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U.S.EPA - Region 09

10
11 UNITED STATES
12 ENVIRONMENTAL PROTECTION AGENCY
13 REGION 9

14 **In the Matter of:**

15 **Liquid Transport, LLC, and Liquid**
16 **Transport Corp.,**
17 **Respondents.**

Docket No. CAA-09-2019- 0081

CONSENT AGREEMENT FINAL
ORDER PURSUANT TO 40 C.F.R.
§§ 22.13 AND 22.18

18 **CONSENT AGREEMENT**

19 The United States Environmental Protection Agency ("EPA"), Region 9, and Liquid
20 Transport, LLC, and Liquid Transport Corp. ("Respondents") agree to settle this matter and
21 consent to the entry of this Consent Agreement ("CAFO"), which simultaneously
22 commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

23 **I. AUTHORITY, JURISDICTION AND PARTIES**

24 1. This is a civil administrative penalty assessment proceeding brought under Section
25 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d).

26 2. Complainant is the Director of the Enforcement and Compliance Assurance Division,
27

28 In the Matter of Liquid Transport, LLC, and Liquid Transport Corp. I
Consent Agreement and Final Order

1 EPA, Region 9, who has been duly delegated the authority to initiate and settle civil
2 administrative penalty proceedings under Section 113(d) of the Act.

3 3. Respondents are for hire trucking firms that own and/or operate diesel-fueled vehicles
4 registered to be driven on public highways in California, among other states.

5 4. Pursuant to section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), EPA and the United
6 States Department of Justice jointly determined that this matter, which involves alleged
7 violations that occurred more than one year before the initiation of this proceeding, is appropriate
8 for an administrative penalty assessment.

9 5. The regulations at issue in this action have been incorporated into the federally-approved
10 and federally-enforceable California state implementation plan (“SIP”). In accordance with the
11 notice requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), EPA issued
12 Findings and Notices of Violation (“NOV”) to Liquid Transport Corp. on November 21, 2018,
13 and to Liquid Transport, LLC, on August 20, 2019, and provided copies of each NOV to the
14 California Air Resources Board (“CARB”). Each NOV provided notice to each respective
15 Respondent and to CARB that EPA found that each respective Respondent committed the
16 alleged violations described in Section III of this CAFO and provided each Respondent an
17 opportunity to confer with EPA.

18 **II. STATUTORY AND REGULATORY AUTHORITY**

19 **Clean Air Act**

20 6. Pursuant to Section 107(d) of the Act, 42 U.S.C. § 7407(d), the Administrator
21 promulgated lists of attainment status designations for each air quality control region (“AQCR”)
22 in every state. These lists identify the attainment status of each AQCR for each of the criteria
23 pollutants. The attainment status designations for California AQCRs are listed at 40 C.F.R.

1 § 81.305.

2 7. There are multiple AQCRs designated as nonattainment for fine particulate matter
3 (PM2.5) and ozone in California. See 40 C.F.R. § 81.305.
4

5 8. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires that all states adopt SIPs that
6 provide for the implementation, maintenance and enforcement of primary and secondary air
7 quality standards.

8 9. A person's failure to comply with any approved regulatory provision of a SIP renders the
9 person in violation of an applicable implementation plan and subject to enforcement under
10 Section 113(a)(1) of the Act. 42 U.S.C. § 7413(a)(1).
11

12 **Title 13, Section 2025 of California Code of Regulations: Truck and Bus Regulation**

13 10. On December 15, 2011, CARB submitted its "Regulation to Reduce Emissions of
14 Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use
15 Heavy-Duty Diesel-Fueled Vehicles," codified at title 13, section 2025 of the California
16 Code of Regulations (the "Truck and Bus Regulation" or "TBR"), to EPA for approval into
17 the California State Implementation Plan ("SIP"). On May 4, 2012, EPA incorporated the
18 Truck and Bus Regulation into the California SIP. See 77 Fed. Reg. 20308 (April 4, 2012).
19

20 11. As stated in Section 2025(a) of the TBR, the purpose of the regulation is "to reduce
21 emissions of diesel particulate matter (PM), oxides of nitrogen (NOx) and other criteria
22 pollutants from in-use diesel-fueled vehicles."
23

24 12. Pursuant to Section 2025(b) of the TBR, the TBR "applies to any person, business, ...
25 that owns or operates, leases, or rents, affected vehicles that operate in California. Affected
26 vehicles are those that operate on diesel-fuel, dual-fuel, or alternative diesel-fuel that are
27 registered to be driven on public highways, were originally designed to be driven on public
28

1 highways whether or not they are registered, ... and have a gross vehicle weight rating (GVWR)
2 greater than 14,000 pounds.”

