

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

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In the Matter of:	:	Proceeding to assess Class II
	:	Administrative Penalty Under
Jay Bee Oil & Gas, Inc..	:	Section 309(g) of the Clean Water Act
Route 1, Box 5	:	
Cairo, West Virginia 26337	:	Docket No. CWA-03-2016-0064
Respondent	:	
Nurses Hollow Site,	:	
Doddridge County, West Virginia	:	
Horner Site,	:	<b>CONSENT AGREEMENT AND</b>
Doddridge County, West Virginia	:	<b>FINAL ORDER</b>
McElroy Creek Crossing Site,	:	
Doddridge County, West Virginia	:	
Yeater Well Pad Site,	:	
Doddridge County, West Virginia	:	
Maddie Mae Well Pad Site	:	
Tyler County, West Virginia	:	
Gorby Well Pad Site	:	
Tyler County, West Virginia	:	

**CONSENT AGREEMENT**

**I. STATUTORY AND REGULATORY BACKGROUND**

1. Pursuant to Section 309(g) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(g), the Administrator of the United States Environmental Protection Agency (“EPA”) is authorized to assess administrative penalties against persons who violate Section 301(a) of the Act, *id.* § 1311(a). The Administrator has delegated this authority

- to the Regional Administrator of EPA Region III, who in turn has delegated this authority to the Director, Environmental Assessment and Innovation Division (“Complainant”).
2. This Consent Agreement is entered into by the Complainant and Jay Bee Oil & Gas, Inc. (“Respondent”) pursuant to Section 309(g) of the CWA and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.
  3. The Consolidated Rules, at 40 C.F.R. § 22.13(b) provide in pertinent part that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and Final Order (“CAFO”) simultaneously commence and conclude this administrative proceeding against Respondent.
  4. Section 309(g)(2)(B) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of administrative penalties against any person who violates the Act in an amount not to exceed \$25,000 per day for each day of violation, up to a total penalty amount of \$125,000.
  5. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), any person who has violated the Act after January 12, 2009 is liable for an administrative penalty not to exceed \$16,000 per day for each day of violation up to a total penalty amount of \$177,500 for violations that occurred between January 12, 2009 and December 6, 2013, and \$187,500 for violations that occurred after December 6, 2013.
  6. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order. In addition, pursuant to Section 309(g)(1)(A), EPA has consulted with the West Virginia Department of Environmental Protection (WVDEP) regarding this action, and will mail a copy of this document to the appropriate WVDEP official.
  7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of dredged and/or fill material from a point source to “waters of the United States” except in compliance with a permit issued by the Secretary of the Army under Section 404 of the CWA, 33 U.S.C. § 1344.
  8. 40 C.F.R. § 232.2 defines “fill material” as “material placed in waters of the United States where the material has the effect of: 1) [r]eplacing any portion of a water of the United States with dry land; or 2) [c]hanging the bottom elevation of any portion of a water of the United States.”
  9. Fill material is a “pollutant” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

**III. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS, AND CONCLUSIONS OF LAW**

10. Respondent is a person within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

**Count I: Nurses Hollow Impoundment**

11. At all relevant times, Respondent has owned and/or operated the Nurses Hollow Impoundment, located approximately 500 linear feet northwest of County Route 4/1 and Broad Run/County Route 4, Center Point, West Virginia (“the Nurses Hollow Impoundment Site”) and depicted on Attachment 1. On the basis of information available, the Nurses Hollow Impoundment is a centralized pond serving multiple wells.
12. The Nurses Hollow Impoundment Site is located adjacent to two unnamed tributaries to Broad Run. Broad Run flows to McElroy Creek, and then to Middle Island Creek, a tributary to the Ohio River. Middle Island Creek and the Ohio River have been identified as traditionally navigable waters. The unnamed tributaries on the Nurses Hollow Impoundment Site have a surface hydrologic connection and significant nexus to downstream traditionally navigable waters and are “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
13. On the basis of information available, Respondent, or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to waters of the United States located at the Nurses Hollow Impoundment Site, specifically, the unnamed tributaries.
14. On the basis of information available, the equipment constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
15. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the “waters of the United States” located on the Nurses Hollow Impoundment Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
16. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the “waters of the United States” at the Nurses Hollow Impoundment Site without authorization.

