

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

FILED

May 31, 2024

3:32 pm

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

<p>IN THE MATTER OF:</p> <p>Hi-Noon Petroleum, Inc.,</p> <p style="text-align: center;">Respondent</p>	<p>CONSENT AGREEMENT</p> <p>Docket No. CWA-08-2024-0010</p>
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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 the undersigned U.S. Environmental Protection Agency (EPA) official (Complainant) and Hi-Noon Petroleum, Inc. (Respondent).
3. Respondent owns and/or operates a business that trucked gasoline into Yellowstone National Park on August 19, 2022, and spilled 4,800 gallons of gasoline within the Park at 44.874576 Latitude, -111.046135 Longitude, Mile Marker 16.5, US 191 (Site).
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, and Respondent agrees 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 Consolidated Rules of Practice, under which this proceeding may be resolved by a final order from a 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

Oil Discharge Prohibition

7. Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), prohibits discharging oil into or upon the navigable waters of the United States in such quantities as may be harmful as determined under section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4).
8. Section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), directed the President to determine by regulation, for purposes of section 311 of the Act, those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife and public and private property, shorelines, and beaches. The President delegated the authority to make this determination to the EPA Administrator in section 8(a) of Executive Order No. 12777 (56 Fed. Reg. 54757, October 21, 1991).
9. In response to the directive referenced in paragraph 8, above, the EPA Administrator promulgated 40 C.F.R. § 110.3. That regulation provides that a discharge of oil may be harmful to the public health or welfare or the environment of the United States if that discharge (a) violates applicable water quality standards or (b) causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.
10. Consequently, a discharge of oil that (a) violates applicable water quality standards or (b) causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines is prohibited by section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

Enforcement

11. Any owner or operator of any onshore facility from which oil is discharged in violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), may be assessed an administrative civil penalty by the EPA, according to section 311(b)(6)(A)(i) of the Act, 33 U.S.C. § 1321(b)(6)(A)(i). As adjusted for inflation pursuant to 40 C.F.R. part 19, the maximum administrative class I penalty under section 311 of the Act for violations occurring after November 2, 2015, where penalties are assessed on or after December 27, 2023, is \$23,048 per day for each day during which the violation continues, with a maximum of \$57,617. (See 88 Fed. Reg. 89309, 89312 (December 27, 2023)).

IV. ALLEGATIONS OF FACT AND LAW

The following allegations apply at all times relevant to this Agreement:

12. Respondent is a Montana corporation. Its registered agent for service of process in Montana is Dirk N. Cooper, 1101 S 6th Street, W Missoula, Montana 59807.
13. 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. § 122.2.
14. On August 19, 2022, Respondent discharged approximately 4,800 gallons of gasoline from a tanker truck at the Site into Grayling Creek and adjacent wetlands. The gasoline was present in Grayling Creek and adjacent wetlands until at least August 23, 2022.
15. The gasoline referenced in paragraph 14, above, constitutes “oil” as defined in section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1).
16. The discharge referenced in paragraph 14, above, caused a sheen on Grayling Creek and adjacent wetlands.
17. The discharge referenced in paragraph 14, above, was a discharge of oil in such quantities as may be harmful, under section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).
18. The gasoline referenced in paragraph 14, above, is a “pollutant” as defined in section 502(6) of the Act, 33 U.S.C. § 1362(6).
19. The tanker truck from which the gasoline referenced in paragraph 14, above, is a “point source” as defined in section 502(14) of the Act, 33 U.S.C. § 1362(14).
20. The discharge referenced in paragraph 14, above, was not authorized by any permit issued under the Act or by any provision enumerated in 33 U.S.C. § 1311(a).
21. The wetlands adjacent to Grayling Creek have a continuous surface connection to Grayling Creek.
22. Grayling Creek a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2. It is also a “water of the United States” as defined in 40 C.F.R. § 122.2. It is a relatively permanent water that flows through Wyoming and Montana. Grayling Creek is a feeder tributary of Montana’s Hebgen Lake.
23. Wyoming and Montana classify surface waters differently. Grayling Creek (and all waters within the Yellowstone National Park boundary) are classed as follows:
 - a. In Wyoming, Grayling Creek is classified as Class 1. Class 1, Outstanding Waters. Class 1 waters are those surface waters in which no further water quality degradation by point source discharges other than from dams will be allowed. Under the Clean Water Act, the surface waters in Yellowstone National Park are classified as Outstanding National Resource Waters.