3 13. Section 2025(d)(18) of the TBR defines “Diesel Particulate Matter (PM)” as “the
4 particles found in the exhaust of diesel-fueled compression ignition engines....”

5 14. Section 2025(d)(48) of the TBR defines “PM BACT” as “the technology employed on
6 the highest level VDECS for PM or an engine that is equipped with an original equipment
7 manufacturer (OEM) diesel particulate filter and certified to meet the 0.01 g/bhp-hr certification
8 standard.”

9 15. Section 2025(d)(60) of the TBR defines "Verified Diesel Emission Control Strategy"
10 (“VDECS”) as "an emissions control strategy, designed primarily for the reduction of diesel PM
11 emissions," that has been verified by CARB to achieve a specific level of control.
12

13 16. Section 2025(d)(35) of the TBR defines "Highest Level VDECS" as "the highest level
14 VDECS [verified by CARB] for a specific engine as of 10 months prior to the compliance date,
15 which the diesel emission control strategy manufacturer and authorized diesel emission-control
16 strategy dealer agree can be used on a specific engine and vehicle combination without
17 jeopardizing the original engine warranty in effect at the time of application.”

18 17. Section 2025(d)(3) of the TBR defines “2010 Model Year Emissions Equivalent Engine”
19 as “emissions from: (A) An engine certified to the 2004 through 2006 model year heavy-duty
20 diesel engine emissions standard that is equipped with the highest VDECS and reduces NOx
21 emissions by at least 85 percent; or (B) An engine that was built to the 2004 engine emission
22 standard and was not used in any manufacturer’s averaging, banking, or trading program that is
23 equipped with the highest VDECS and reduces NOx exhaust emissions by at least 85 percent; or
24 (C) An engine certified to the 2007 model year heavy-duty diesel engine emissions standard that
25

1 meets PM BACT and reduces NOx exhaust emissions by more than 70 percent; or (D) An engine
2 certified to the 2010 model year or newer heavy-duty diesel engine emissions standard that meets
3 PM BACT; or (E) A heavy-duty engine certified to 0.2 g/bhp-hr or less NOx emissions level and
4 0.01 g/bhp-hr or less PM emissions level, or (D) An off-road engine certified to the Tier 4 Final
5 engine emissions standard.”

7 18. Section 2025(d)(28) of the TBR defines “Fleet” as “one or more vehicles, owned by a
8 person, business, or government agency, traveling in California and subject to this regulation....”

9 19. Section 2025(d)(29) of the TBR defines “Fleet Owner” as either the person registered as
10 the owner or lessee of a vehicle by the California Department of Motor Vehicles (DMV), or its
11 equivalent in another state, province, or country; as evidenced on the vehicle registration
12 document carried in the vehicle.”

14 20. Section 2025(d)(42) of the TBR defines “Motor Carrier” as “the same as defined in
15 California Vehicle Code Section 408 for fleets other than those that are comprised entirely of
16 school buses”

18 21. Section 408 of the California Vehicle Codes defines “Motor Carrier” as “the registered
19 owner, lessee, licensee, or bailee of any vehicle set forth in Section 34500 , who operates or
20 directs the operation of any such vehicle on either a for-hire or not-for-hire basis.”

21 22. Section 2025(d)(47) of the TBR defines “Person” as “an individual, corporation, business
22 trust, estate, trust, partnership, Limited Liability Company, association, joint venture,
23 government, governmental subdivision, agency, or instrumentality, public corporation, or any
24 other legal or commercial entity.”

