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EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

| | | |
|-------------------------------------|---|-----------------------------|
| In the Matter of: |) | |
| |) | DOCKET NO. CAA-10-2016-0161 |
| |) | |
| SHORESIDE PETROLEUM, INC., |) | CONSENT AGREEMENT |
| Seward Terminal & Cordova Terminal, |) | |
| |) | |
| Anchorage, Alaska, |) | |
| |) | |
| Respondent. |) | |

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d).

1.2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Shoreside Petroleum, Inc. ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of the CAA is proposed to be assessed.

2.3. EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. § 19.4, that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty action.

2.4. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CAA together with the specific provisions of the CAA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Background

3.1. Pursuant to Section 111(b) of the CAA, 42 U.S.C. § 7411(b), EPA has promulgated New Source Performance Standards (“NSPS”) for specified categories of stationary sources of air pollutants that are “new sources.” A “new source” is defined as “a stationary source, the construction or modification of which is commenced after the publication of NSPS regulations or proposed regulations that are applicable to such source.” 42 U.S.C. § 7411(a)(2).

A “stationary source” is defined as including “buildings, structures, facilities or installations that emit or may emit any air pollutant.” 42 U.S.C. § 7411(a)(3).

3.2. The term “modification” means “any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.” 42 U.S.C. § 7411(a)(4).

3.3. NSPS regulations apply to the owner or operator of any stationary source that contains an “affected facility,” the construction or modification of which is commenced after the date of publication of an NSPS (or, if earlier, the date of publication of any proposed standard) applicable to that facility. 40 C.F.R. § 60.1.

3.4. “Affected facility” is defined, with reference to a stationary source, as any apparatus to which an NSPS is applicable. 40 C.F.R. § 60.2.

3.5. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), prohibits the operation of any “new source” of air pollutants in violation of an NSPS applicable to such source. Thus, a violation of an NSPS requirement is a violation of CAA Section 111(e).

3.6. EPA has promulgated general provisions for the NSPS at 40 C.F.R. Part 60, Subpart A (“NSPS Subpart A”), which contain general provisions that apply to the owner or operator of any stationary source subject to an NSPS. 40 C.F.R. § 60.1(a).

3.7. EPA promulgated NSPS Subpart XX – Standards of Performance for Bulk Gasoline Terminals, codified at 40 C.F.R. §§ 60.500-506, which applies to the total of all the loading racks at a “bulk gasoline terminal” constructed or modified after December 17, 1980, and which deliver liquid product into gasoline tank trucks.

3.8. The regulation at 40 C.F.R. § 60.501 defines a “bulk gasoline terminal” as a facility that has a gasoline throughput of greater than 75,700 liters (or 20,000 gallons) per day.

3.9. In accordance with 40 C.F.R. §§ 60.502 and 60.8, the owner or operator of each bulk gasoline terminal containing an affected facility shall comply with the requirements of 40 C.F.R. § 60.502 not later than 180 days after initial startup of the affected facility. These requirements include:

3.9.1. In accordance with 40 C.F.R. § 60.502(a), “each affected facility shall be equipped with a vapor collection system designed to collect the total organic compounds vapors displaced from tank trucks during product loading.” In accordance with 40 C.F.R. § 60.502(b), “the emissions to the atmosphere from the vapor collection system due to the loading of liquid product into gasoline tank trucks are not to exceed 35 milligrams of total organic compounds per liter of gasoline loaded...”

3.9.2. In accordance with 40 C.F.R. § 60.502(d), “Each vapor collection system shall be designed to prevent any total organic compounds vapors collected at one loading rack from passing to another loading rack.”

3.9.3. In accordance with 40 C.F.R. § 60.502(e), “Loadings of liquid product into gasoline tank trucks shall be limited to vapor-tight gasoline tank trucks” using the method specified in 40 C.F.R. § 60.502(e).

3.9.4. In accordance with 40 C.F.R. § 60.502(f), “The owner or operator shall act to assure that loadings of gasoline tank trucks at the affected facility are made only into tanks equipped with vapor collection equipment that is compatible with the terminal’s vapor collection system.”

3.9.5. In accordance with 40 C.F.R. § 60.502(g), “The owner or operator shall act to assure that the terminal’s and the tank truck’s vapor collection systems are connected during each loading of a gasoline tank truck at the affected facility.”