- b. Under the Montana Water Classification System, these waters, located wholly within national park boundaries, are designated as A-1, or Outstanding Resource Waters in Montana (Administrative Rules of Montana 17.30.617).
24. The unnamed wetland area adjacent to Grayling Creek, covers approximately 6.5 acres. Approximately 4.1 acres were water-covered at the time of the discharge. An 18-inch diameter corrugated-metal culvert underlies US 191 approximately 130-feet south of the discharge area. At the time of the discharge, surface water would have been flowing from west to east through the culvert. The east side of US 191 is a large wetland area adjacent to and with surface waters connecting to Grayling Creek on the east side of US 191. The wetland on the west side of the highway is approximately 1,200 feet north to south and approximately 300 feet wide (west to east) at its widest point. The depth of the wetland varies greatly with the deepest part being the pond and water channel that runs north to south. The deepest part of this channel is estimated to be 3 feet deep. Surface water throughout the wetland flows to the south on the west side of US 191 to Grayling Creek after Grayling Creek crosses US 191 again from east to west through a series of three culverts.
25. Respondent is an “owner or operator” as that term is defined in section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), of the Site.

V. ALLEGED VIOLATIONS OF LAW

The Complainant alleges the following violations.

Count 1: Discharge of Oil

26. The discharge of gasoline described in paragraph 14, above, was a violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

VI. TERMS OF CONSENT AGREEMENT

27. For the purpose of this proceeding, Respondent:
- a. admits the facts set forth in paragraph 3 of this Agreement;
 - b. admits the jurisdictional allegations in section II of this Agreement;
 - c. neither admits nor denies the factual allegations in sections IV and V of this Agreement;
 - d. consents to the assessment of a civil penalty as stated below;
 - e. acknowledges this Agreement constitutes an enforcement action for purposes of considering Respondent’s compliance history in any subsequent enforcement action; and

- f. waives any right to contest the allegations in this Agreement and to appeal any final order approving this Agreement.
28. In determining the amount of the penalty to be assessed, the EPA considered the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice shall require.
29. Based on the allegations in sections IV and V above, and having considered the penalty assessment factors cited in paragraph 28 above, the Complainant has determined a civil penalty of **\$20,000** is appropriate to settle this proceeding.

TERMS OF PAYMENT

30. Respondent agrees to pay a civil penalty in the amount of **\$20,000** (“Assessed Penalty”) within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”).
31. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
32. When making a payment, Respondent shall:
- a. Identify every payment with Respondent’s name and the docket number of this Agreement;
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Kate Tribbett, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street,
Denver, CO 80202
tribbett.kate@epa.gov

Darla Hohman, OPA Enforcement Technical Lead
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street,
Denver, CO 80202
hohman.darla@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“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 that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

33. 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 Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.
- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1321(b)(6)(H). The rate of interest is the IRS’s 8% 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 twenty percent (20%) quarterly non-payment penalty.
34. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions 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

government 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, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
35. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
36. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.
37. This Agreement applies to Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this Agreement to any successors in interest prior to any transfer of any interest in the Site occurring prior to payment in full of the penalty referenced above. Any change in ownership or corporate control of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement.
38. The undersigned representative of Respondent certifies he or she has authority to bind Respondent to this Agreement.
39. Except as qualified by paragraph 33, above, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
40. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service (IRS) annually, a completed IRS Form 1098-F (entitled "Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (TIN), as described below, may

subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, the EPA requires, and Respondent agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall certify on its completed IRS Form W-9 that this form includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at Chalifoux.Jessica@epa.gov, no later than 30 days after the due date under paragraph 30, above, for payment of the penalty, and EPA recommends encrypting IRS Form W-9 in email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five days after Respondent’s receipt of a TIN issued by the IRS.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

