



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

January 7, 2011

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square
Suite 100, Mail Code 18-1
Boston, MA 02109-3912

Re: In the Matter of: Rose's Oil Service, Inc.
Docket No. CWA-01-2010-0080

Dear Ms. Santiago,

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Christine Foot".

Christine Foot
Enforcement Counsel
EPA Region 1

Enclosures

cc: Shephard S. Johnson, Esq.

BY HAND
RECEIVED
JAN 07 2011
WS
EPA ORC
Office of Regional Hearing Clerk

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine Foot 1/11/11
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CWA-01-2010-0080

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Rose's Oil Service, Inc.
375 Main Street
Gloucester, MA 01930

Total Dollar Amount of Receivable \$ 130,000 Due Date: 2/5/11

SEP due? Yes No Date Due _____

Installment Method (if applicable)

- INSTALLMENTS OF:
- 1ST \$ _____ on _____
 - 2nd \$ _____ on _____
 - 3rd \$ _____ on _____
 - 4th \$ _____ on _____
 - 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office Phone Number

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

)	
)	Docket No. CWA-01-2010-0080
In the Matter of:)	
)	CONSENT AGREEMENT AND
Rose’s Oil Service, Inc.)	FINAL ORDER FOR CLASS II
375 Main Street)	CIVIL PENALTY UNDER
Gloucester, MA 01930)	CLEAN WATER ACT
)	
Respondent)	
)	

The Regional Administrator of the United States Environmental Protection Agency, Region 1 (“EPA”) issues this Consent Agreement and Final Order (“CAFO”) to Rose’s Oil Service, Inc. (“Rose’s Oil” or “Respondent”). EPA alleges that Respondent violated Sections 301(a), 308, and 311 of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1311(a), 1318, and 1321. The parties agree to resolve this action by the issuance of this CAFO as provided under 40 C.F.R. § 22.13(b) of EPA’s “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 (“Part 22”).

I. DESCRIPTION OF VIOLATIONS

1. EPA alleges that Respondent: (1) discharged process water containing pollutants into navigable waters of the United States without authorization, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a); (2) discharged stormwater associated with industrial activity into navigable waters of the United States without authorization, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a); (3) failed to apply for a National Pollutant Discharge Elimination System (“NPDES”) permit, in violation of

Sections 308(a) and 402(p) of the CWA, 33 U.S.C. §§ 1318(a) and 1342(p); (4) failed to prepare and implement an adequate Spill Prevention, Control, and Countermeasure (“SPCC”) Plan in violation of the Oil Pollution Prevention regulations set forth at 40 C.F.R. Part 112, under the authority of Section 311(j), 33 U.S.C. § 1321(j) and other provisions of the CWA, 33 U.S.C. §§ 1251 *et seq.*; and (5) failed to submit a Facility Response Plan (“FRP”) to the EPA Regional Administrator in violation of 40 C.F.R. Part 112.

Statutory and Regulatory Authority

2. For the violations of Sections 301(a) and 308 of the CWA, 33 U.S.C. §§ 1311(a) and 1318, EPA takes this action under the authority of Section 309(g) of the CWA, 33 U.S.C. § 1319(g). For the violations of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), EPA takes this action under the authority of Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii). Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1) and 40 C.F.R. § 22.38(b), EPA has notified the Commonwealth of Massachusetts of this action.

General Allegations

Discharge of Process Water Containing Pollutants

3. The CWA is designed to restore and maintain the chemical, physical, and biological integrity of the nation’s waters. 33 U.S.C. § 1251(a) (Section 101(a) of the CWA). To accomplish these objectives, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person except in compliance with a permit issued pursuant to Section 402 or 404 of the CWA, 33 U.S.C. §§ 1342 or 1344.

4. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines “person” to include “an individual, corporation, [or] partnership.”

5. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

6. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines “pollutant” to include, *inter alia*, dredged spoil, rock, sand, and industrial waste.

7. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.”

8. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” to include “any discernible, confined and discrete conveyance...from which pollutants are or may be discharged.”

