



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2008 FEB 21 PM 2:52

**1595 WYNKOOP STREET  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>**

**DOCKET NO.: CWA-08-2008-0008**

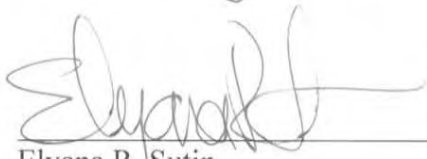
IN THE MATTER OF: )

**WYOMING RESOURCES CORPORATION** )  
 1508 Mt. View Road, Ste. 105 )  
 Rapid City, South Dakota 57702 )  
 )  
 (Travers #34-24 SWSE Sec. 24 T22N, R4E, )  
 Rapid City, Harding County, SD )  
 )  
**RESPONDENT.** )  
 )

**FINAL ORDER**

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

**SO ORDERED THIS** 21<sup>st</sup> **DAY OF** February, **2008**

  
 \_\_\_\_\_  
 Elyana R. Sutin  
 Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2008 FEB 21 10 04 52

Docket No.: **CWA-08-2008-0008**

IN THE MATTER OF	)	
	)	
Wyoming Resources Corporation	)	<b>COMBINED COMPLAINT AND</b>
1508 Mt. View Road, Ste 105	)	<b>CONSENT AGREEMENT</b>
Rapid City, South Dakota 57702	)	
	)	
	)	
(Travers #34-24 SWSE Sec. 24 T22N, R4E,	)	
Rapid City, Harding County,	)	
South Dakota)	)	
	)	
_____ Respondent.	)	

**A. PRELIMINARY MATTERS**

1. This Combined Complaint and Consent Agreement (CCCA) is issued to Wyoming Resources Corporation (Respondent) for violating section 311(j)(1)(C) of the Clean Water Act, as amended by the Oil Pollution Act of 1990 (the Act), 33 U.S.C. § 1321(j)(1)(C), and the implementing regulations at 40 C.F.R. part 112.
2. The undersigned Environmental Protection Agency (EPA) Region 8 officials have been properly delegated the authority to issue this CCCA under the authority vested in the Administrator of EPA by section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990.
3. This section authorizes EPA to bring an action under section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), for civil administrative penalties against any owner and/or operator of an onshore facility who has violated, or is in violation of, a requirement or prohibition of the Act or its implementing regulations.

4. This proceeding is governed by 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 (Consolidated Rules) set forth at 40 C.F.R. part 22.
5. This CCCA is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3) of the Consolidated Rules.
6. Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the specific factual allegations contained herein.
7. Respondent waives its rights to a hearing before any tribunal, to contest any issue of law or fact set forth in this CCCA.
8. This CCCA, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status 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.
9. This CCCA contains all terms of the settlement agreed to by the parties.
10. On June 8, 2005, Region 8's Regional Judicial Officer issued a final order that approved an expedited consent agreement between Respondent and EPA for Spill Prevention, Control, and Countermeasure (SPCC) violations (Docket Number CWA-08-2005-0022) for a facility owned by Respondent in Campbell County, Wyoming. The final order/expedited consent agreement required Respondent to correct the SPCC violations at the facility within 30 days of the final order.

**B. ALLEGED VIOLATIONS**

11. Respondent is a corporation under the laws of the State of South Dakota as of May 6, 1988.

12. Respondent is a “person” within the meaning of sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5).

13. Respondent owns and/or operates a crude oil production facility known as the Wyoming Resources Corporation Travers #34-24 facility (facility) within the meaning of sections 311(a)(6) and (10) of the Act, 33 U.S.C. §§ 1321(a)(6) and (10), located in SWSE Sec. 24 T22N, R4E, Rapid City, Harding County, South Dakota.

14. The facility includes, but is not limited to, three 400 barrel (50,400 gallons) aboveground tanks containing crude oil; one 400 barrel (16,800 gallons) tank containing oily produced water; and one 60 barrel (2,520 gallons) heater treater containing a combination of crude oil and products. The total oil storage capacity at the facility is approximately 1,660 barrels (69,720 gallons).

15. Crude oil and oily produced water are oil within the meaning of “oil” as defined at section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1).