41. In response to the alleged violations and in settlement of this matter, although not required by any federal, state, tribal or local law, Respondent agrees to implement a supplemental environmental project (SEP), as described below in paragraphs 42 to 55.
42. Respondent shall complete an emergency planning and preparedness SEP, consisting of providing spill response supplies, a spill response trailer, and spill response training to the Hebgan Basin Fire District. The SEP is more specifically described in Attachment A and incorporated herein by reference.
43. Respondent shall spend no less than **\$45,000** on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report. If Respondent’s implementation of the SEP as described in Attachment A does not expend the full amount set forth in this paragraph, and if EPA determines that the amount remaining reasonably could be applied toward the purchase of additional emergency response equipment, Respondent will identify, purchase, and provide additional emergency response equipment to the Hebgan Basin Fire District.
44. Respondent shall complete the SEP by six months from the Filing Date of this Agreement.

45. Use of SEP Implementer and Identification of SEP Recipient
- a. SEP Implementer: Respondent has selected Resource Technologies, Inc. as a contractor/consultant to assist with implementation of the SEP.
 - b. SEP Recipient: Respondent has selected Hebgen Basin Fire District to receive a SEP to provide spill response equipment and training.
46. The EPA had no role in the selection of any SEP implementer, SEP recipient, or specific equipment identified in the SEP, nor shall this Agreement be construed to constitute EPA approval or endorsement of any SEP implementer, SEP recipient, or specific equipment identified in this Agreement.
47. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015). The SEP advances at least one of the objectives of the Clean Water Act by helping emergency responders accelerate and improve spill response efforts. The SEP is not inconsistent with any provision of the Clean Water Act. The SEP relates to the alleged violations, and is designed to reduce:
- a. The adverse impact to public health and/or the environment to which the alleged violations contribute, specifically the likelihood that similar impacts to waters of the U.S. by spills will occur in the future by training the Hebgen Basin Fire District on oil spill response measures and providing spill response equipment. The Hebgen Basin Fire District is usually the first to respond to spills within their large, multistate District, and would otherwise generally have to wait a minimum of four hours for dedicated HASMAT responders to take "hands on" measures to respond to spills. This SEP also reduces the overall risk to public health and/or the environment potentially affected by future spills.
48. Respondent certifies the truth and accuracy of each of the following:
- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP is the amount described in paragraph 43;
 - b. That, as of the date of executing this Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
 - c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims

resolved in this Agreement;

- d. That Respondent has not received and will not have received credit for the SEP in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
- g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 42; and
- h. That Respondent has inquired of the Hebgen Basin Fire District whether it is party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the Hebgen Basin Fire District that it is not a party to such a transaction.

49. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this Agreement from the date of its execution of this Agreement shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws."

50. SEP Reports.

- a. Respondent shall submit a SEP Completion Report to EPA within one month after completing the SEP. The SEP Completion Report shall contain the following information, with supporting documentation:
 - i. A detailed description of the SEP as implemented;
 - ii. A description of any operating problems encountered and the solutions thereto;
 - iii. Itemized costs;
 - iv. Certification that the SEP has been fully implemented pursuant to the provisions of this Agreement; and
 - v. A description of the environmental and public health benefits resulting

from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

- b. Periodic Report. Respondent shall submit an additional report to update EPA on the progress of the SEP during the first three-month period following the Filing Date of this Agreement. This Periodic Report shall be due to EPA 14 days after the initial three-month period ends.
- c. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by subsections (a) and (b) above shall be deemed a violation of this Agreement.
- d. Respondent shall submit all notices and reports required by this Agreement to Darla Hohman, using the contact info listed in paragraph 32.
- e. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

51. EPA acceptance of SEP Report.

- a. After receipt of the SEP Completion Report described in paragraph 50.a above, EPA will, in writing to the Respondent, either:
 - i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or
 - ii. Indicate that EPA concludes that the project has been completed satisfactorily; or
 - iii. Determine that the project has not been completed satisfactorily and seek a penalty in accordance with paragraph 53 herein.