3.9.6. In accordance with 40 C.F.R. § 60.502(h), “The vapor collection and liquid loading equipment shall be designed and operated to prevent gauge pressure in the delivery tank from exceeding 4,500 pascals (450 mm of water) during product loading. This level is not to be exceeded when measured by the procedures specified in 40 C.F.R. § 60.503(d).”

3.9.7. In accordance with 40 C.F.R. § 60.502(j), “Each calendar month, the vapor collection system, the vapor processing system, and each loading rack handling gasoline shall be inspected during the loading of gasoline tank trucks for total organic compounds liquid or vapor leaks.”

3.10. Sections 112(c), (d) and (k) of the CAA require EPA to publish a list of categories of “stationary sources” of hazardous air pollutants (“HAPs”), and to promulgate regulations establishing emission standards for major sources and certain area sources within those categories. 42 U.S.C. §§ 7412(c), (d) and (k). These standards are known as the National Emissions Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories, and are codified at 40 C.F.R. Part 63.

3.11. “Stationary source” under Section 112 has the same meaning as the term has under Section 111(a)(3) of the CAA. 42 U.S.C. § 7412(a)(3). Section 112 of the CAA defines “major source” as any stationary source, or group of stationary sources, located within a contiguous area and under common control that emits or has the potential to emit considering

controls, in the aggregate, more than 10 tons per year of any single HAP or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1). An “area source” is any source that is not a “major source.” 42 U.S.C. § 7412(a)(2).

3.12. EPA has promulgated general provisions for the NESHAPs at 40 C.F.R. Part 63, Subpart A (“NESHAP Subpart A”), which contain general provisions that apply as specified in the relevant NESHAP. 40 C.F.R. § 63.1(a)(4)(i). In particular, the regulation at 40 C.F.R. § 63.9(b) requires the affected source to submit an initial notification no later than 120 calendar days after the effective date of the relevant standard. In addition, the regulation at 40 C.F.R. § 63.9(h) requires the affected source to submit a notification of compliance status before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard.

3.13. HAPs are defined at 40 C.F.R. § 63.2 to mean pollutants listed in, or pursuant to, Section 112(b) of the CAA.

3.14. “New source” is defined as a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under Section 112 establishing an emission standard applicable to such source. 42 U.S.C. § 7412(a)(4); see also 40 C.F.R. § 63.2.

3.15. “Existing Source” means any stationary source other than a new source. 42 U.S.C. § 7412(a)(10); see also 40 C.F.R. § 63.2.

3.16. Pursuant to 40 C.F.R. § 63.4(a), no “owner or operator” shall operate any “affected source” in violation of an applicable NESHAP, except under an extension of compliance or exemption from compliance as provided in that section or in CAA

Section 112(i)(4), 42 U.S.C. § 7412(i)(4). An “affected source” is defined as a “collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the [CAA].”

40 C.F.R. § 63.2.

3.17. Pursuant to Sections 112(c) and (k) of the CAA, on January 10, 2008, EPA promulgated Part 63, Subpart BBBBBB (“NESHAP 6B”) for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, codified at 40 C.F.R. §§ 63.11080-11100. 73 Fed. Reg. 1916. NESHAP 6B applies to the owner or operator of each bulk gasoline terminal, pipeline breakout station, pipeline pumping station, and bulk gasoline plant, as those terms are defined at 40 C.F.R. §§ 63.11081 and 63.11100, that is located at, or is part of, an area source of HAPs. The term “area source” means “any stationary source of hazardous air pollutants that is not a major source.” In accordance with 40 C.F.R. § 63.11083, existing affected sources are required to comply with NESHAP 6B no later than January 10, 2011.

3.18. The regulation at 40 C.F.R. § 63.11100 defines a “bulk gasoline terminal” as a facility that has a gasoline throughput of greater than 75,700 liters (or 20,000 gallons) per day.

3.19. The NESHAP Subpart A provisions that apply to NESHAP 6B are specified in Table 3 of 40 C.F.R. Part 63, Subpart BBBBBB, and include the definitions in 40 C.F.R. § 63.2 and the prohibition in 40 C.F.R. § 63.4(a).

3.20. The specific requirements of NESHAP 6B include:

3.20.1. In accordance with 40 C.F.R. § 63.11089(a), “perform a monthly leak inspection of all equipment in gasoline service according to the requirements specified in 40 C.F.R. § 63.11089(a) through (d)” starting no later than January 10, 2011.