Discharge of Stormwater Associated with Industrial Activity

9. Pursuant to Sections 308 and 402 of the CWA, 33 U.S.C. §§ 1318 and 1342, EPA promulgated stormwater discharge regulations at 40 C.F.R. § 122.26. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and implementing regulation 40 C.F.R. § 122.26(a)(1)(ii) require any stormwater discharge “associated with industrial activity” to be authorized by a NPDES permit.

10. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes EPA to require the owner or operator of any point source to provide such information as EPA may reasonably require to carry out the objectives of the CWA, including the information necessary to obtain a NPDES permit pursuant to CWA Section 402, 33 U.S.C. § 1342.

11. Under 40 C.F.R. § 122.26(c), dischargers of stormwater “associated with industrial activity” must apply for an individual permit or seek coverage under a promulgated general permit.

12. Forty C.F.R. § 122.26(b)(14)(ii), defines “stormwater discharge associated with industrial activity” as including stormwater discharge from facilities classified as Standard Industrial Classification (“SIC”) 373. SIC 373 generally covers “Ship and Boat Building and Repair” and specifically includes SIC 3732, “Boat Building and Repair,” and SIC 3731, “Ship Building and Repair.”

13. Forty C.F.R. § 122.26(b)(13) defines “stormwater” to include stormwater runoff, snow melt runoff, and surface runoff and drainage.

14. In October 2000, EPA issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities (“2000 MSGP”). The 2000 MSGP was originally set to expire on October 30, 2005.

15. On September 29, 2008, EPA re-issued the “Final National Pollutant Discharge Elimination System Stormwater Multi-Sector General Permit for Industrial Activities” (the “2008 MSGP”), which was effective on the date of issuance.

73 Fed. Reg. 56,572 (Sept. 29, 2008). Although the expiration date for the 2000 MSGP was set for October 30, 2005, it remained in effect until the effective date of the 2008 MSGP, which was September 29, 2008. The expiration date of the 2008 MSGP is September 29, 2013.

Spill Prevention, Control, and Countermeasure Plan

16. Section 311(j)(1) of the CWA, 33 U.S.C. § 1321(j)(1), provides that the President shall issue regulations “establishing procedures, methods, and equipment and

other requirements for equipment to prevent discharges of oil . . . from onshore facilities and offshore facilities, and to contain such discharges”

17. The regulations promulgated under the authority of Section 311(j)(1) of the CWA, Subparts A, B, and C of 40 C.F.R. Part 112 (“the SPCC Regulations”), establish procedures, methods, and requirements for preventing the discharge of oil to waters of the United States. These requirements apply to owners or operators of non-transportation-related facilities that have an aggregate aboveground oil storage capacity of greater than 1,320 gallons, or a completely buried oil storage capacity greater than 42,000 gallons, and that are engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil or oil products that, due to their location, could reasonably be expected to discharge oil in harmful quantities (as defined in 40 C.F.R. Part 110) to navigable waters of the United States or their adjoining shorelines. 40 C.F.R. §§ 112.1(b) & (d).

18. Under 40 C.F.R. § 112.3, the owner or operator of an SPCC-regulated facility in operation prior to August 16, 2002, shall have prepared and implemented an SPCC plan that is in accordance with the requirements of 40 C.F.R. § 112.7. Section 112.7 requires that an SPCC plan must be prepared in accordance with “good engineering practices” and include the specific elements in 40 C.F.R. § 112.7. Forty C.F.R. § 112.8 contains additional requirements that apply to “onshore facilities.”

19. The SPCC regulatory requirements for an SPCC plan include amending the plan as needed to reflect current conditions at a facility, providing for adequate secondary containment for all oil-filled operational equipment. 40 C.F.R. §§ 112.5, 112.7, and 112.8.

Facility Response Plan

20. Section 311(j)(5) of the CWA, 33 U.S.C. § 1321(j)(5), provides that the President shall issue regulations requiring the owner or operator of an “onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters [or their] adjoining shorelines” to “submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil.”

21. The regulations promulgated under the authority of Section 311(j)(5) of the CWA, Subparts A and D of 40 C.F.R. Part 112 (“the FRP Regulations”), identify types facilities that may pose substantial harm, and so are subject to the FRP Regulations, including those facilities that have a total oil storage capacity greater than or equal to 42,000 gallons and that transfer oil over water to or from vessels.