26 23. Section 2025(g) of the TBR requires subject vehicles with a gross vehicle weight rating
27 (“GVWR”) of over 26,000 pounds to meet PM BACT and upgrade to a 2010 Model Year

1 Emissions Equivalent Engine starting January 1, 2012 according to the compliance schedule in
2 Table 2 set forth in relevant part as follows:

3 - Subject vehicles with an engine model year of 1996 through 1999 must be equipped
4 with a PM filter by January 1, 2012.

5 - Subject vehicles with an engine model year of 2000 through 2004 must be equipped
6 with a PM filter by January 1, 2013.

7 - Subject vehicles with an engine model year of 2005 through 2006 must be equipped
8 with a PM filter by January 1, 2014.

9
10
11 24. Section 2025(x)(2) of the TBR provides that “[a]ny in-state or out-of-state motor carrier,
12 California broker, or any California resident who operates or directs the operation of any vehicle
13 subject to this regulation shall verify that each hired or dispatched vehicle is in compliance with
14 the regulation and comply with the record keeping requirements of section 2025(s)(4).”

15 25. Section 2025(x)(3) of the TBR provides that “[c]ompliance may be accomplished by
16 keeping at the business location, a copy of the Certificate of Reported Compliance with the In-
17 Use On-Road Diesel Vehicle Regulation for each fleet, or in the vehicle.”

18
19 **Title 13, Section 2027 of California Code of Regulations: Drayage Truck Regulation**

20 26. On December 9, 2011, CARB submitted its “In-Use On-Road Diesel-Fueled Heavy-Duty
21 Drayage Trucks,” codified at title 13, Section 2027 of the California Code of Regulations (the
22 “Drayage Truck Regulation” or “DT Regulation”), to EPA for approval into the California SIP.
23 On May 4, 2012, EPA incorporated the DT Regulation into the California SIP. See 77 Fed. Reg.
24 20308 (April 4, 2012).

25
26 27. As stated in Section 2027(a) of the DT Regulation, the purpose of the regulation is
27 “reduce emissions and public exposure to diesel particulate matter (diesel PM), oxides of

1 nitrogen (NOx), and other air contaminants by setting emission standards for in-use, heavy-duty
2 diesel-fueled vehicles that transport cargo to and from California's ports and intermodal rail
3 facilities.”

4
5 28. Pursuant Section 2027(b)(1) of the DT Regulation, the DT Regulation “applies [through
6 2022] to owners and operators of on-road diesel-fueled, alternative diesel-fueled and dual-fueled
7 heavy-duty drayage trucks that operate in California ‘motor carriers’ that dispatch drayage trucks
8 that operate in California, ‘marine or port terminal,’ ‘intermodal rail yards,’ and “rail yard and
9 port authorities.””

10
11 29. Section 2027(c)(15) of the DT Regulation defines “Drayage Truck” as “any in-use on-
12 road vehicle with a gross vehicle weight rating (GVWR) greater than 26,000 pounds that is used
13 for transporting cargo, such as containerized, bulk, or break-bulk goods, that operates: (A) on or
14 transgresses through port or intermodal rail yard property for the purpose of loading, unloading
15 or transporting cargo, including transporting empty containers and chassis; or (B) off port or
16 intermodal rail yard property transporting cargo or empty containers or chassis that originated
17 from or is destined to a port or intermodal rail yard property. Drayage trucks are not: (C):
18 Vehicles operating off of port or intermodal rail yard properties that transport cargos that have
19 originated from a port or rail yard property but have been off-loaded from the equipment (e.g., a
20 trailer or container) that transported the cargo from the originating port or rail yard; or, (D)
21 Vehicles operating off of port or intermodal rail yard properties that transport cargos that are
22 destined for a port or rail yard but will be subsequently transferred into or onto different
23 equipment (e.g., a trailer or container) before being delivered to a port or intermodal railyard.”

24
25
26 30. Section 2027(c)(16) of the DT Regulation defines “Drayage Truck Owner” as “(A) The
27 person registered as the owner of a drayage truck as shown by the Department of Motor

1 Vehicles, or its equivalent in another state, providence, or country; or the International
2 Registration Plan. or (B) The lessee of the truck, as indicated on the drayage truck's registration
3 pursuant to Vehicle Code section 4453.5."