3.20.2. In accordance with Table 1 to NESHAP 6B and 40 C.F.R. § 63.11087(a), If you own or operate a gasoline storage tank with capacity of greater than or equal to 75 cubic meters, then you must “reduce emissions of total organic HAP or TOC by 95 weight-percent with a closed vent system and control device, as specified in [40 C.F.R.] § 60.112b(a)(3)...” or install floating roofs in compliance with Sections 2.(b)-(d) of Table 1 no later than January 10, 2011.

3.20.3. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11088(e), 63.11093(a), and 63.9(b), submit an initial notification no later than 120 calendar days after January 10, 2008.

3.20.4. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11088(e), 63.11093(b) and 63.9(h), submit a Notification of Compliance Status before the close of business on March 11, 2011.

3.20.5. In accordance with 40 C.F.R. §§ 63.11087(e) and 63.11095(a), submit a semiannual compliance report to the Administrator that includes the information specified in 40 C.F.R. § 63.11095(a).

3.20.6. In accordance with 40 C.F.R. §§ 63.11087(e), 63.11088(f), 110089(f), and 63.11095(b), submit an excess emissions report to the Administrator at the time the semiannual compliance report is submitted.

3.21. Pursuant to Section 112(c) and (k) of the CAA, on January 10, 2008, EPA promulgated Part 63, Subpart CCCCCC (“NESHAP 6C”) for Gasoline Dispensing Facilities, codified at 40 C.F.R. §§ 63.11110-11132. 73 Fed. Reg. 1916. NESHAP 6C applies to the owner or operator of each gasoline dispensing facility, as defined in 40 C.F.R. § 11132, that is located at, or is part of, an area source of HAPs. In accordance with 40 C.F.R. § 63.11113(f)(1), an existing gasoline dispensing facility that is subject to NESHAP 6C only because it loads gasoline into fuel tanks other than those in motor vehicles must comply with applicable standards by January 24, 2014.

3.22. The NESHAP Subpart A provisions that apply to NESHAP 6C are specified in Table 3 of 40 C.F.R. Part 63, Subpart CCCCCC, and include the definitions in 40 C.F.R. § 63.2 and the prohibition in 40 C.F.R. § 63.4(a).

3.23. The specific standards in NESHAP 6C include:

3.23.1. In accordance with 40 C.F.R. § 63.11117(b), by January 24, 2014, “only load gasoline into storage tanks at your facility by utilizing submerged filling, as defined in 40 C.F.R. § 63.11132.”

3.23.2. In accordance with 40 C.F.R. §§ 63.11117(e) and 63.11124(a)(1), “submit an Initial Notification that you are subject to [NESHAP 6C]” no later than May 24, 2011.

3.23.3. In accordance with 40 C.F.R. §§ 63.11117(e) and 63.11124(a)(2), “submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority” within 60 days of January 24, 2014.

Seward Terminal

3.24. Respondent is the owner and operator of the Seward Terminal, located at 700 Port Avenue, Seward, Alaska.

3.25. The Seward Terminal receives fuel products from marine barge vessels and transport trucks, stores fuel on-site, and then loads fuel into tank trucks.

3.26. The Seward Terminal is a “stationary source” as that term is defined in Sections 111(a)(3) and 112(a)(3) of the Act, 42 U.S.C. §§ 7411(a)(3), 7412(a)(3).

3.27. Prior to December 7, 2015, the Seward Terminal included eight fixed-roof fuel storage tanks, two of which stored gasoline: Seward Tank #2 and Seward Tank #5.

3.28. At all times relevant to this Consent Agreement, both Seward Tank #2 and Seward Tank #5 had capacities greater than 75 cubic meters.

3.29. Prior to June 15, 2005, the Seward Terminal operated with an Owner Requested Limit that constrained the terminal’s daily gasoline loading throughput to less than 75,700 liters (or 20,000 gallons). The constraint on daily gasoline loading was removed on June 15, 2005, on which date the Seward Terminal became a “bulk gasoline terminal” for purposes of NSPS Subpart XX and NESHAP 6B.

3.30. On November 7, 2014, Respondent voluntarily disclosed the following violations at the Seward Terminal.

Counts 1-7: NSPS Subpart XX - Standards of Performance for Bulk Gasoline Terminals

3.31. At all times relevant to this Consent Agreement, Respondent owned and operated two loading racks at the Seward Terminal. In accordance with 40 C.F.R. § 60.500(a),

Respondent's loading racks constitute the "affected facility," as that term is defined in 40 C.F.R. § 60.2, for purposes of NSPS Subpart XX applicability.

