



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2013 SEP 30 PM 2:29

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2013-0038

IN THE MATTER OF:)
)
)
DISCOUNT FUEL, INC.)
P. O. Box 258)
Kadoka, SD 57543)

Respondent.)
)

**ORDER GRANTING FILING
OF A TELEFAXED
CONSENT AGREEMENT
AGREEMENT AND
FINAL ORDER**

Pursuant to 40 C.F.R. §22.13(b) and 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.

This court will accept the telefaxed filing of the Respondent's signature on the Consent Agreement in this matter at this time, however the Parties are to file the original signature page within fourteen days of issuance of this Order.

The Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 30th Day of September, 2013

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2013 SEP 30 PM 2: 29

In the Matter of:

Discount Fuel, Inc.
P.O. Box 258
Kadoka, SD 57543

Respondent.

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EXPEDITED CONSENT AGREEMENT

Docket No. **CWA-08-2013-0038**

1. Pursuant to 40 C.F.R. § 22.13(b), Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Discount Fuel, Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasure (SPCC) Plan regulations, and agree as follows:
2. The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of the EPA to assess administrative penalties against any person who violates the oil pollution prevention regulations, promulgated at 40 C.F.R. Part 112 under section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.
3. Respondent owns and/or operates the Discount Fuel, Inc. Bulk Plant, located at, latitude 43.8424 N, longitude 101.5037 W, Jackson County, Kadoka, South Dakota (Facility).
4. The Facility is located approximately 0.5 miles NE of East Creek which flows 2 miles to White Willow Creek which flows 10 miles to the Bad River, which is a traditionally navigable water. Discharges of harmful quantities of oil from the Facility could reasonably be expected to reach navigable waters of the United States or adjoining shorelines.
5. The Facility has a total storage capacity of approximately 98,000 gallons of oil and is subject to the SPCC regulations.

6. Respondent admits that the Facility is subject to the SPCC regulations.
7. The Facility was inspected by the EPA on August 26, 2009, at which time the Respondent was notified that it did not have an adequate SPCC Plan and had not adequately implemented its SPCC Plan.
8. On October 13, 2010, Respondent submitted to the EPA a SPCC plan for the Facility dated February 11, 2010, which was found to be compliant with the SPCC regulations.
9. On February 9, 2010, October 13, 2010 and August 22, 2013, Respondent submitted photo documentation to the EPA showing correction of SPCC Plan implementation violations at the Facility.
10. Respondent admits that from the date of the EPA inspection on August 26, 2009, until July 15, 2013, it failed to prepare and implement an SPCC Plan for the Facility in accordance with 40 C.F.R. §§ 112.7 and 112.8.
11. Respondent admits that the EPA has jurisdiction in this proceeding.
12. Respondent waives its right to a hearing before any civil tribunal to contest any issue of law or fact set forth in this Agreement, and waives its right to appeal the Final Order.
13. This Agreement, upon incorporation into a final order, applies to and is binding upon the EPA and upon Respondent and Respondent's officers, directors, 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.
14. This Agreement contains all terms of the settlement agreed to by the parties.
15. Respondent consents and agrees to the assessment of a civil penalty of \$2,975.00 for the violations cited in Paragraph 7 above, and agrees to pay the civil penalty no later than thirty (30) calendar days after the date the Final Order is signed by the Regional Judicial Officer.

Payment shall be by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF – 311" and the title and docket number of this case. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

If the Respondent sends payment by overnight mail, the payment shall be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire transfers shall be directed to:

Federal Reserve Bank of New York
ABA: 021030004
Account: 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."

16. The Respondent shall submit copies of the check (or, in the case of a wire transfer, copies of the confirmation) to the following persons:

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

and

Donna K. Inman
Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

17. Respondent agrees to implement and maintain an SPCC plan in accordance with 40 C.F.R. § 112.
18. Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this Agreement once incorporated into the Final Order, this agreement is null and void, and the EPA may pursue any applicable enforcement options.
19. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this Agreement and to bind Respondent to the terms and conditions of this Agreement.
20. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
21. Each party shall bear its own costs and attorneys fees in connection with this matter.
22. Respondent agrees that no amount of the civil penalty to be paid shall be used to reduce its federal or state tax obligations.
23. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the Respondent, shall be a complete and full civil settlement of the specific violations described in this Agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: [Signature]
Darcy O'Connor, Director
UIC/FIFRA/OPA Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Date: 9/30/13

DISCOUNT FUELS, INC., Respondent.

By: Mal Carson
Name: Mark Carson
Title: President

Date: 9-27-13

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ORDER GRANTING TELEFAXED FILING OF THE CONSENT AGREEMENT AND FINAL ORDER** in the matter of **DISCOUNT FUEL, INC.; DOCKET NO.: CWA-08-2013-0038**, was filed with the Regional Hearing Clerk on September 30, 2013.

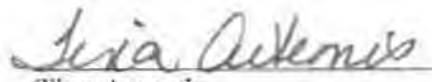
Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail on September 30, 2013, to:

Mark Carlson
P. O. Box 258
Kadoka, SD 57543

And emailed to:

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

September 30, 2013


Tina Artemis
Paralegal/Regional Hearing Clerk