to the public health or welfare.

C. Respondent(s) Gilco Transportation Inc., P.O. Box 1061, Rifle, CO 81650 is/are the owner(s)/operator(s) of the facility.

III. WORK TO BE PERFORMED (Initial all that apply)

A. **RESPONDENT IS HEREBY ORDERED** to complete the tasks described below within the dates specified and in accordance with the National Contingency Plan, 40 CFR Part 300, and any appropriate area contingency plan, and any applicable §311(j) facility response plan.

B. IMMEDIATE STABILIZATION AND MITIGATION ACTIONS
(see attached sheet for further requirements)

Continue monitoring boom locations and changing out boom as necessary
BY: immediately

Visually inspect bank of Clear Creek at spill site to determine if there is a sheen indicating a release from soils to creek
BY: twice per week, beginning week of September 5, 2011.

Conduct soil sampling in low area in between parking entrances at Loveland Basin ski area to determine extent of any contamination. Laboratory analytes shall be determined in coordination with EPA, U.S. Forest Service, and CDPHE. Preliminary laboratory results shall be available within 7 calendar days of soil sampling.
BY Soil samples taken by COB 9/14/2011.

BY / / .

C. REMOVAL ACTION

____ Within 14 days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Work Plan and schedule for completing the tasks described below. Respondent(s) shall begin work within (to be determined) days of EPA approval of the Work Plan. The Work Plan shall include the following tasks:

Propose remediation plan for contaminated soils on north side of Highway 6 on U.S. Forest Service Land. Respondent shall coordinate with U.S. Forest Service officials regarding the remediation proposal. Within 7 days of receiving preliminary soils data for low area in between parking entrances at Loveland Basin ski area, propose a remediation plan (if contamination levels are determined to be in excess of CDPHE cleanup requirements).

____ Within ____ days from the date this Order is signed by EPA, Respondent(s) shall develop

and submit to EPA for approval, a Sampling Plan and schedule for sampling. Respondent(s) shall implement the Sampling Plan within ___ days of EPA approval. The Sampling Plan must satisfy the following requirements:

D. REPORTING REQUIREMENTS

Respondent(s) shall prepare and submit to the On-Scene Coordinator the following reports:

Weekly Progress Reports due on _____

Bi-Monthly Progress Reports due beginning September 16, 2011. Reports may be submitted in e-mail format listing action items, planned activities, and sampling results. Copies shall be e-mailed to U.S. Forest Service, CDPHE, and CDOT.

Final Completion Report due ___ days after the completion of the Removal Action

E. OTHER REQUIREMENTS

Coordinate with U.S. Forest Service regarding all activities proposed for U.S. Forest Service Lands.

IV. RESERVATION OF RIGHTS AND PENALTIES

- A. This Order does not preclude EPA from taking any actions authorized by CWA, the National Contingency Plan, or any other law. EPA reserves the right to direct all activities and to comment on and direct changes to deliverables, off-site shipping and disposal, and all other matters.
- B. Respondent shall notify EPA of any response actions it takes as to this discharge that are in addition to those described in this Order.
- C. Violation of any term of this ORDER may subject Respondents to an administrative civil penalty of up to \$37,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure. (Section 311(b)(7)(B) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(B) as amended by the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.)

V. EFFECTIVE DATE

The effective date of this ORDER shall be the date of the receipt of this Order by the Respondents.

Janet Accunano 9-8-11
On-Scene Coordinator Date

Received by *[Signature]* 9-9-11
Representing Respondent Date

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ADMINISTRATIVE ORDER** in the matter of **GTI LOVELAND VALLEY DIESEL SPILL SITE.; DOCKET NO.: CWA-08-2011-0027**, was filed with the Regional Hearing Clerk on September 14, 2011.


Further, the undersigned certifies that a true and correct copy of the document was delivered to, Sheldon Muller, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail on September 14, 2011, to:

Keith Gilstrap
Gilco Transportation Inc.
P.O. Box 1061
Rifle, CO 81650

And emailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

September 14, 2011


Tina Artemis
Paralegal/Regional Hearing Clerk