4
5 31. Section 2027(c)(18) of the DT Regulation defines "Drayage Truck Registry (DTR)" as
6 "an ARB database that contains information on all trucks that conduct business at California
7 ports and intermodal rail yards."

8
9 32. Section 2027(c)(33) of the DT Regulation defines "Motor Carrier" as "a business
10 intermediary that contracts with beneficial cargo owners, ship companies, port terminals or Class
11 I railroads, and with owners and operators of drayage trucks that it dispatches for pick-up and
12 delivery of goods that are destined for or originated from ports and/or intermodal railyards."

13
14 33. Section 2027(d)(2) of the DT Regulation requires drayage trucks subject this regulation
15 must meet the compliance deadlines detailed in Phase 1 and Phase 2. Phase 2 compliance
16 deadlines require that, after December 31, 2013, all drayage trucks must be equipped with a 1994
17 or newer model year engine that meets or exceeds 2007 model year California or federal
18 emission standards.

19
20 34. Section 2027(d)(3) of the DT Regulation requires that "Drayage Truck Owners" must
21 meet all applicable requirements and deadlines set forth in Phases 1 and 2 and if an aftermarket
22 level 3 Verified Diesel Emission Control Strategy ("VDECS") is installed, be able to
23 demonstrate that the VDECS has been verified by CARB for use with the engine and vehicle
24 and, among other things, that the VDECS is installed in a verified configuration.

25
26 35. Section 2027(d)(5)(a)(2) and (a)(3) of the DT Regulation require "Motor Carriers" to:
27 only dispatch drayage trucks that meet emission standards and compliance deadlines set forth in
28 Phases 1 and 2 in subsection (d), and to only dispatch drayage trucks to ports and intermodal rail

1 yards that are registered and in good standing with the Drayage Truck Registry (“DTR”) and are
2 DTR compliant.

3 36. Section 2027(e)(1) of the DT Regulation requires drayage trucks owners doing business
4 at a port or intermodal railyard to register with the DTR.

6 **III. ALLEGATIONS**

7 37. At all times relevant to this CAFO, Respondents were for-hire trucking firms that owned,
8 operated and/or leased diesel-fueled vehicles registered to be driven on public highways in
9 California, among other states.

10 38. At all times relevant to this CAFO, the TBR applied to Respondents.

11 39. At all times relevant to this CAFO, each Respondent was a “Person” as that term is
12 defined under Section 2025(d)(47) of the TBR.

13 40. At all times relevant to this CAFO, each Respondent had a “Fleet” of vehicles as that
14 term is defined under Section 2025(d)(28) of the TBR.

15 41. At all times relevant to this CAFO, each Respondent was a “Fleet Owner” as that term is
16 defined under Section 2025(d)(29) of the TBR.

17 42. At all times relevant to this CAFO, each Respondent was a “Motor Carrier” as that term
18 is defined under Sections 2025(d)(42) of the TBR and 2027(c)(33) of the DT Regulation.

19 43. At all times relevant to this CAFO, each Respondent was an owner or operator of on-road
20 diesel-fueled, alternative diesel-fueled and/or dual-fueled heavy-duty drayage trucks that
21 operated in California; and/or a motor carrier that dispatched drayage trucks that operate in
22 California.

23 44. At all times relevant to this CAFO, the DT Regulation applied to Respondents.

24 45. At all times relevant to this CAFO, each Respondent was a “Drayage Truck Owner” of

1 “Drayage Truck[s]” as those terms are defined under Section 2027(c)(15) and (16) of the DT
2 Regulation.

3 46. In 2015, one or both Respondents were Fleet Owner(s) of two diesel-fueled Fleet vehicles
4 that a) had engine model years 2003 and 2004; b) had GVWRs greater than 26,000 pounds; c)
5 did not meet PM BACT by the compliance deadline of January 1, 2013; and d) were not
6 upgraded to a 2010 Model Year Emissions Equivalent Engine by the compliance deadline of
7 January 1, 2013.