**Count II: Horner Site**

17. At all relevant times, Respondent has owned and/or operated the Horner Site, comprised of a lined freshwater pit, an access road, and a portion of pipeline and located in Center Point, Doddridge County, West Virginia off of County Route 6/Franks Run approximately 2.4 miles northeast of the intersection of West Virginia 23 and County Route 6/Franks Run and depicted on Attachment 2.

18. The Horner Site is located adjacent to Franks Run and an unnamed tributary of Franks Run. Franks Run flows McElroy Creek and then to Middle Island Creek and the Ohio River. Franks Run and its unnamed tributary have a surface hydrologic connection and significant nexus to downstream traditionally navigable waters and are “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
19. On the basis of information available, Respondent or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to waters of the United States located at the Horner Site, specifically to the unnamed tributary to Franks Run. On the basis of information available, the equipment constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
20. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the “waters of the United States” located on the Horner Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
21. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the “waters of the United States” at the Horner Site without authorization.

**Count III: McElroy Creek Stream Crossing Site**

22. At all relevant times, Respondent has owned and/or operated the McElroy Creek Stream Crossing Site, comprised of a constructed stream crossing and located approximately 2000 lf west of the intersection of WV-23 and County Route 1 in Center Point, Doddridge County, West Virginia at the following coordinates: 39 degrees 23’ 43.12” N 80 degrees 38’ 37.72” W and depicted on Attachment 3.
23. The McElroy Creek Stream Crossing Site is comprised of a constructed stream crossing on McElroy Creek, which flows to Middle Island Creek and then to the Ohio River. The McElroy Creek Site has a surface hydrologic connection and significant nexus to downstream traditionally navigable waters and is a “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
24. On the basis of information available, Respondent or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to waters of the United States located at the McElroy Creek Stream Crossing Site, specifically to McElroy Creek. On the basis of information available, the equipment constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

25. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the “waters of the United States” at the McElroy Creek Stream Crossing Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
26. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the “waters of the United States” at the McElroy Creek Stream Crossing Site without authorization.
27. On March 31, 2016, EPA issued Administrative Compliance Order Docket No. CWA-03-2016-0112DW directing Respondent to take certain actions to bring the McElroy Creek Stream Crossing Site back into compliance with the CWA (“McElroy Creek Compliance Order”). Respondent has reported that it intends to commence the work directed by the McElroy Creek Compliance Order by no later than July 6, 2016, consistent with the Right of Entry issued by the West Virginia Division of Natural Resources.

**Count IV: Maddie Mae Well Pad**

28. At all relevant times, Respondent has owned and/or operated the Maddie Mae Well Pad Site, comprised of a gas well pad and its associated access road and located in Tyler County, West Virginia, off of Indian Creek Road in the McElroy District at the following coordinates: 39° 26' 21.36" N and 80° 48' 25.75" W and depicted on Attachment 4.
29. The Maddie Mae Well Pad includes constructed stream crossings of unnamed tributaries to Indian Creek, which is a tributary to Middle Island Creek, which is a tributary to the Ohio River. The unnamed tributaries to Indian Creek Site have a surface hydrologic connection and significant nexus to downstream traditionally navigable waters and are “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
30. On the basis of information available, Respondent or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to waters of the United States located at the Maddie Mae Well Pad Site, specifically to unnamed tributaries to Indian Creek. On the basis of information available, the equipment constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
31. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the “waters of the United States” at the Maddie Mae Well Pad Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344 because Respondent had failed to satisfy General Condition 18 of Nationwide Permit 14 prior to discharging dredged and/or fill material to waters of the United States.

32. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the “waters of the United States” at the Maddie Mae Well Pad Site without authorization.
33. On information and belief, Respondent has met with representatives of the U.S. Fish and Wildlife Service and has agreed to submit and implement a plan to preserve approximately 100 acres of forestland.

