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**U.S. EPA REGION 8
HEARING CLERK**

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:

Richardson Operating Company and
Bison Basin, LLC,

Respondents

Docket No. CWA-08-2024-0006

CONSENT AGREEMENT

I. INTRODUCTION

1. This is an administrative penalty assessment proceeding pursuant to sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules of Practice), as codified at 40 C.F.R. part 22.
2. The parties to this proceeding are Richardson Operating Company and Bison Basin, LLC (collectively, Respondents) and the undersigned U.S. Environmental Protection Agency official (Complainant).
3. This matter pertains to an oil production facility known as the Central Tank Battery facility, in Section 17T27N R95W in Fremont County, Wyoming (the Facility).
4. The parties, having agreed settlement of this action is in the public interest, consent to the entry of this consent agreement (Agreement) without adjudication of any issues of law or fact herein. Respondents agree to comply with the terms of this Agreement.

II. JURISDICTION

5. This Agreement is issued under the authority of section 311(b)(6) of the Clean Water Act (Act), 33 U.S.C. § 1321(b)(6). This is a Class I proceeding, as described in section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i).

6. This proceeding is subject to the EPA's Consolidated Rules of Practice, under which this proceeding may be resolved by a final order from EPA Region 8's Regional Judicial Officer or Regional Administrator ratifying this Agreement. The final order will simultaneously commence and conclude this proceeding. 40 C.F.R. § 22.13(b).

III. GOVERNING LAW

7. The objective of the Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. 33 U.S.C. § 1251(a).

A. Spill Prevention Control and Countermeasure Regulations

8. In 1972, Congress directed the President to issue regulations (a) establishing procedures for preventing and containing discharges of oil from onshore facilities and (b) determining those quantities of oil the discharge of which may be harmful to the public health or welfare or the environment of the United States. 33 U.S.C. §§ 1321(j)(1)(C) and 1321(b)(4). The President subsequently delegated to the EPA the authority to issue these regulations.
9. In response to the directive and delegation referenced above, the EPA promulgated 40 C.F.R. part 112, subparts A through C. These regulations are referenced as the "Spill Prevention Control and Countermeasure Regulations" or "SPCC Regulations."
10. The SPCC Regulations apply to owners and operators of non-transportation-related onshore and offshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil and oil products, which, due to their location, could reasonably be expected to discharge oil in quantities that may be harmful, as described in 40 C.F.R. § 110.3, into or upon the navigable waters of the United States or adjoining shorelines. 40 C.F.R. § 112.1.
11. Quantities of oil that may be harmful include discharges that: (a) violate applicable water quality standards, (b) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or (c) cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines. 40 C.F.R. § 110.3.

12. The SPCC Regulations require regulated facilities to prepare and implement plans, known as SPCC Plans, to prevent discharges of oil in harmful quantities into navigable waters and to adhere to certain practices to prevent and contain oil discharges.

B. Enforcement

13. Any person who fails or refuses to comply with any regulation issued under section 311(j) of the Act, 33 U.S.C. § 1321(j), including the SPCC Regulations, may be assessed an administrative civil penalty by the EPA, according to section 311(b)(6)(A)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(A)(ii). As adjusted for inflation pursuant to 40 C.F.R. part 19, the maximum class I penalty for violations occurring after November 2, 2015, where penalties are assessed on or after December 27, 2023, is \$23,048 per violation, with a maximum of \$57,617. (See section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and 88 Fed. Reg. 89309, 89312 (December 27, 2023).)

IV. ALLEGATIONS OF FACT AND LAW

The allegations in this section apply at all times relevant to this Agreement, unless otherwise stated:

14. Respondent Richardson Operating Company is a Colorado corporation.
15. Respondent Bison Basin, LLC is a Texas limited liability company.
16. Each Respondent is a “person” for purposes of sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.
17. Each Respondent is engaged in the business of oil production.
18. The Facility (see paragraph 3, above) is a production facility as defined in 40 C.F.R. § 112.2.
19. At the Facility, Respondents store oil.
20. Prior to 2023, the Facility had an aboveground oil storage capacity of approximately 70,000 barrels, or more than 1,000,000 gallons. This included but was not limited to two tanks, each with approximately 5,000 barrels of storage capacity, four produced water tanks, each with approximately 400 barrels of

storage capacity, one 210 barrel produced water tank, and one 11.9 barrel diesel tank.