3.32. Respondent modified the loading racks after December 17, 1980. Pursuant to 40 C.F.R. § 60.500(b), this modification rendered NSPS Subpart XX applicable to the gasoline loading racks at the Seward Terminal.

3.33. Prior to November 7, 2014, both racks dispensed gasoline. Since November 7, 2014, one rack dispenses gasoline.

3.34. Prior to December 24, 2015, neither Seward Tank #2 nor Seward Tank #5 were equipped with a closed vent system and control device.

3.35. Prior to October 20, 2014, Respondent failed to limit loadings of gasoline to vapor-tight tank trucks.

3.36. Respondent violated the following requirements of 40 C.F.R. § 60.502 between December 15, 2005, and December 24, 2015:

3.36.1. In accordance with 40 C.F.R. § 60.502(a), "each affected facility shall be equipped with a vapor collection system designed to collect the total organic compounds vapors displaced from tank trucks during product loading." In accordance with 40 C.F.R. § 60.502(b), "the emissions to the atmosphere from the vapor collection system due to the loading of liquid product into gasoline tank trucks are not to exceed 35 milligrams of total organic compounds per liter of gasoline loaded..."

3.36.2. In accordance with 40 C.F.R. § 60.502(d), "Each vapor collection system shall be designed to prevent any total organic compounds vapors collected at one loading rack from passing to another loading rack."

3.36.3. In accordance with 40 C.F.R. § 60.502(e), "Loadings of liquid product into gasoline tank trucks shall be limited to vapor-tight gasoline tank trucks" using the method specified in 40 C.F.R. § 60.502(e).

3.36.4. In accordance with 40 C.F.R. § 60.502(f), "The owner or operator shall act to assure that loadings of gasoline tank trucks at the affected facility are made only into tanks equipped with vapor collection equipment that is compatible with the terminal's vapor collection system."

3.36.5. In accordance with 40 C.F.R. § 60.502(g), "The owner or operator shall act to assure that the terminal's and the tank truck's vapor collection systems are connected during each loading of a gasoline tank truck at the affected facility."

3.36.6. In accordance with 40 C.F.R. § 60.502(h), "The vapor collection and liquid loading equipment shall be designed and operated to prevent gauge pressure in the delivery tank from exceeding 4,500 pascals (450 mm of water) during product loading. This level is not to be exceeded when measured by the procedures specified in 40 C.F.R. § 60.503(d)."

3.36.7. In accordance with 40 C.F.R. § 60.502(j), "Each calendar month, the vapor collection system, the vapor processing system, and each loading rack handling gasoline shall be inspected during the loading of gasoline tank trucks for total organic compounds liquid or vapor leaks."

Counts 8 – 12: NESHAP 6B: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

3.37. The Seward Terminal is an area source of HAPs.

3.38. In accordance with 40 C.F.R. § 63.11081, at all times relevant to this Consent Agreement, the Seward Terminal constituted the “affected source” for purposes of the NESHAP 6B requirements.

3.39. Respondent failed to comply with the following NESHAP 6B requirements at the Seward Terminal between January 10, 2008, and December 24, 2015:

3.39.1. In accordance with Table 1 to NESHAP 6B and 40 C.F.R. § 63.11087(a), “reduce emissions of total organic HAP or TOC by 95 weight-percent with a closed vent system and control device, as specified in [40 C.F.R.] § 60.112b(a)(3)...” or install floating roofs in compliance with Sections 2.(b)-(d) of Table 1 no later than January 10, 2011.

3.39.2. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11088(e), 63.11093(a), and 63.9(b), submit an initial notification no later than 120 calendar days after January 10, 2008.

3.39.3. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11088(e), 63.11093(b) and 63.9(h), submit a Notification of Compliance Status before the close of business on March 11, 2011.

3.39.4. In accordance with 40 C.F.R. §§ 63.11087(e) and 63.11095(a), submit a semiannual compliance report to the Administrator that includes the information specified in 40 C.F.R. § 63.11095(a).

3.39.5. In accordance with 40 C.F.R. §§ 63.11087(e), 63.11088(f), 110089(f), and 63.11095(b), submit an excess emissions report to the Administrator at the time the semiannual compliance report is submitted.