**Count V: Yeater Well Pad Site**

34. At all relevant times, Respondent has owned and/or operated the Yeater Well Pad Site, comprised of a constructed stream crossing and located in Center Point, Doddridge County, West Virginia (26339), off of County Route 6/Franks Run, approximately 1.2 miles northeast of the intersection of West Virginia 23 and County Route 6/Franks Run at the following coordinates: 39 degrees 24’ 35.28”N, 80 degrees 38’ 16.08”W and depicted on Attachment 5.
35. The Yeater Well Pad Site is comprised of a constructed stream crossing on an unnamed tributary of Franks Run, which flows to Franks Run, and then to McElroy Creek, Middle Island Creek, and the Ohio River. The unnamed tributary of Franks Run Site has a surface hydrologic connection and significant nexus to downstream traditionally navigable waters and is a “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7); 40 C.F.R. § 232.2.
36. On the basis of information available, Respondent or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to waters of the United States located at the Yeater Well Pad Site, specifically to the unnamed tributary of Franks Run. On the basis of information available, the equipment constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
37. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the “waters of the United States” at the Yeater Well Pad Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
38. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the “waters of the United States” at the Yeater Well Pad Site without authorization.

39. On February 22, 2012, EPA issued Administrative Compliance Order Docket No. CWA-03-2012-0087DW directing Respondent to take certain actions to bring the Yeater Well Pad Site back into compliance with the CWA. Respondent has reported that it has completed the actions required by Docket No. CWA-03-2012-0087DW.

**Count VI: Gorby Well Pad Site**

40. At all relevant times, the Respondent has owned and/or operated the Gorby Well Pad Site located approximately 3.6 miles northeast of the town of Alma in Tyler County, West Virginia at the following coordinates: 39 degrees 46' 89.90"N, 80 degrees 79' 75.81"W and depicted on Attachment 6.
41. Tributaries onsite flow into unnamed tributaries to Big Run, which flows to Indian Creek and then to Middle Island Creek, which flows into the Ohio River. The unnamed tributaries on the Gorby Well Pad Site have a surface hydrologic connection and significant nexus to downstream traditionally navigable waters and are "waters of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7); 40 C.F.R. § 232.2.
42. On the basis of information available, Respondent or persons acting on behalf of Respondent, operated equipment, the operation of which resulted in the discharge of dredged and/or fill material to waters of the United States located at the Gorby Well Pad Site. On the basis of information available, the equipment constitutes a "point source" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
43. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the "waters of the United States" at the Gorby Well Pad Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
44. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the "waters of the United States" at the Gorby Well Pad Site without authorization.

**IV. GENERAL PROVISIONS**

45. For the purpose of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.
46. Respondent neither admits nor denies the factual allegations or Findings of Fact set forth in this CAFO.

47. Respondent waives any defenses it might have as to jurisdiction and venue, its right to contest the allegations through hearing or otherwise; and its right to appeal the proposed final order accompanying the Consent Agreement.
48. Respondent agrees not to contest EPA's jurisdiction to issue and enforce this CAFO.
49. Respondent hereby expressly waives its right to a hearing on any issue of law or fact in this matter and consents to issuance of this CAFO without adjudication.
50. Respondent shall bear its own costs and attorney fees.
51. The provisions of this CAFO shall be binding upon the Respondent, its officers, principals, directors, successors and assigns.
52. The parties agree that settlement of this matter prior to the initiation of litigation is in the public interest and that entry of this CAFO is the most appropriate means of resolving this matter.