8 47. In 2015, one or both Respondents violated Section 2025(g) of the TBR by failing to
9 timely meet PM BACT and timely upgrade to a 2010 Model Year Emissions Equivalent Engine
10 (install qualifying PM filters) with respect to the two diesel-fueled Fleet vehicles identified in the
11 previous Paragraph.

12 48. In 2015, one or both Respondents were Fleet Owner(s) of one diesel-fueled Fleet vehicle
13 that a) had an engine model year 2005; b) had a GVWR greater than 26,000 pounds; c) did not
14 meet PM BACT by the compliance deadline of January 1, 2014; and d) did not upgrade to a
15 2010 Model Year Emissions Equivalent Engine by the compliance deadline of January 1, 2014.

16 49. In 2015, one or both Respondents violated Section 2025(g) of the TBR by failing to
17 timely meet PM BACT and timely upgrade to a 2010 Model Year Emissions Equivalent Engine
18 (install a qualifying PM filter) with respect to the diesel-fueled Fleet vehicle identified in the
19 previous Paragraph.

20 50. In 2014, 2015, 2016 and/or 2017, one or both Respondents were Motor Carriers(s) that
21 operated or directed the operation of 122 vehicles in California and failed to verify that each
22 hired or dispatched vehicle is in compliance with the TBR.

23 51. In 2014, 2015, 2016 and 2017, one or both Respondents violated Section 2025(x)(2) of

1 the TBR by failing to verify that 122 vehicles it or they hired or dispatched in California were in
2 compliance with the TBR.

3 52. In 2014, 2015, 2016 and/or 2017, one or both Respondents were Drayage Truck
4 Owner(s) that failed to equip three drayage trucks with a 1994 or newer model year engine that
5 meets or exceeds 2007 model year California or federal emission standards.
6

7 53. In 2014, 2015, 2016 and/or 2017, one or both Respondents violated Section 2027(d)(2)
8 and (d)((3) of the DT Regulation by failing to equip three drayage trucks with a 1994 or newer
9 model year engine that meets or exceeds 2007 model year California or federal emission
10 standards.
11

12 54. In 2015, 2016 and/or 2017, one or both Respondents were Motor Carrier(s) that
13 dispatched 19 drayage trucks that did not meet emission standards and compliance deadlines set
14 forth in Phases 1 and 2 at Section 2027(d) of the DT Regulation.

15 55. In 2015, 2016 and/or 2017, one or both Respondents violated Section 2027(d)(5)(A)(2) of
16 the DT Regulation by dispatching 19 drayage trucks that did not meet emission standards and
17 compliance deadlines set forth in Phases 1 and 2 at Section 2027(d) of the DT Regulation.
18

19 56. In 2015, 2016 and/or 2017, one or both Respondents were Motor Carrier(s) that
20 dispatched 19 drayage trucks to ports and intermodal rail yards that were not registered and in
21 good standing with the DTR.
22

23 57. In 2015, 2016 and/or 2017, one or both Respondents violated Section 2027(d)(5)(A)(3) of
24 the DT Regulation by dispatching 19 drayage trucks to ports and intermodal rail yards that were
25 not registered and in good standing with the DTR.

26 58. In 2014, 2015, 2016 and/or 2017, one or both Respondents were Drayage Truck Owners
27 that failed to register in the DTR three drayage trucks that do business at a port or intermodal
28

1 railyard.

2 59. In 2014, 2015, 2016 and/or 2017, one or both Respondents violated Section 2027(e)(1) of
3 the DT Regulation by failing to register in the DTR three drayage trucks that do business at a
4 port or intermodal railyard.
5

6 **IV. RESPONDENTS' ADMISSIONS**

7 60. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
8 Respondents: (i) admit that EPA has jurisdiction over the subject matter of this CAFO and over
9 Respondents; (ii) neither admit nor deny the specific factual allegations contained in Section III
10 of this CAFO; (iii) consent to the terms of this CAFO, including the assessment of the civil
11 administrative penalty under Section V of this CAFO; (iv) waive any right to contest the
12 allegations contained in Section III of this CAFO; and (v) waive the right to appeal the proposed
13 Final Order contained in this CAFO.
14