Counts 13 – 15: NESHAP 6C: Gasoline Dispensing Facilities

3.40. At all times relevant to this Consent Agreement, Respondent loaded boat fuel tanks at a marina fueling station and motor vehicle fuel tanks at a motor vehicle fueling station at the Seward Terminal. Therefore, both the marina fueling station and motor vehicle fueling station at the Seward Terminal meet the definition of a “gasoline dispensing facility” (“GDF”) in 40 C.F.R. § 63.11132. In accordance with 40 C.F.R. § 63.11111, Respondent’s GDF at the Seward Terminal constitutes the affected source for purposes of NESHAP 6C applicability.

3.41. The monthly gasoline throughput into boat fuel tanks at Respondent’s GDF is greater than 10,000 gallons. The monthly gasoline throughput into motor vehicle fuel tanks at Respondent’s GDF is less than 10,000 gallons.

3.42. Respondent failed to comply with the following NESHAP 6C requirements at the Seward Terminal marina fueling station between May 24, 2011, and December 19, 2014:

3.42.1. In accordance with 40 C.F.R. § 63.11117(b), by January 24, 2014, “only load gasoline into storage tanks at your facility by utilizing submerged filling, as defined in 40 C.F.R. § 63.11132.”

3.42.2. In accordance with 40 C.F.R. §§ 63.11117(e) and 63.11124(a)(1), “submit an Initial Notification that you are subject to [NESHAP 6C]” no later than May 24, 2011.

3.42.3. In accordance with 40 C.F.R. §§ 63.11117(e) and 63.11124(a)(2), “submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority” within 60 days of January 24, 2014.

Cordova Terminal

3.43. Respondent is the owner and operator of the Cordova Terminal located at 100 Ocean Dock Road, Cordova, Alaska.

3.44. The Cordova Terminal receives fuel products from marine barge vessels, stores fuel on-site, and loads fuel into tank trucks.

3.45. The Cordova Terminal is a “stationary source” as that term is defined in Sections 111(a)(3) and 112(a)(3) of the Act, 42 U.S.C. §§ 7411(a)(3), 7412(a)(3).

3.46. The Cordova Terminal is an area source of HAPs.

3.47. On March 11, 2015, Respondent voluntarily disclosed the following violations at the Cordova Terminal.

Counts 16 – 21: NESHAP 6B: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

3.48. The Cordova Terminal includes seven fixed-roof fuel storage tanks, three of which store gasoline: Tank #1, Tank #4, and Tank #8. The gasoline tanks are greater than 75 cubic meters in volume each. Prior to November 22, 2015, the gasoline tanks were not equipped with a closed vent system and control device or floating roofs.

3.49. The Cordova Terminal has a gasoline throughput of 20,000 gallons per day or greater and, therefore, is a “Bulk Gasoline Terminal” as that term is defined at 40 C.F.R. § 63.11100.

3.50. In accordance with 40 C.F.R. § 63.11081, at all times relevant to this Consent Agreement, the Cordova Terminal constituted the “affected source” for purposes of the NESHAP 6B requirements.

3.51. Respondent failed to comply with the following NESHAP 6B requirements at the Cordova Terminal between January 10, 2008 and November 22, 2015:

3.51.1. In accordance with 40 C.F.R. § 63.11089(a), “perform a monthly leak inspection of all equipment in gasoline service according to the requirements specified in 40 C.F.R. § 63.11089(a) through (d)” starting no later than January 10, 2011.

3.51.2. In accordance with Table 1 to NESHAP 6B and 40 C.F.R. § 63.11087(a), “reduce emissions of total organic HAP or TOC by 95 weight-percent with a closed vent system and control device, as specified in [40 C.F.R.] § 60.112b(a)(3)...” or install floating roofs in compliance with Sections 2.(b)-(d) of Table 1 no later than January 10, 2011.

3.51.3. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11088(e), 63.11093(a) and 63.9(b), submit an initial notification no later than 120 calendar days after January 10, 2008.

3.51.4. In accordance with 40 C.F.R. §§ 63.11087(d), 63.11088(e), 63.11093(b) and 63.9(h), submit a Notification of Compliance Status before the close of business on March 11, 2011.

3.51.5. In accordance with 40 C.F.R. §§ 63.11087(e), 63.11088(f), and 63.11095(a), submit a semiannual compliance report to the Administrator that includes the information specified in 40 C.F.R. § 63.11095(a).