22. The FRP Regulations require FRP-regulated facilities to prepare and submit a facility response plan to the EPA Regional Administrator. 40 C.F.R. § 112.20(a). The owner or operator of an FRP-regulated facility shall submit an FRP that addresses the elements listed in the FRP regulations. 40 C.F.R. 112.20(h).

Violations

Unauthorized Process Water and Stormwater Discharges and Failure to Apply for Stormwater Permit Coverage

23. Rose’s Oil is a Massachusetts for-profit corporation incorporated under the laws of the state of Massachusetts, with its principal place of business located at 375 Main Street in Gloucester, Massachusetts.

24. Rose's Oil is a "person," as defined at Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
25. Rose's Oil owns and operates a boatyard facility at 375 Main Street, Gloucester, Massachusetts ("the Facility").
26. Rose's Oil controls all daily business and industrial operations at the Facility, and otherwise meets the definition of an "operator" of the Facility, as defined at 40 C.F.R. § 122.2 and under the 2000 and 2008 MSGPs.
27. At the Facility, Respondent maintains, repairs, and/or retrofits marine vessels. The Facility is classified under SIC codes 3731 (Ship Building and Repairing) and 3732 (Boat Building and Repairing) and is within Sector R of the 2008 MSGP.
28. Since at least 1988, Rose's Oil conducted "industrial activity," within the meaning of 40 C.F.R. § 122.26(b)(14)(ii) at the Facility.
29. At times, during certain wet weather events, stormwater from the Facility flowed into catch basins located within the Facility and discharged into Gloucester Harbor.
30. Respondent provides various services at the Facility, including pressure washing, painting, welding, and machining. At times, during these activities, process waters carrying pollutants from the Facility flowed into Gloucester Harbor.
31. Gloucester Harbor flows into the Atlantic Ocean.
32. Gloucester Harbor and the Atlantic Ocean constitute "waters of the United States," as defined by 40 C.F.R. § 122.2, and, thereby, "navigable waters," as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

33. The process water and stormwater discharges from the Facility resulted in the “discharge of pollutants,” as defined at Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

34. The stormwater catch basins and drains discharging pollutants constitute “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

35. From at least October 2005 through November 2008, Rose’s Oil conducted activities in association with the operation of a boatyard that resulted in the discharge of process waters to waters of the United States, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

36. From at least October 2005 through November 2008, Rose’s Oil conducted activities in association with the operation of a boatyard that resulted in the discharge of “stormwater associated with industrial activity,” as defined at 40 C.F.R. § 122.26(b)(14)(ii), to waters of the United States, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

37. As the “owner” and “operator” of the Facility, Rose’s Oil was required to obtain NPDES permit coverage for the industrial activity at the Facility and to comply with all requirements and conditions for operation under the CWA, its regulations, and the applicable permit.

38. Rose’s Oil did not apply for coverage under the MSGP until December 2008.

39. From at least October 2005 through November 2008, Rose's Oil failed to apply for an individual permit or submit a Notice of Intent ("NOI") for coverage under the 2000 MSGP and the 2008 MSGP, in violation of Section 308 of the CWA, 33 U.S.C. § 1318.

Failure to Prepare and Implement an Adequate SPCC Plan and to Submit an FRP to EPA

40. Respondent is also a "person" within the meaning of Section 311(a)(7), 33 U.S.C. § 1321(a)(7).

41. Respondent is an "owner or operator" within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a home and marine fuel oil storage and distribution business at the Facility.

42. The fuel oil storage and distribution business at the Facility has been in operation since 1950. Respondent has owned and operated this business at the Facility since 1966.

43. Respondent is engaged in storing and using "oil" or oil products located at the Facility within the meaning of 40 C.F.R. § 112.2.

44. The Facility has an aggregate above-ground oil storage capacity of approximately 160,000 gallons.

45. The Facility is an "onshore facility" within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

46. The Facility is a "non-transportation-related" facility within the meaning of 40 C.F.R. Part 112 Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.