52. If EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification.

EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

53. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in paragraph 43 above, Respondent shall pay a penalty to the United States in the amount of **\$55,000** less the amount of eligible SEP costs incurred by Respondent. "Satisfactory completion" of the SEP is defined as Respondent spending no less than the amount described in paragraph 43 to perform the activities described in paragraph 42 and Attachment A by the deadline in paragraph 44. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.
54. EPA retains the right to waive or reduce the penalty described in paragraph 53 at its sole discretion.
55. Respondent shall pay the penalty described in paragraph 53 not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 31 above. Interest and late charges shall be paid as stated in paragraph 33.

VII. EFFECT OF CONSENT AGREEMENT

56. In accordance with 40 C.F.R. § 22.18(c), compliance with the final order approving this Agreement resolves Respondent's liability only for federal civil penalties for the violations specifically alleged above.
57. Nothing in this Agreement shall relieve Respondent 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.
58. 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 Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
59. If and to the extent the EPA finds, after signing this Agreement, that any information provided by Respondent 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.

60. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements between the parties modifying the SEP schedules described in paragraphs 41 to 55, which Complainant shall have the authority to extend for good cause.

VIII. PUBLIC NOTICE

61. Because this is a Class I administrative penalty proceeding under section 311(b)(6) of the Act, 33 U.S.C. § 1321(b)(6), the public notice provisions of section 311(b)(6)(C) of the Act, 33 U.S.C. § 1321(b)(6)(C), and 40 C.F.R. § 22.45, do not apply.

IX. SERVICE OF FINAL ORDER

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

For Complainant:

Matt Castelli, 8ORC-LE-R
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129
Telephone: (303) 312-6491
Email: Castelli.matthew@epa.gov

For Respondent:

Urs Broderick Furrer
Attorney
Harriton & Furrer, LLP
83 Wooster Heights Road, Suite 125,
Danbury, CT 06810
Telephone: (914) 730-3400
Email: ubfurrer@hflawllp.com

63. The parties consent to service of the final order approving this Agreement at the respective email addresses in paragraph 62, above.

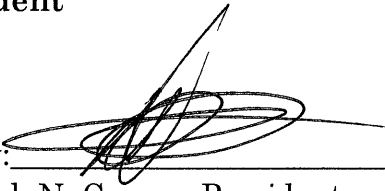
**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**

Date: _____

By: _____
Sridhar Susarla, Manager
RCRA and OPA Enforcement Branch
Complainant

**Hi-Noon Petroleum, Inc.
Respondent**

Date: 5/30/24

By: 
Dirk N. Cooper, President

ATTACHMENT A

Supplemental Environmental Project (SEP) Concept Proposal

Submitted by Hi-Noon Petroleum, Inc.

to Satisfy EPA CWA Penalty Assessment for the Grayling Creek Gasoline Spill

Yellowstone National Park, Wyoming - NRC #1344974

Project Objective:

The Hebgen Basin Fire District (HBFD) provided the initial response and incident command for the Grayling Creek Gasoline Spill that occurred within the boundary of Yellowstone National Park during the early morning hours of August 19, 2022, Figure 1. For environmental and public benefit, our goal is to provide resources and supplemental training for the HBFD to support enhanced "Mission Specific" response efforts for fuel spills within their environmentally sensitive service area.



Figure 1 - Shadows of HBFD firefighters cast upon the tanker involved in the Grayling Creek Gasoline Spill

Background:

Headquartered in West Yellowstone, Montana, the HBFD serves a 120 square-mile area encompassing natural resources of substantial local and international significance. As shown in Figure 2, the HBFD borders or contains portions of Yellowstone National Park, the Lee Metcalf Wilderness Area, the Gallatin National Forest, and the pristine headwaters of the Gallatin and Madison River drainage basins and Hebgen Lake.

The HBFD is traversed by US Highway 191, US Highway 287, and US Highway 20 and all convey commercial traffic that includes transport of fuel and other hazardous materials (HAZMAT). Additional infrastructure serving a population of over 1,500 residents includes natural gas and propane delivery networks and other HAZMAT.