3.51.6. In accordance with 40 C.F.R. §§ 63.11087(e), 63.11088(f), 63.110089(f), and 63.11095(b), submit an excess emissions report to the Administrator at the time the semiannual compliance report is submitted.

Counts 22 – 24: NESHAP 6C: Gasoline Dispensing Facilities

3.52. At all times relevant to this Consent Agreement, Respondent loaded boat fuel tanks at a marina fueling station at the Cordova Terminal.

3.53. The marina fueling station at the Cordova Terminal is a gasoline dispensing facility (“GDF”) as that term is defined in NESHAP 6C, with a monthly throughput of 10,000 gallons or more. In accordance with 40 C.F.R. § 63.11111, Respondent’s GDF at the Cordova Terminal constitutes the affected source for purposes of NESHAP 6C applicability.

3.54. Respondent failed to comply with the following NESHAP 6C requirements at the Cordova Terminal between May 24, 2011, and May 18, 2015:

3.54.1. In accordance with 40 C.F.R. § 63.11117(b), by January 24, 2014, “only load gasoline into storage tanks at your facility by utilizing submerged filling, as defined in 40 C.F.R. § 63.11132.”

3.54.2. In accordance with 40 C.F.R. §§ 63.11117(e) and 63.11124(a)(1), “submit an Initial Notification that you are subject to [NESHAP 6C]” no later than May 24, 2011.

3.54.3. In accordance with 40 C.F.R. §§ 63.11117(e) and 63.11124(a)(2), “submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority” within 60 days of January 24, 2014.

3.55. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per day of violation.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), EPA has taken into account the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violations as established by any credible evidence, payment by Respondent of penalties previously assessed for the same violations, the economic benefit of noncompliance, the seriousness of the violations, and such other factors as justice may require. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$89,036 (the "Assessed Penalty").

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <https://www.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Young.teresa@epa.gov

John Pavitt
U.S. Environmental Protection Agency
Alaska Operations Office
222 W. 7th Avenue #9
Anchorage, Alaska 99513-7588
Pavitt.john@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the Assessed Penalty under the CAA. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall be responsible for payment of the following amounts:

4.8.1. Interest. Any unpaid portion of the Assessed Penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the

Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.8.2. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the Assessed Penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

4.9. The Assessed Penalty, including any additional costs incurred under Paragraph 4.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.12. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.14. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this Consent Agreement, and to any stated permit action.

4.15. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

FOR RESPONDENT:

9/30/2016



MATTHEW R. LINDSEY,
Vice President of Operations
Shoreside Petroleum, Inc.

DATED:

FOR COMPLAINANT:

9/30/2016



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

| | | |
|-------------------------------------|---|-----------------------------|
| In the Matter of: |) | DOCKET NO. CAA-10-2016-0161 |
| |) | |
| SHORESIDE PETROLEUM, INC., |) | FINAL ORDER |
| Seward Terminal & Cordova Terminal, |) | |
| |) | |
| Anchorage, Alaska, |) | |
| |) | |
| Respondent. |) | |

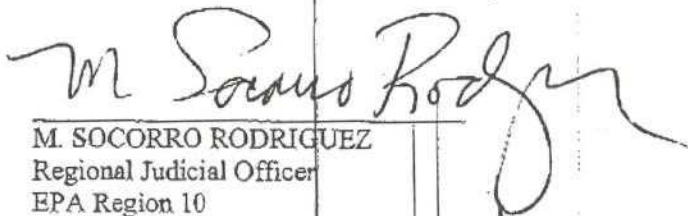
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under the CAA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CAA and regulations promulgated or permits issued thereunder and any applicable implementation plan requirements.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 30th day of September, 2016.


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Shoreside Petroleum, Inc., Docket No.: CAA-10-2016-0161**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

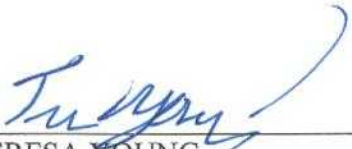
Brett S. Dugan
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Matthew R. Lindsey
Vice President of Operations
Shoreside Petroleum, Inc.
2101 East 63rd Avenue
Anchorage, Alaska 99507

Max D. Garner, Esq.
Birch Horton Bittner & Cherot
1127 West Seventh Avenue
Anchorage, Alaska 99501

DATED this 30 day of September, 2016.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10