15 **V. CIVIL ADMINISTRATIVE PENALTY**

16 61. Respondents agree to the assessment of a penalty in the amount of ONE HUNDRED
17 FIFTY THOUSAND DOLLARS (\$150,000) as final settlement of the civil claims against
18 Respondents arising under the CAA as alleged in Section III of this CAFO.
19

20 62. Respondents shall pay the assessed penalty no later than thirty (30) days after the
21 effective date of the CAFO. The assessed penalty shall be paid by certified or cashier's check,
22 payable to "Treasurer, United States of America," or paid by one of the other methods listed
23 below and sent as follows:
24

25 Regular Mail:
26 U.S. Environmental Protection Agency
27 Fines and Penalties
28 Cincinnati Finance Center
PO Box 979077

1 St. Louis, MO 63197-9000

2 Wire Transfers:

3 Wire transfers must be sent directly to the Federal Reserve Bank in New York
4 City with the following information:

5 Federal Reserve Bank of New York

6 ABA = 021030004

7 Account = 68010727

8 SWIFT address = FRNYUS33

9 33 Liberty Street

10 New York, NY 10045

11 Field Tag 4200 of the Fedwire message should read "D 68010727
12 Environmental Protection Agency"

13 Overnight Mail:

14 U.S. Bank

15 1005 Convention Plaza

16 Mail Station SL-MO-C2GL

17 ATTN Box 979077

18 St. Louis, MO 63101

19 ACH (also known as REX or remittance express):

20 US Treasury REX/Cashlink ACH Receiver ABA = 051036706

21 Account Number: 310006, Environmental Protection Agency

22 CTX Format Transaction Code 22 - checking

23 Physical location of US Treasury Facility

24 5700 Rivertech Court

25 Riverdale, MD 20737

26 Remittance Express (REX) 1-866-234-5681

27 On Line Payment:

28 This payment option can be accessed from the information below:

www.pay.gov

Enter "sfo1.1" in the search field

Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed,
contact the EPA Cincinnati Finance Center at 513-487-2091

63. Concurrently, a copy of the check or notification that the payment has been made by one
of the other methods listed above, including proof of the date payment was made, shall be sent
with a transmittal letter indicating Respondents' names, the case title, and the docket number to
the following addressees:

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1 Regional Hearing Clerk
2 Office of Regional Counsel (ORC-1)
3 U.S. Environmental Protection Agency, Region 9
4 75 Hawthorne Street
5 San Francisco, California 94105

6 Rose Galer
7 Air Section
8 Enforcement and Compliance Assurance Division
9 U.S. Environmental Protection Agency, Region 9
10 600 Wilshire Blvd., Suite 940
11 Los Angeles, CA 900175

12 64. Payment of the above civil administrative penalty shall not be used by Respondents or
13 any other person as a tax deduction from Respondent's federal, state, or local taxes.

14 65. If Respondents fail to pay the assessed civil administrative penalty specified in Paragraph
15 61 by the deadline specified in Paragraph 62, then Respondents shall pay to EPA a stipulated
16 penalty of \$1,000 per day in addition to the assessed penalty. Stipulated penalties shall accrue
17 until such time as the assessed penalty and all accrued stipulated penalties are paid and shall
18 become due and payable upon written request by EPA. In addition, failure to pay the civil
19 administrative penalty by the deadline specified in Paragraph 62 may lead to any or all of the
20 following actions:

21 a. The debt being referred to a credit reporting agency, a collection agency, or to the
22 Department of Justice for filing of a collection action in the appropriate United States District
23 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity,
24 amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to
25 review.

26 b. The debt being collected by administrative offset (i.e., the withholding of money payable
27 by the United States to, or held by the United States for, a person to satisfy the debt the

1 person owes the Government), which includes, but is not limited to, referral to the Internal
2 Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

3 c. EPA may (i) suspend or revoke each Respondent's licenses or other privileges; or (ii)
4 suspend or disqualify each Respondent from doing business with EPA or engaging in
5 programs EPA sponsors or funds. 40 C.F.R. § 13.17.

