

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. Environmental  
Protection Agency  
2017 JUN 24 11:41

**IN THE MATTER OF:**

Paradise Energy Incorporated  
1 Quimby Street  
P.O. Box 687  
Ossining, New York

**Respondent.**

Proceeding Pursuant to Section 311(b)(6) of  
the Clean Water Act, 33 U.S.C. §1321(b)(6),  
for FRP Violations

**CONSENT AGREEMENT  
AND FINAL ORDER**

**Docket No. 02-2015-3804**

**I. PRELIMINARY STATEMENT**

Complainant, the United States Environmental Protection Agency (“EPA”), having issued Complaint Number CWA-02-2015-3804 on September 28, 2015 (“the Complaint”), against Paradise Energy Incorporated (“Respondent”), and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CA/FO”) without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

**II. PROCEDURAL AND FACTUAL BACKGROUND**

1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to 311(b)(6) of the Clean Water Act (“CWA”), 33 U.S.C. §1321(b)(6).
2. The Complaint alleged that Respondent is liable for violations of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), for failing to provide a means to deploy 1,000 feet of containment boom within a one-hour period as required by Appendix E Section 3.0 of 40 C.F.R. Part 112, in violation of 40 C.F.R. § 112.20(h)(3). Additionally, the Complaint alleged that Respondent failed to develop evaluation procedures for the facility response drill/exercise program in violation of 40 C.F.R. § 112.21(c) and 40 C.F.R. § 112.20(h)(3), promulgated pursuant to Section 311(j) of the Act.

3. Respondent requested informal settlement discussions.
4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent hereby waives any defenses it might have as to jurisdiction and venue, admits the factual and legal allegations contained in the Complaint and consents to the terms of this Consent Agreement and Final Order.
5. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

### **III. TERMS OF SETTLEMENT**

Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. §1321(b)(6), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed by and between the parties, and Respondent voluntarily and knowingly agrees as follows:

6. Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. §1321(b)(6), the nature of the violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of thirty thousand dollars (\$30,000).
7. For purposes of settlement, Respondent consents to the issuance of this Consent Agreement and consents to the payment of the civil penalty cited in the foregoing Paragraph.

### **IV. PAYMENT OF CIVIL PENALTY**

8. Respondent shall pay a civil penalty in the amount of **Thirty Thousand Dollars (\$30,000)** plus interest, pursuant to the payment plan described below, payable to the "Treasurer of the United States of America."
9. Payments can be made by debit/credit card, check, or electronically. Electronic payments fall into two categories: wires and Automated Clearinghouse ("ACH"). Wires are same day and more costly. ACH is the next day or any future scheduled day and is less expensive. Please note that wires and ACH payments must be conducted through the sender's bank. The checks (cashier's or certified checks only) shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Payment methods are described below:

Type of Payment	Payment Information		
Debit and Credit Card Payments	<a href="https://www.pay.gov/paygov/">https://www.pay.gov/paygov/</a>		
Checks from U.S. Banks		U.S. Postal Service	UPS, Federal Express, or Overnight Mail
Finance Center Contacts: Craig Steffen (513-487-2091)	Check Payments – Fines and Penalties	US Environmental Protection Agency Fines and Penalties Cincinnati Finance Center PO Box 979077 St. Louis, MO 63197-9000	U.S. Bank Government Lockbox 979077 US EPA Fines & Penalties 1005 Convention Plaza SL-MO-C2-GL St. Louis, MO 63101 314-418-1028 Contact: Natalie Pearson 314-418-4087
Checks drawn on foreign banks with no USA branches (any currency)	Cincinnati Finance US EPA, MS-NWD 26 W ML King Drive Cincinnati, OH 45268-0001		
Wire Transfers (any currency)	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"		
ACH - Automated Clearinghouse for receiving US currency Finance Center Contacts:  John Schmid (202-874-7026)  REX (Remittance Express) 1-866-234-5681	US Treasury REX / Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking  Physical location of US Treasury facility: 5700 Rivertech Court Riverdale, MD 20737		

#### ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below: WWW.PAY.GOV. Enter sfo 1.1 in the search field. Open form and complete required fields.

Respondent shall also send copies of this payment to each of the following:

Branch Chief  
 Water Compliance Branch  
 Division of Enforcement and Compliance Assistance  
 U.S. EPA, Region 2  
 290 Broadway, 20th Floor  
 New York, New York 10007-1866

and  
 Regional Hearing Clerk  
 U.S. Environmental Protection Agency, Region 2  
 290 Broadway, 16th Floor  
 New York, New York 10007.