Need:

The current staffing of the HBFD includes 11 full-time paid firefighters and 10 volunteers possessing varying levels of HAZMAT training from the “Awareness” to the “Operations” levels of OSHA 1910.120 and NFPA 472 specifications. While the level of training is consistent with fire departments nationwide, it is limited to “hands-off” operations that isolate access and protect exposures from HAZMAT. Generally, fire departments rely on specifically trained HAZMAT response teams and other outside resources to provide rapid response for a spill event; however, the nearest equipped HAZMAT responders require at least four hours to mobilize to a HAZMAT incident in the HBFD under ideal circumstances.

Benefit:

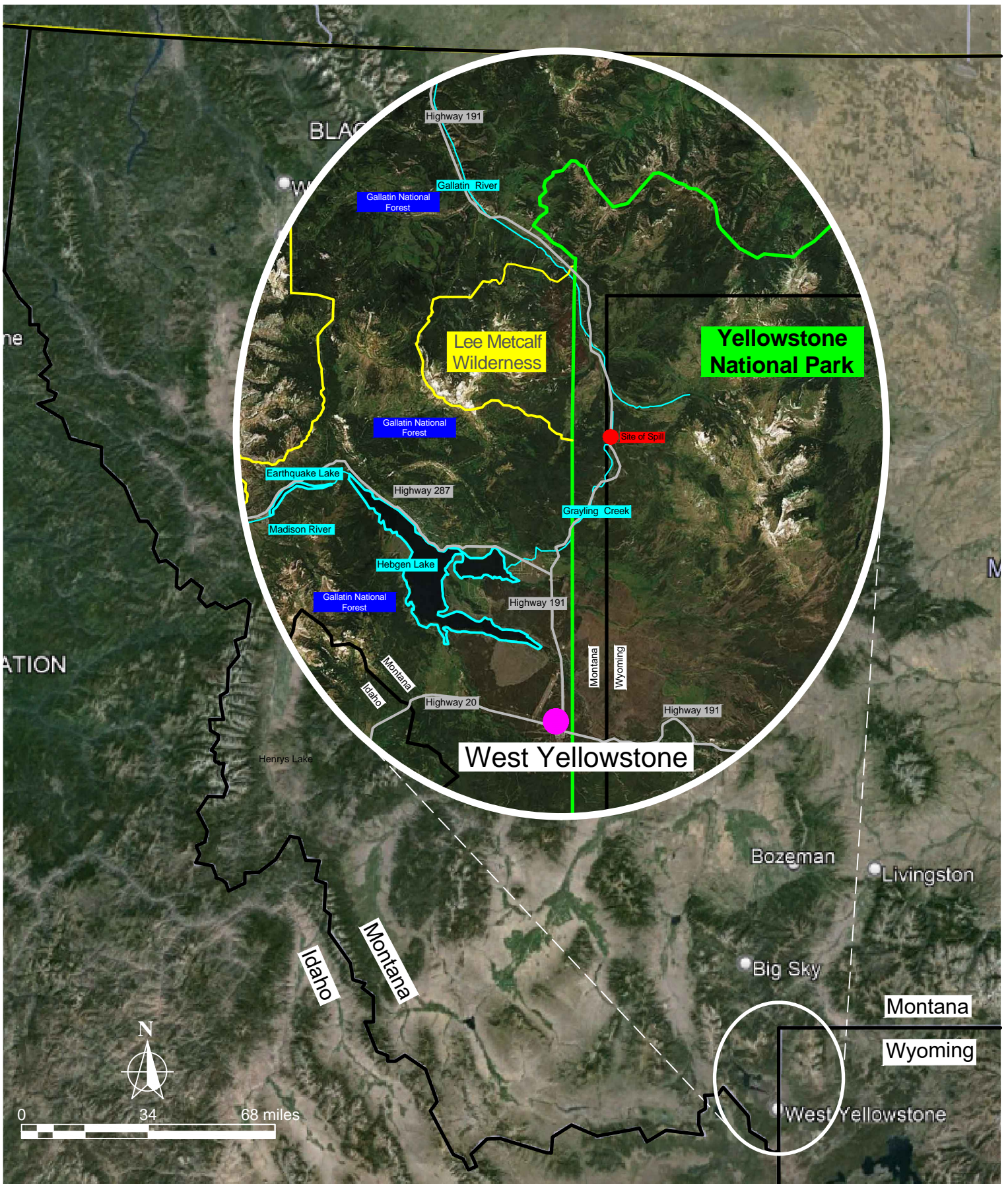
Considering the significance of the natural resources at risk within the HBFD response area, rapid intervention in response to a HAZMAT incident would have tremendous benefit. Additional “Mission Specific” training and resources would enable the HBFD to operate in a “hands-on” offensive strategy mode to directly address contaminants of concern during spill response in this remote and sensitive environment.