6
7 d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest,
8 penalties charges, and administrative costs will be assessed against the outstanding amount
9 that Respondents owe to EPA for Respondents' failure to pay the civil administrative penalty
10 by the deadline specified in Paragraph 62. Interest will be assessed at an annual rate that is
11 equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax
12 and loan account rate) as prescribed and published by the Secretary of the Treasury in the
13 Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R.
14 § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40
15 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondents' overdue
16 debt will be based on either actual or average cost incurred, and will include both direct and
17 indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another
18 department or agency (e.g., the Department of Justice, the Internal Revenue Service), that
19 department or agency may assess its own administrative costs, in addition to EPA's
20 administrative costs, for handling and collecting Respondents' overdue debt.
21
22
23

24 **VI. RESPONDENTS' CERTIFICATION**

25 66. In executing this CAFO, Respondents certify that each is now fully in compliance with
26 the TBR and DT Regulation.

27 **VII. RETENTION OF RIGHTS**

1 67. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondents' liability
2 for federal civil penalties for the violations and facts specifically alleged in Section III of this
3 CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability
4 for violations of any provision of any federal, state, or local law, statute, regulation, rule,
5 ordinance, or permit not specifically alleged in Section III of this CAFO; or (ii) any criminal
6 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it
7 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address
8 any violation of this CAFO or any violation not specifically alleged in Section III of this CAFO.
9 This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply
10 with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.
11

13 **VIII. ATTORNEYS' FEES AND COSTS**

14 68. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this
15 proceeding.
16

17 **IX. EFFECTIVE DATE**

18 69. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective
19 on the date that the final order contained in this CAFO, having been approved and issued by
20 either the Regional Judicial Officer or Regional Administrator, is filed.
21

22 **X. BINDING EFFECT**

23 70. The undersigned representative of Complainant and the undersigned representative of
24 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
25 of this CAFO and to bind the party he or she represents to this CAFO.
26

27 71. The provisions of this CAFO shall apply to and be binding upon Respondent and its
28 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,

1 and assigns.

2
3 FOR RESPONDENT, Liquid Transport, LLC:

4 9/23/19
5 DATE

E. Patten
6 Name EUGENE PATTEN
7 Title VP-SAFETY & COMPLIANCE

8 FOR RESPONDENT, Liquid Transport Corp.:

9 9/23/19
10 DATE

E. Patten
11 Name EUGENE PATTEN
12 Title VP-SAFETY & COMPLIANCE

13 FOR COMPLAINANT:

14 9/23/19
15 DATE

Amy C. Miller
16 Amy C. Miller
17 Director
18 Enforcement and Compliance Assurance Division
19 U.S. Environmental Protection Agency, Region 9
20
21
22
23
24
25
26
27
28

FINAL ORDER

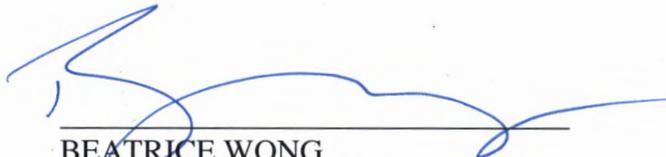
Complainant and Respondents, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2019-⁰⁰⁸¹) be entered,

and that Respondents shall pay a civil administrative penalty in the amount of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) and comply with the terms and conditions set forth in the Consent Agreement. This Consent Agreement and Final Order shall become effective upon filing.

Sept 30, 2019

DATE



BEATRICE WONG
Regional Judicial Officer
U.S. Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order In the Matter of Liquid Transport, LLC, and Liquid Transport Corp. (Docket No. CAA-09-2019-0081) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that true and correct copies of the same were sent to the following parties:

Copies were mailed via CERTIFIED MAIL to:

Nathaniel G. Saylor
Partner, Scopelitis, Garvin, Light, Hanson & Feary, P.C.
345 West 600 South, Suite 107
Heber City, UT 84032

CERTIFIED MAIL NUMBER:

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Brian Riedel
Assistant Regional Counsel (ORC-2-2)
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

WALTER TOLENTINO

FOR: Regional Hearing Clerk (Printed)
U.S. EPA, Region 9



Regional Hearing Clerk Signature

9/30/19

Date