16. Respondent is an “owner and/or operator” of an “onshore facility” within the meaning of sections 311(a)(6) and (10) of the Act, 33 U.S.C. §§ 1321(a)(6) and (10).

17. The facility is a “non-transportation related” onshore facility within the meaning of 40 C.F.R. § 112.2.

18. At the facility, Respondent produces and stores crude oil and oily produced water, which are “oils” as defined at section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1).

19. The Respondent's non-transportation onshore facility is subject to the oil pollution prevention requirements of 40 C.F.R. part 112, pursuant to section 311(j) of the Act, 33 U.S.C. § 1321(j), and its implementing regulations.
20. Respondent's facility is a facility, which due to its location, could reasonably be expected to discharge oil to a navigable water of the United States (as defined by section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1) or its adjoining shoreline and may either (1) violate applicable water quality standards or (2) cause a film or sheen or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.
21. Section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil ... from vessels and from onshore and offshore facilities, and to contain such discharges ...."
22. 40 C.F.R. § 112.3 requires that owners or operators of onshore facilities prepare and implement an SPCC plan in writing and in accordance with applicable sections of part 112, including, but not limited to, sections 112.7, 112.9 and 112.10.
23. Section 311(b)(6)(A) of the Act, 33 U.S.C. § 1321(b)(6)(A), states in pertinent part that any owner, operator, or person in charge of any vessel, onshore facility or offshore facility (ii) who fails or refuses to comply with any regulation issued under subsection (j) of this section to which that owner, operator, or person in charge is subject, may be assessed a class I or class II civil penalty by ... the Administrator.

24. A discharge from the facility could migrate to an intermittent, unnamed stream which is a tributary to Camel Creek. Camel Creek flows to Staadt Creek which flows to Crooked Creek, a perennial stream. Crooked Creek flows to the North Fork Grand River, which flows to the Bowman-Haley Lake. The North Fork Grand River continues from Bowman-Haley Lake flowing to the Grand River and the Missouri River. Crooked Creek, the North Fork of the Grand River, the Grand River and the Missouri River are all perennial rivers and the North Fork Grand, Grand and Missouri Rivers are interstate waters.

25. The intermittent, unnamed stream, Camel Creek, Staadt Creek, Crooked Creek, the North Fork Grand River, the Grand River and the Missouri River are “navigable waters” and “waters of the United States” within the meaning of section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 110.1.

26. On or about August 3, 2006, EPA conducted an SPCC inspection (the Inspection) of the facility.

27. At the time of the Inspection, the facility had a total oil storage capacity of approximately 69,720 gallons.

28. The facility did not have a written SPCC plan at the time of the Inspection in violation of 40 C.F.R. § 112.3.

29. At the time of the Inspection, the SPCC measures at the facility were found to be deficient in the following areas:

- a. No secondary containment for the tank truck loading area and flowlines in violation of 40 C.F.R. § 112.7(c);
- b. No record of inspections and tests conducted in accordance with written procedures and no record of inspections and tests signed by a supervisor or inspector and kept with the SPCC plan for the past three years in violation of 40 C.F.R. § 112.7(e);

- c. Visual inspections not conducted as evidenced by the walls of containment for the bulk containers being eroded and having low areas resulting in potentially inadequate containment for the largest tank plus freeboard for precipitation in violation of 40 C.F.R. § 112.9(c)(2); and
- d. Drainage from undiked areas not confined in a catchment basin or holding pond in violation of 40 C.F.R. § 112.9(c)(2).

30. The Respondent failed to prepare and implement an SPCC plan for the facility including SPCC measures, in accordance with the regulations at 40 C.F.R. §§ 112.7, 112.9 and 112.10 as required by 40 C.F.R. § 112.3.

31. Respondent's failure to prepare and implement an SPCC plan in accordance with the regulations at 40 C.F.R. §§ 112.7, 112.9 and 112.10 from December 26, 2002 through and including December 26, 2007, a duration of approximately sixty (60) months, constitute violations of 40 C.F.R. § 112.3 and section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C).