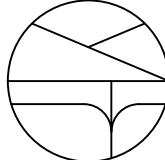




Project Concept:

The concept is similar to an aspect of the SEP that was developed following the Yellowstone River Silvertip Pipeline Spill - NRC#: 961503 in 2011 and has the support of Montana Department of Environmental Quality management staff.

- Provide a mobile response trailer and an inventory of spill response equipment and supplies to be staged and maintained in West Yellowstone by the HBFD. Inventory lists for two of the trailers provided under the Silvertip SEP are included in Attachment 1 as an example. A cost estimate for a support truck and trailer is provided in Attachment 2.
- Assist the HBFD to identify environmental exposures and prepare incident action pre-plans to protect those exposures.
- Provide “Mission Specific” spill response training for HBFD firefighters from qualified providers that could include the Montana Department of Environmental Quality and the Montana Fire Training School.

We feel that there would be substantial benefit to the HBFD and the public served by providing specific resources and training to enhance protection of the rich natural resources and human welfare within its service area during an emergency HAZMAT event.



Legend	 Water Bodies	Figure 2		RESOURCE TECHNOLOGIES, INC. 1050 EAST MAIN STREET, SUITE 4 BOZEMAN, MT 59715 (406) 585-8005 FAX: (406) 585-0069
	 State Line			
 Wilderness Area Boundary				
 National Park Boundary				
 Highway				

Attachment 1

2011 Silvertip Pipeline Spill SEP Response Trailer Inventory Lists

Bozeman 12' Spill Response Trailer

Amount	Item
4	Boom tow bridles w/floats
4	1/2 x 9' galvanized vinyl coated wire rope w/eyelet ends
8	lashing straps for containment boom sections
400'	ACME 12" containment boom
25	T Posts w/rigid tire dolly
2	T Post drivers
1	T post puller
2	300' sections of 1/2" poly dacron rope in container
2	200' sections of 1/2" poly dacron rope in container
2	100' sections of 1/2" poly dacron rope in container
1	1200' spool of 1/2" poly dacron rope
12	Life jackets (PFD) various sizes
1	overpack drum
1	EZ jack
1	tier 4 way wrench
1	set wheel chocks
	Large tool box contents
2	spare boom connector plates
18	locking d ring carabiners
12	petzl fixe climbing pulleys
24	leather work gloves various sizes
1	Box of nitrile gloves
10	rolls electrical tape
1	bag 14" cable ties
1	1200' 1/4" poly dacron rope
1	1000' mil spec para cord
2	EZ splice kits
4	prusik loops
6	(each) red, yellow, blue tags
1	container shop towels
1	claw hammer
1	wire cutter
1	channel lock pliers
1	multi point screwdriver
1	bolt cutter
12	ratchet straps

Forsyth (1) 18' Spill Response Trailer

Amount	Item
6	Boom tow bridles w/floats
4	1/2 x 9' galvanized vinyl coated wire rope w/eyelet ends
26	lashing straps for containment boom sections
1000'	ACME 12" containment boom
8	boom deflectors
2	25' hoses with cam lok fittings
1	Ridgid manta ray skimmer
20	T Posts w/rigid tire dolly
2	T Post drivers
1	T post puller
2	300' sections of 1/2" poly dacron rope in container
2	200' sections of 1/2" poly dacron rope in container
2	100' sections of 1/2" poly dacron rope in container
1	1200' spool of 1/2" poly dacron rope
12	Life jackets (PFD) various sizes
1	overpack drum
1	EZ jack
1	tier 4 way wrench
1	set wheel chocks
	Large tool box contents
2	spare boom connector plates
30	locking d ring carabiners
18	petzl fixe climbing pulleys
36	leather work gloves various sizes
3	box cutters
1	Box of nitrile gloves
10	rolls electrical tape
1	bag 14" cable ties
1	1200' 1/4" poly dacron rope
1	1000' mil spec para cord
2	EZ splice kits
4	prusik loops
6	(each) red, yellow, blue tags
1	container shop towels
1	claw hammer
1	wire cutter
1	channel lock pliers
1	multi point screwdriver
1	bolt cutter
12	ratchet straps
3	hose floats