21. In 2023, Respondents reduced the Facility's total storage capacity by, among other things, removing the two 5,000 barrel tanks referenced in paragraph 20, above.
22. The remaining total oil storage capacity at the Facility exceeds 1,321 gallons.
23. Since 2023, the largest oil storage tanks at the Facility have had a capacity of 400 barrels each.
24. The Facility is in the Sweetwater River watershed.
25. East Alkali Creek is a perennial tributary of Alkali Creek.
26. Alkali Creek is a perennial tributary of the Sweetwater River.
27. The Sweetwater River is a perennial tributary of the North Platte River.
28. The North Platte River is a traditionally navigable water. It is also an interstate water.
29. East Alkali Creek, Alkali Creek, the Sweetwater River, and the North Platte River are each a "navigable water" as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7).
30. In the event of an uncontained spill from any of the 400-barrel tanks remaining at the Facility, oil would flow into the Sweetwater River watershed, traveling at least into East Alkali Creek and East Alkali Creek itself.
31. Due to its location, the Facility could reasonably be expected to discharge oil and/or other pollutants to the Sweetwater River watershed, including at least East Alkali Creek and Alkali Creek and/or their adjoining shorelines in quantities that would (a) violate applicable water quality standards or (b) cause a film or sheen upon or discoloration of the surface of the navigable waters of the United States or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of such water or adjoining shorelines.
32. The Facility is an "onshore facility" as that term is defined in section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10).

33. The Facility is a “non-transportation related facility” as that term is defined in 40 C.F.R. § 112.2.
34. Respondent Bison Basin, LLC owns the Facility.
35. Respondent Richardson Operating Company operates the Facility.
36. Respondent Bison Basin, LLC is an “owner or operator” of the Facility as that term is defined in section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6).
37. Respondent Richardson Operating Company is an “owner or operator” of the Facility as that term is defined in section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6).
38. The Facility is subject to the SPCC Regulations.
39. On September 7, 2021, Respondents provided the EPA a copy of an SPCC plan, dated August 2021, for the Facility (the 2021 Plan).
40. After September 7, 2021, Respondents provided updates of the SPCC plan for the Facility to the EPA.

V. ALLEGED VIOLATIONS OF LAW

The preceding allegations are incorporated by reference into the following counts:

Count 1: Failure to Prepare an SPCC Plan

41. Respondents are required to prepare an SPCC plan for the Facility in accordance with the requirements of 40 C.F.R. part 112.
42. In response to an EPA request for information pursuant to section 308 of the Act, 33 U.S.C. § 1318, Respondent Richardson Operating Company indicated that the Facility had no SPCC plan. The EPA received this response on February 5, 2020.
43. Prior to August 2021, Respondents had prepared no SPCC plan for the Facility.
44. Respondents’ failure to prepare an SPCC plan for the Facility prior to August 2021 was a violation of 40 C.F.R. § 112.7.

Count 2: Inadequate SPCC Plan

45. As a production facility, the Facility is subject to the SPCC plan requirements in 40 C.F.R. §§ 112.3, 112.4, 112.5, 112.6, 112.7, and 112.9.
46. According to 40 C.F.R. § 112.7, Respondent's SPCC plan is required to indicate the full approval of management.
47. The 2021 Plan did not include a signature indicating full approval of management.
48. According to 40 C.F.R. § 112.7(a)(3), Respondent's SPCC plan is required to include a facility diagram including, among other things, a diagram of connecting pipes, including intra-facility gathering lines.
49. The 2021 Plan did not include a diagram showing connecting pipes or intra-facility gathering lines.
50. The 2021 Plan did not address the requirements of 40 C.F.R. § 112.9.
51. Respondents' failure to comply with the SPCC regulations as described in paragraph 45, 46, 47, 48, 49, and 50, above, were violations of 40 C.F.R. §§ 112.3, 112.7, and 112.9.