**C. CIVIL PENALTY**

32. Based on the foregoing allegations and pursuant to the authority of section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and 40 C.F.R. § 19.4, Complainant proposes a penalty in the amount of Twenty-Nine Thousand Six Hundred and Ninety-Eight Dollars (\$29,698) after considering the applicable statutory penalty factors in section 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8): the seriousness of the violation, 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 or mitigate the effects of the discharge, the economic impact of the penalty on the violator and any other matters as justice may require.

34. Respondent consents and agrees to pay a civil penalty in the amount of Twenty-Nine Thousand Six Hundred and Ninety-Eight Dollars (\$29,698) in the manner described below in this paragraph:

- a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the U.S. Bank. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
- b. The payment shall be made by remitting a cashier's or certified check, **including the name and docket number of this case**, for **\$29,698** payable to **"Oil Spill Liability Trust Fund"**. **The penalty will be paid in accordance with the attached sheet entitled "Collection Information."**

A copy of the check shall be sent simultaneously to:

Jane Nakad  
Technical Enforcement Program (8ENF-UFO)  
U.S. EPA Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129

and

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129

- c. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1<sup>st</sup> late day, 30 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31<sup>st</sup> day from the date of the final order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> day from the date the final



order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest and any balance is then applied to the outstanding principal amount.

- e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

**E. TERMS AND CONDITIONS**

35. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

36. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.

37. Failure by Respondent to comply with any of the terms of this CCCA shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

38. Nothing in this CCCA shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this CCCA.

39. Each undersigned representative of the parties to this CCCA certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this CCCA and to execute and legally bind that party to this CCCA.

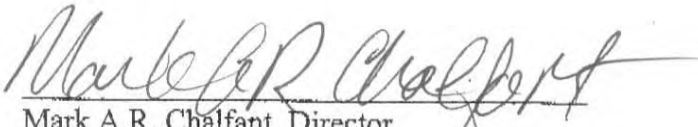
40. The parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

41. This CCCA, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the violations alleged in this CCCA.


43. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this CCCA.

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

Date: 2-12-08


  
Mark A.R. Chalfant, Director  
UIC-FIFRA-OPA Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 2/20/08

  
David J. Janik, Director  
Matt Cohn, Supervisory Enforcement Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**WYOMING RESOURCES CORPORATION**  
Respondent.

Date: 2-11-08

  
Dennis Haan  
President

43. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this CCCA.

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Mark A.R. Chalfant, Director  
UIC-FIFRA-OPA Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: \_\_\_\_\_

\_\_\_\_\_  
David J. Janik, Director  
Matt Cohn, Supervisory Enforcement Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**WYOMING RESOURCES CORPORATION**  
Respondent.

Date: 2-11-08

  
\_\_\_\_\_  
Dennis Haan  
President

## COLLECTION INFORMATION

### WIRE TRANSFERS (any currency)

#### Wire Transfers:

**Federal Reserve Bank of New York**

**ABA: 021030004**

**Account Number: 68010727**

**ACH (also known as REX or remittance express)** Automated Clearinghouse (ACH) for receiving US currency

#### ACH Transactions:

**PNC Bank/Remittance Express**

**ABA: 051036706**

**Account Number: 310006**

**CTX Format, Transaction Code 22, checking**

### CHECK PAYMENTS

**US Environmental Protection Agency**

**Fines and Penalties**

**Cincinnati Finance Center**

**PO Box 979077**

**St. Louis, MO 63197-9000**

**US checks in US dollar sent by Fed Ex and other non-US-Postal-Service express mail**

**Federal Express, Airborne, etc.**

**U.S. Bank**

**Government Lockbox 979077**

**US EPA Fines & Penalties**

**1005 Convention Plaza**

**SL-MO-C2-GL**

**St. Louis, MO 63101**

**314-418-1028**

### On-Line Payments

**There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:**

**WWW.PAY.GOV**

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **WYOMING RESOURCES CORPORATION, DOCKET NO.: CWA-08-2008-0008**; was filed with the Regional Hearing Clerk on February 21, 2008.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Michelle Marcu, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on February 21, 2008, to:

Dennis Haan, President  
Wyoming Resources Corporation  
1508 Mt. View Road, Suite 105  
Rapid City, SD 57702

E-mailed to:

Michelle Angel  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

February 21, 2008

  
Tina Artemis  
Paralegal/Regional Hearing Clerk