Attachment 2

Cost Estimate

Note:

The cost estimate in this Attachment was provided by Hanser's Environmental, Inc. (Hanser's) and is intended to provide an example configuration of resources that could meet the objectives of the SEP. The cost estimate from Hanser's is for materials only, without contractor mark-up, and does not include the additional cost for trailer modifications, training, and back-up supply inventory which would be provided by Hi-Noon, the estimated cost of which is an additional \$10,000.

The final inventory and associated cost of response equipment and training would be in accordance with specific needs expressed by the HBFD.



Environmental Remediation
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24/7 Dispatch# 406-869-2390 | Fax# 406-534-7583
dispatch@hansers.com | www.hansers.com
Fed Tax ID# 81-0379325

COST ESTIMATE
Hazmat Trailer and Inventory
Resource Technologies Inc.
3/8/2024

Product	Quantity	Price	Total
55-gallon poly drums	5	\$95.00	\$475.00
30-gallon poly drums	5	\$75.00	\$375.00
Drum liners (box-50 count)	1	\$195.00	\$195.00
2 Boxes of "oil only" pads	2	\$118.00	\$236.00
2 Boxes of "oil only" socks	2	\$62.00	\$124.00
2 boxes of "universal" pads	2	\$187.00	\$374.00
2 boxes of "universal" socks	2	\$64.00	\$128.00
3 bags of soda ash	3	\$50.00	\$150.00
20 bags of absorbent ash	20	\$55.00	\$1,100.00
EcoGreen (gallons)	30	\$50.00	\$1,500.00
4 bottles of Dawn soap	1	\$48.00	\$48.00
Weed sprayer	2	\$15.00	\$30.00
Brooms	2	\$48.00	\$96.00
Shovels	2	\$55.00	\$110.00
Powerbroom	2	\$450.00	\$900.00
Respirator	2	\$50.00	\$100.00
Filters	6	\$20.00	\$120.00
Tyvek suits	20	\$19.00	\$380.00



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COST ESTIMATE
Hazmat Trailer and Inventory
Resource Technologies Inc.
3/8/2024

Shop vac	2	\$215.00	\$430.00
2" trash pump	1	\$429.00	\$429.00
2" lay flat hose 50'	2	\$100.00	\$200.00
Acid diaphragm pump	1	\$1,231.00	\$1,231.00
1" acid hose 25'	4	\$175.00	\$700.00
Diaphragm pump	2	\$1,200.00	\$2,400.00
1" hose 25'	4	\$125.00	\$500.00
Rags	6	\$35.00	\$210.00
Chemical gloves	12	\$12.00	\$144.00
Leather gloves	12	\$15.00	\$180.00
Blk work gloves	12	\$25.00	\$300.00
Rubber boots	4	\$50.00	\$200.00
Tools (misc.)	1	\$600.00	\$600.00
Misc. fittings	1	\$500.00	\$500.00
30 gal overpack	5	\$200.00	\$1,000.00
50 gal overpack	5	\$300.00	\$1,500.00
50 lb bag baking soda	2	\$40.00	\$80.00
330 gal chemical tote	1	\$780.00	\$780.00
Dust masks	6	\$32.00	\$192.00



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COST ESTIMATE
Hazmat Trailer and Inventory
Resource Technologies Inc.
3/8/2024

8.5x 16' trailer	1	\$14,000.00	\$14,000.00
Decals for trailer	1	\$3,000.00	\$3,000.00
Total Estimated Cost			\$35,017.00