



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 02 2011

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Dan L. Coberly  
Swift Transportation, Inc.  
P.O. Box 29243  
Phoenix, AZ 29243

RE: Swift Transportation Company, Inc.  
Consent Agreement and Final Order (CAFO)  
Docket No. CWA-04-2010-5141(b)

Dear Mr. Coberly:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Swift Transportation Company, Inc. on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-9705.

Sincerely,

A handwritten signature in black ink that reads "Alfred R. Politzer".

Alfred R. Politzer  
Assistant Regional Counsel  
Office of Environmental Accountability

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

2011 FEB -2 11:57

ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
Swift Transportation Company, Inc.	)	FINAL ORDER
2200 South 75 <sup>th</sup> Avenue	)	UNDER 40 C.F.R. § 22.13(b)
Phoenix, Arizona 85043	)	
	)	
Respondent	)	Docket No. CWA-04-2010-5141(b)
_____	)	

**LEGAL AUTHORITY**

This Consent Agreement and Final Order (CAFO) is proposed and entered into under the authority vested in the Administrator of the United States (U.S.) Environmental Protection Agency (EPA) by Section 311(b)(6)(B)(i) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(6)(B)(i), and pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated her authority to the Regional Administrator of EPA, Region 4, who has in turn delegated her authority through the Director, Resource Conservation and Recovery Act (RCRA) Division, to the Chief, RCRA and Oil Pollution Act (OPA) Enforcement and Compliance (Complainant).

**CONSENT AGREEMENT**

Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CAFO, and Respondent hereby agrees to comply with this CAFO.

### Stipulations

1. Respondent is a corporation organized under the laws of Nevada and is therefore a "person" as defined in Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

2. Respondent was the "owner or operator" (as defined in Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6)) of a tanker truck (facility), which was an "onshore facility" (as defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10)) at the time relevant to this CAFO.

3. The facility was located at the time relevant to this CAFO on State Route 412 over Lewis Creek, about one mile east of Dyersburg, Tennessee.

4. Lewis Creek is a navigable water under Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and therefore subject to CWA Section 311 jurisdiction.

5. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil into navigable waters of the U.S. in quantities that "may be harmful."

6. Pursuant to 40 C.F.R. § 110.3, discharges of oil in quantities that "may be harmful" include discharges of oil that (1) violate applicable water quality standards; or (2) cause a film, sheen, or discoloration of the surface water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface water or on adjoining shorelines.

7. Respondent admits to the jurisdictional statements contained herein.

### Allegations

Complainant alleges, and Respondent neither admits nor denies, that:

8. On July 9, 2009, Respondent discharged 4.8 barrels of oil (as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1)) from its facility into Lewis Creek.

9. The July 9, 2009, discharge described in paragraph 8 caused a sheen and/or discoloration of the surface water of Lewis Creek and the adjoining shoreline. Therefore, the

discharge constituted a quantity that may be harmful pursuant to 40 C.F.R § 110.3. Accordingly, Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

**Waiver of Rights**

10. Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), or to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

**Penalty**

11. Respondent agrees to pay a civil penalty of Two Thousand Dollars (\$2,000.00).

**Payment Terms**

12. No later than 30 days after the effective date of the Final Order, Respondent shall pay the penalty by corporate cashier's or certified check, electronic funds transfer (EFT), or on-line. If paying by check, it shall be payable to "Environmental Protection Agency," bearing the notation "OSLTF – 311," and Respondent shall note the title and docket number of this case.

If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read  
"D 68010727 Environmental Protection Agency"

If paying on-line, access at [www.pay.gov](http://www.pay.gov). Enter sfo 1.1 in the search field.

13. Respondent shall submit a copy of the check, EFT, or on-line payment to:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA- Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

and to:

Doug McCurry, Chief  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA- Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

14. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs, and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

15. Pursuant to 26 U.S.C. § 162(f), the penalty is not tax deductible.

#### **General Provisions**

16. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, and successors or assigns.

17. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

Payment of the penalty pursuant to this CAFO resolves only Respondent's liability for federal

applicable injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty pursuant to this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein. Except as otherwise set forth, compliance with this CAFO resolves the allegations of violations contained herein.

18. The undersigned representative of Respondent hereby certifies that he or she is authorized to execute and legally bind Respondent to the terms and conditions of this CAFO.

19. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA and is authorized to receive service in this matter:

Alfred Politzer  
Assistant Regional Counsel, EPA Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

20. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent and is authorized to receive service in this matter:

Dan L. Coberly  
Swift Transportation, Inc.  
P.O. Box 29243  
Phoenix, Arizona 29243

**Effective Date**

21. This CAFO is effective when it is filed with the Regional Hearing Clerk.

**CONSENTED AND AGREED TO:**

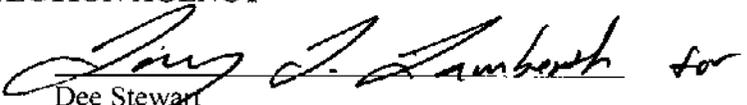
**SWIFT TRANSPORTATION COMPANY, INC.**

Date: 01-07-2010

  
Name: DAN L. COBERLY  
Title: SR. ENVIRONMENTAL ENG.

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: 01/20/2011

  
Dee Stewart  
Acting Branch Chief  
RCRA and OPA Enforcement and Compliance Branch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
Swift Transportation Company, Inc.	)	FINAL ORDER
2200 South 75 <sup>th</sup> Avenue	)	UNDER 40 C.F.R. § 22.13(b)
Phoenix, Arizona 85043	)	
	)	
Respondent	)	Docket No. CWA-04-2010-5141(b)
_____	)	

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement effective immediately upon its filing with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 27<sup>th</sup> day of January, 2011.

BY: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

*In the Matter of Swift Transportation Company, Inc.*  
Docket Number: CWA-04-2011-5141(b)

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Swift Transportation Company, Inc., Docket No. CWA-04-2011-5141(b), on the parties listed below in the manner indicated:

Alfred Politzer (Via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Alan Newman (Via EPA's internal mail)  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth St., S.W.  
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA Internal mail)  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Dan L. Coberly (Via Certified Mail)  
Swift Transportation, Inc  
P.O. Box 29243  
Phoenix, Arizona 29243

Dated this 2 day of February 2011.

  
Patricia Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
(404) 562-9511