47. Gloucester Harbor meets the definition of “navigable waters” of the United States in Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 110.1.

48. Based on the above, the Facility is therefore a non-transportation-related onshore facility with an aggregate above-ground storage capacity greater than 1,320 gallons of oil in containers each with a shell capacity of at least 55 gallons, which, due to its location and in the event of a significant uncontained release, could reasonably be expected to discharge oil to a “navigable waters” of the United States or its adjoining shorelines in a harmful quantity. Respondent is therefore subject to Section 311(j)(1) of the CWA and the SPCC Regulations at the Facility.

49. Respondent transfers oil over water to a marine fuel vessel (the T/V Capt. Dave) moored at a pier in the Facility.

50. As the owner and operator of a non-transportation-related facility with a total oil storage capacity greater than or equal to 42,000 gallons that transfers oil over water to and/or from vessels, which, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines, Respondent is also subject to Section 311(j)(5) of the CWA and the FRP Regulations at the Facility.

51. On November 25, 2008, an authorized EPA representative inspected the Facility to determine its compliance with Section 311(j) of the CWA, and in particular, the requirements of the SPCC and FRP Regulations.

52. Based on the November 25, 2008 inspection, and on documents submitted by Respondent to EPA, EPA has determined that from at least October 2005 through January 2009, Respondent failed to fully implement an SPCC plan for the Facility in

accordance with the provisions of 40 C.F.R. § 112.7, in violation of 40 C.F.R. § 112.3 and Section 311(j) of the CWA.

53. Additionally, based on the November 25, 2008 inspection, and on documents submitted by Respondent to EPA, EPA has determined that from at least October 2005 through March 2010, Respondent had not provided to EPA an FRP meeting the requirements of the FRP Regulations, in violation of 40 C.F.R. § 112.20 and Section 311(j) of the CWA.

II. CONSENT AGREEMENT

EPA and Respondent agree that settlement of this cause of action is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter. Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

54. Respondent admits the jurisdictional allegations set forth in Section I above and hereby waives any defenses it might have as to jurisdiction and venue.

55. Respondent neither admits nor denies the specific factual or other non-jurisdictional allegations contained in Section I above.

Waiver of Rights

56. Respondent waives the right to a hearing under Sections 309(g)(2)(B) and 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. §§ 1319(g)(2)(B) and 1321(b)(6)(B)(ii), and to any appeal of the Final Order in this matter under Sections 309(g)(8)(B) and 311(b)(6)(G)(ii) of the CWA, 33 U.S.C. §§ 1319(g)(8)(B) and 1321(b)(6)(G)(ii).

Respondent consents to the issuance of a Final Order without further adjudication.

Penalty

57. EPA proposes, and Respondent consents to, the assessment of a civil penalty of ONE-HUNDRED THIRTY THOUSAND DOLLARS (\$130,000) for all violations contained in this CAFO.

Payment Terms

58. In agreeing to the penalty described in paragraph 58 above, EPA has taken into account the statutory penalty factors at Sections 309(g)(3) and 311(b)(8) of the CWA, 33 U.S.C. §§ 1319(g)(3) and 1321(b)(8).

59. Respondent shall pay a total penalty of \$130,000, plus interest (calculated at 4%) on any penalty payment amounts not paid within 30 days of the effective date of the CAFO, pursuant to 31 U.S.C. § 3717 and 31 C.F.R. § 901.9(b), for violations of Sections 301, 308, and 311 of the CWA, 33 U.S.C. §§ 1311, 1318, and 1321. Of the total amount, \$100,000 shall represent payment for Respondent's violations of Sections 301 and 308 of the CWA and \$30,000 shall represent payment for Respondent's violations of Section 311 of the CWA.