#### **V. CIVIL PENALTY**

53. In full and final settlement of the Complainant's claims for civil penalties for the alleged violations identified herein, Respondent consents to the assessment of, and agrees to pay, in accordance with the terms set forth herein, the total administrative civil penalty of one-hundred and forty thousand dollars (\$140,000) within one-hundred and eighty (180) days of the effective date of this CAFO pursuant to 40 C.F.R. § 22.31(c). Respondent certifies that, due to fluctuations in cash flow, including expenditures necessary to comply with Administrative Compliance Order on Consent, Docket No. CWA-03-2016-0063DW and Administrative Compliance Order Docket No. CWA-03-2016-0112DW, Respondent cannot pay the full penalty within thirty (30) days without experiencing undue financial hardship.
54. The civil penalty amount set forth in Paragraph 53, above, is based on a number of factors, including the nature, circumstances, extent and gravity of the violation(s), Respondent's ability to pay, prior history of compliance, degree of culpability, economic benefit or savings resulting from the violations, and such other matters as justice may require, including but not limited to Respondent's representation that it has complied with Administrative Compliance Order, Docket No. CWA-03-2012-0087DW and Respondent's commitment to comply with Administrative Compliance Order on Consent, Docket No. CWA-03-2016-0063DW and Administrative Compliance Order Docket No. CWA-03-2016-0112DW, pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g).



55. Respondent shall pay the civil penalty amount described in Paragraph 53, above, plus any interest, administrative fees, and late payment penalties owed, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action;
- b. All checks shall be made payable to "**United States Treasury**";
- c. All payments made by check and sent by regular mail shall be addressed to:

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

Primary Contact: Craig Steffen, (513) 487-2091  
Secondary Contact: Molly Williams, (513) 487-2076

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

Primary Contact: Craig Steffen, (513) 487-2091  
Secondary Contact: Molly Williams, (513) 487-2076

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
**“D 68010727 Environmental Protection Agency”**

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: John Schmid, (202) 874-7026  
Remittance Express (REX): (866) 234-5681

- h. On-Line Payment Option:

[WWW.PAY.GOV/paygov/](http://WWW.PAY.GOV/paygov/)

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

<http://www.epa.gov/financial/makepayment>

- j. Payment by Respondent shall reference Respondent’s name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent’s check or a copy of Respondent’s electronic fund transfer shall be sent simultaneously to:

Stefania D. Shamet  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC20)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy  
Regional Hearing Clerk  
U.S. EPA, Region III (3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

56. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
57. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within one hundred and eighty (180) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
58. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
59. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
60. The penalty specified in Paragraph 53 shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

**VI. APPLICABLE LAWS**

61. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

**VII. RESERVATION OF RIGHTS**

62. This CAFO resolves only the civil claims for the specific violations alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present and imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. § 301 *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
63. Entry of this CAFO is a final settlement of all violations alleged in this CAFO. EPA shall have the right to institute a new and separate action to recover additional civil penalties for the claims made in this CAFO, if EPA obtains evidence that the information and/or representations of the Respondent are false, or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, EPA may have under law or equity in such event.

**VIII. FULL AND FINAL SATISFACTION**

64. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations alleged in this Consent Agreement. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

**IX. PARTIES BOUND**

65. This CAFO shall apply to and be binding upon the EPA and Respondent. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

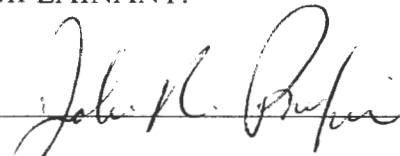
**X. EFFECTIVE DATE**

66. Pursuant to 40 C.F.R. § 22.45(b), this CAFO shall be issued after a 40-day public notice period is concluded. This CAFO will become final and effective thirty (30) days after it is filed with the Regional Hearing Clerk, pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5), or until a public comment process pursuant to 40 C.F.R. § 22.45(b) is concluded.

**XI. ENTIRE AGREEMENT**

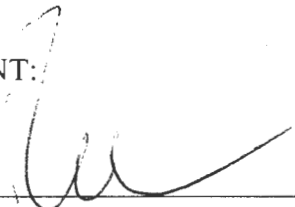
67. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

FOR COMPLAINANT:

By:   
John R. Pomponio, Director  
Environmental Assessment and  
Innovation Division

Date: 9/24/16

FOR RESPONDENT:

By: 

Date: 7-19-2016

Name: Randy Broda  
President

Title: President

**FINAL ORDER**

SO ORDERED, pursuant to 33 U.S.C. 1319(g), and 40 C.F.R. Part 22,

this 29<sup>th</sup> day of September, 2016

Cecil Rodrigues for  
Shawn M. Garvin SMG  
Regional Administrator  
U.S. Environmental Protection Agency  
Region III