10. The dates by which payment must be received shall hereafter be referred to as to the “due dates.”
11. Payment must be received at the above address on or before the due dates described in Paragraph 12 below, which dates are calculated from the date on the signature of the Final Order at the end of this document. The amount owed at each installment payment will bear interest over the unpaid principal from the effective of this Consent Agreement.
12. Respondent agrees to pay the above stated amount in twelve (12) payments, plus interest, as follows:

<b>PAYMENT #</b>	<b>DUE DATES SCHEDULE</b>	<b>PAYMENT AMOUNT</b>
Payment 1	within 30 days from the date of signature (hereinafter “the effective date”) of CA/FO	2,500.00
Payment 2	within 60 days from the effective date of CA/FO	2,522.92
Payment 3	within 90 days from the effective date of CA/FO	2,520.83
Payment 4	within 120 days from the effective date of CA/FO	2,518.75
Payment 5	within 150 days from the effective date of CA/FO	2,516.67
Payment 6	within 180 days from the effective date of CA/FO	2,514.58
Payment 7	within 210 days from the effective date of CA/FO	2,512.50
Payment 8	within 240 days from the effective date of CA/FO	2,510.42
Payment 9	within 270 days from the effective date of CA/FO	2,508.33
Payment 10	within 300 days from the effective date of CA/FO	2,506.25
Payment 11	within 330 days from the effective date of CA/FO	2,504.17
Payment 12	within 360 days from the effective date of CA/FO	2,502.08

13. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for Collection.

14. Further, if the payment is not received on or before the due dates, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty will also be applied on any principal amount not paid within 90 days of the due date.
15. In addition, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. §1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties, which are unpaid as of the beginning of such quarter. You may also be required to pay attorney's fees and costs for collection proceedings in connection with nonpayment.
16. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or New York State taxes.


#### **V. GENERAL PROVISIONS**

17. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns, including, but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent of its obligation to comply with this CA/FO.
18. The Respondent waives any right it may have pursuant to 40 C.F.R. §22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Director or the Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
19. Except for the specific violations alleged herein, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.
20. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
21. This CA/FO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations by the Respondent alleged herein. Nothing in this CA/FO is intended to, nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

22. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

23. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CA/FO.

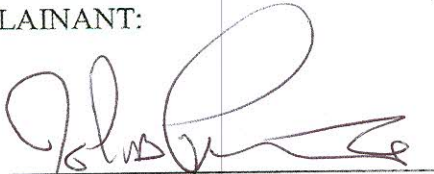
RESPONDENT:

BY: 

DATE: 7-14-17

**Josh Rosner, CEO**  
Paradise Energy Incorporated  
One Quimby Street  
P.O. Box 687  
Ossining, New York 10562

COMPLAINANT:

BY: 

DATE: July 19, 2017

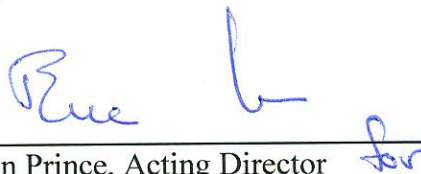
**John Prince, Director (ACTING)**  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York, 10007

### VIII. FINAL ORDER

The Regional Administrator of the United States Environmental Protection Agency, Region 2, vested by authority delegated by the Administrator of the United States Environmental Protection Agency ("EPA") and having further re-delegated such authority to the Emergency and Remedial Response Division Director, Region 2, EPA, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York.

DATED: \_\_\_\_\_

7/21/17



\_\_\_\_\_  
John Prince, Acting Director  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, NY 10007-1866



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ENVIRONMENTAL PROTECTION AGENCY  
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of the Clean Water Act, 33 U.S.C.  
§1321(b)(6).

CONSENT AGREEMENT  
AND FINAL ORDER

Docket No. CWA-02-2015-3804

CERTIFICATE OF SERVICE

I hereby certify that, on the date noted below, I caused to be sent a true copy of the fully executed Consent Agreement and Final Order bearing the above-referenced docket number, in the following manner to the addresses listed below:

Original and One Copy  
By Hand:

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

Copy  
By Hand:

Helen Ferrara  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

Copy by Email:

Scott Fein, Esq.  
Whiteman, Osterman & Hanna  
One Commerce Plaza  
Albany, New York 11260

Dated: July 24, 2017  
New York, New York

  
\_\_\_\_\_  
Lauren Fischer