60. Respondent shall make the payments in the following manner:
- a. \$65,000 shall be due within 30 calendar days of the effective date of this CAFO. Of that amount, Respondent shall pay a penalty of \$30,000 for the violations of Section 311(j) of the CWA and shall make this payment by cashier's or certified check, payable to "Treasurer, United States of America," referencing the title and docket numbers of the action ("In the Matter of Rose's Oil Service, Inc.," Docket No. CWA-01-2010-0080) and

“Oil Spill Liability Trust Fund – 311.” The payment shall be mailed via regular U.S. Postal Service mail, to

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

At the same time, Respondent shall pay \$35,000 of the \$100,000 penalty for the violations of Sections 301 and 308 of the CWA and shall make this payment by cashier’s or certified check, payable to “Treasurer, United States of America,” referencing the title and docket numbers of the action (“In the Matter of Rose’s Oil Service, Inc.,” Docket No. CWA-01-2010-0080). The payment shall be mailed via regular U.S. Postal Service mail, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- b. The remaining \$66,300 (i.e. \$65,000 in principal, plus \$1,300 in interest) for the violations of Sections 301 and 308 of the CWA shall be due within 6 months of the effective date of this CAFO. Respondent shall make this payment by cashier’s or certified check, payable to “Treasurer, United States of America,” referencing the title and docket numbers of the action (“In the Matter of Rose’s Oil Service, Inc.,” Docket No. CWA-01-2010-0080). The payment shall be mailed via regular U.S. Postal Service mail, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- c. Acceleration Clause: if Respondent fails to make any payment as described above, all remaining installments shall become immediately due and payable as of the missed payment date. Interest on such unpaid penalty amounts shall accrue from the missed payment date.

61. Respondent shall note the case name and respective docket numbers (“In the Matter of Rose’s Oil Service, Inc.,” Docket No. CWA-01-2010-0080) in cover letters accompanying the payments and shall provide copies of the checks and letters to:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

and

Christine Foot, Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

62. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. § 162(f) and is not tax deductible for purposes of federal, state, or local law.

General Provisions

63. Pursuant to Sections 309(g)(9) and 311(b)(6)(H) of the CWA,

33 U.S.C. §§ 1319(g)(9) and 1321(b)(6)(H), a failure by the Respondent to pay the penalty assessed by this CAFO in full by its due date shall subject Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates, from the date when this CAFO becomes final. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(b), promulgated under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay, in addition to such amount and interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

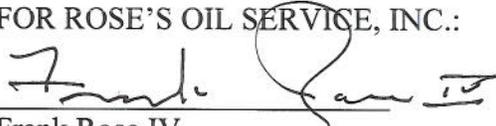
64. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, successors, or assigns.

65. The Final Order does not constitute a waiver, suspension, or modification of the requirements of Sections 301, 308, and 311 of the CWA, 33 U.S.C. §§ 1311, 1318, and 1321, or any regulations promulgated thereunder, and does not affect the right of the EPA 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 Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to herein.

66. Except as described in paragraph 64 of this Consent Agreement, each party shall bear its own costs and attorney's fees in connection with the action resolved by this CAFO.

67. The undersigned representative of Respondent certifies that he is fully authorized by Rose's Oil Service, Inc. to enter into the terms and conditions of this CAFO and to execute and legally bind Rose's Oil Service, Inc. to it.

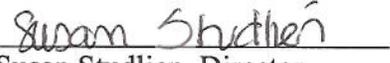
FOR ROSE'S OIL SERVICE, INC.:



Frank Rose IV
Rose's Oil Service, Inc.

Date: 10/26/10

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:



Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

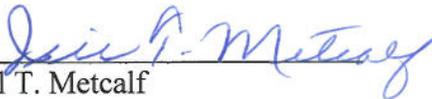
Date: 11/10/10

III. FINAL ORDER

EPA has provided a thirty-day opportunity for public notice and comment on this proposed CAFO, pursuant to Sections 309(g)(4)(A) and 311(b)(6)(C)(i) of the CWA, 33 U.S.C. §§ 1319(g)(4)(A) and 1321(b)(6)(C)(i), and 40 C.F.R. § 22.45(b).

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order.

The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will become final thirty (30) days from the date it is signed by the Regional Judicial Officer unless a petition to set aside the order is filed by a commenter pursuant to Sections 309(g)(4)(C) and 311(b)(6)(c)(iii) of the CWA, 33 §§ U.S.C. 1319(g)(4)(C) and 1321(b)(6)(c)(iii), and 40 C.F.R. Part 22.



Jill T. Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: January 6, 2011