Count 3: Failure to Provide Secondary Containment for Produced Water Tanks

52. For each produced water tank at the Facility, Respondents are required either to provide secondary containment (sized to include the largest single container with sufficient freeboard to contain precipitation) or to comply with the provisions of paragraphs (c)(6)(i) through (v) of 40 C.F.R. § 112.9, according to 40 C.F.R. §§ 112.7(c), 112.9(a), and 112.9(c).
53. According to 2021 Plan, three produced water tanks at the Facility did not have adequate secondary containment.
54. In the 2021 Plan, Respondents failed to demonstrate compliance with the provisions of paragraphs (c)(6)(i) through (v) of 40 C.F.R. § 112.9 for the three produced water storage tanks referenced in paragraph 53, above. For example, the 2021 Plan did not include a description of procedures, frequency, and amount of free-phase oil expected to be maintained inside any of the produced water tanks for which there was no secondary containment.

55. Respondents' failure to provide secondary containment for at least three produced water storage tanks at the Facility or, alternatively, to demonstrate having met the requirements of paragraphs (c)(6)(i) through (v) of 40 C.F.R. § 112.9 for these tanks, violated 40 C.F.R. §§ 112.7(c), 112.9(a), and 112.9(c).

**Count 4: Failure to Provide Secondary Containment
for Diesel Storage Tank**

56. For the diesel storage tank referenced in paragraph 20, above, Respondents are required to provide secondary containment sized sufficiently to include the volume of the tank with sufficient freeboard to contain precipitation, according to 40 C.F.R. § 112.7(c).
57. According to 2021 Plan, the diesel storage tank referenced in paragraph 20, above, did not have adequate secondary containment.
58. Respondents' failure to provide secondary containment sized sufficiently to include the volume of the diesel tank referenced in paragraph 20, above, with sufficient freeboard to contain precipitation violated 40 C.F.R. § 112.7(c).

VI. TERMS OF CONSENT AGREEMENT

59. For the purpose of this proceeding, Respondents:
- a. admit the facts set forth in paragraph 3 of this Agreement;
 - b. admit the jurisdictional allegations in section II of this Agreement;
 - c. neither admit nor deny the factual allegations in sections IV and V of this Agreement;
 - d. consent to the assessment of a civil penalty as stated below;
 - e. acknowledge this Agreement constitutes an enforcement action for purposes of considering Respondents' compliance history in any subsequent enforcement action; and
 - f. waive any right to contest the allegations in this Agreement and to appeal any final order approving this Agreement.

60. As indicated above, section 311(b)(6) of the Act, 33 U.S.C. § 1321(b)(6), establishes the civil administrative penalty amounts the EPA may assess in this type of proceeding.
61. Having considered the seriousness of the violations cited in the Alleged Violations of Law, above, the economic benefit to Respondents if any, resulting from the violations, the degree of culpability involved, any other penalty for the same violations, any history of prior violations, the economic impact of the penalty on Respondents and any other matters as justice may require, in accordance with section 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8), the Complainant has determined the Assessed Penalty in paragraph 62, below, is appropriate to settle this matter.
62. Respondents agree to:
- a. pay a civil penalty in the amount of \$5,000 (Assessed Penalty) within 30 days after the date the final order ratifying this Agreement is filed with the Regional Hearing Clerk (Filing Date); and
 - b. pay the Assessed Penalty and any interest, fees, and other charges due using any method provided on the EPA website <https://www.epa.gov/financial/makepayment> (and for additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>).
63. When making a payment, Respondents shall:
- a. identify every payment with Respondents' names and the docket number that appears on the final order ratifying this Agreement;
 - b. indicate each and every payment is payable to "Treasurer, United States of America" and identify each and every payment with "Oil Spill Liability Trust Fund-311" and "Oil Spill Liability Trust Fund – 311" or "OSLTF – 311."
 - c. concurrently or within 24 hours after payment, email proof of payment to each of the following:

Dennis Jaramillo, Environmental Engineer
U.S. Environmental Protection Agency, Region 8
Via electronic mail to: jaramillo.dennis@epa.gov

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
Via electronic mail to: R8_Hearing_Clerk@epa.gov
[Include underscore between “R8” and “Hearing” and between
“Hearing” and “Clerk”]

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to: CINWD_AcctsReceivable@epa.gov
[Include underscore between “CINWD” and “AcctsReceivable”]

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

The Complainant designates Dennis Jaramillo, whose contact information is provided above, for service of proof of payment.

64. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1321(b)(6)(H), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondents fail to timely pay any portion of the full amount of the Assessed Penalty per this Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within 30 days after the Filing Date, interest accrued is waived. If the Assessed Penalty is not paid in full within 30 days after the Filing Date, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at 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 20% quarterly non-payment penalty.
65. Late Penalty Actions. In addition to the amounts described in paragraph 64, above, if Respondents fail to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. The actions the 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 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, as under 40 C.F.R. part 13, subparts C and H.
 - c. suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. request that the Attorney General bring a civil action in an appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 33 U.S.C. § 1321(b)(6)(H). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.
66. Consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondents will not deduct penalties paid under this Agreement for federal tax purposes.
67. This Agreement applies to Respondents and their officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondents must give written notice and a copy of this Agreement to any successors-in-interest prior to any transfer of any interest in the Facility

occurring prior to payment in full of the penalty referenced above. Any change in ownership or corporate control of Respondents, including but not limited to any transfer of assets or real or personal property, shall not alter Respondents' responsibilities under this Agreement.

68. The undersigned representative of each Respondent certifies he or she has authority to bind the relevant Respondent to this Agreement.
69. Except as qualified by paragraphs 64 and 65, above, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

VII. EFFECT OF CONSENT AGREEMENT

70. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Agreement resolves Respondents' liability only for federal civil penalties for the violations specifically alleged above.
71. Nothing in this Agreement shall relieve Respondents of the duty to comply with all applicable provisions of the Act, any regulation, order, or permit issued pursuant to the Act, and any other federal, state, or local laws, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
72. Nothing herein shall be construed to limit the power of the EPA to pursue injunctive or other equitable relief, or criminal sanctions for any violations of law or to undertake any action against Respondents or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
73. If and to the extent the EPA finds, after signing this Agreement, that any information provided by Respondents was materially false or inaccurate at the time such information was provided to the EPA, the EPA reserves any and all of its legal and equitable rights.

VIII. SERVICE OF FINAL ORDER

74. The contact information for the individuals authorized to receive service for each party are:

Consent Agreement
Richardson Operating Company and Bison Basin, LLC
311.0024.2020
Page 11 of 12

For Complainant: Margaret (Peggy) Livingston
Senior Enforcement Attorney
Office of Regional Counsel, U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6858 / livingston.peggy@epa.gov

For Respondent: Alexander M. Arensberg
Squire Patton Boggs (US) LLP
717 17th Street, Suite 1825
Denver, CO 80202
(303) 894-6107 / alexander.arensberg@squirepb.com

75. The parties consent to service of the final order approving this Agreement at the following email addresses in paragraph 74, above.

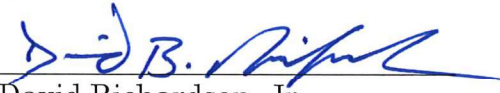
**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**

Date: _____

By: Susarla, Sridhar Digitally signed by Susarla, Sridhar
Date: 2024.05.02 15:59:40 -06'00'
Sridhar Susarla, Manager
RCRA and OPA Enforcement Branch
Complainant


**RICHARDSON OPERATING COMPANY,
Respondent**

Date: 5-2-2024

By: 
David Richardson, Jr.
President

**BISON BASIN, LLC,
Respondent**

Date: 5-2-2024

By: 
David Richardson, Jr.
Manager