

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7  
2015 AUG -1 AM 10:03

IN THE MATTER OF )  
 )  
Coastal Energy Corporation )

) Docket Nos. CWA-07-2015-0054  
) EPCRA-07-2015-0005  
)  
)  
)  
)  
)  
)  
\_\_\_\_\_ )

ORDER

Pursuant to 40 C.F.R. § 22.5(a)(1), facsimile/electronic filing of page 20 of the Consent Agreement and Final Order is authorized in this proceeding.

Dated: 8-1-16

  
\_\_\_\_\_  
for Mark Hague  
Regional Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - 1 AM 10:03  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	<b><u>CONSENT AGREEMENT</u></b>
Coastal Energy Corporation	)	<b><u>AND FINAL ORDER</u></b>
232 Burnham Road	)	
Willow Springs, Missouri 65793	)	Docket Nos. CWA-07-2015-0054
	)	EPCRA-07-2015-0005
Respondent.	)	
_____	)	

The United States Environmental Protection Agency (“EPA”), Region 7 (“Complainant”) and Coastal Energy Corporation (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of 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”), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

**FINDINGS OF VIOLATIONS**

**Jurisdiction**

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 311 of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (“CWA”), 33 U.S.C. § 1321, and Section 312 of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. § 11022, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and

the Revocation/ Termination or Suspension of Permits, 40 C.F.R. Part 22.

2. This Consent Agreement and Final Order (“CA/FO”) serves as notice that the United States Environmental Protection Agency (EPA) has reason to believe that Respondent has violated Sections 311(j) of the CWA, 33 U.S.C. § 1321(j), and regulations promulgated thereunder at 40 C.F.R. Part 112 for the requirements for Spill Prevention Control and Countermeasure Plans (“SPCC”) and Facility Response Plans (“FRP”). Additionally, Respondent failed to file a required “Tier II” hazardous chemical inventory form to the proper authorities, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. §370.20.

#### **Parties**

3. The authority to take action under Sections 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6) and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), is vested in the Administrator of EPA. The Administrator has delegated this authority to the Regional Administrator, EPA, Region 7 (Complainant). This authority has been further delegated in EPA Region 7 to the Director of the Air and Waste Management Division by EPA Regional Delegation Nos. R7-2-085 and R7-2-089.

4. Respondent is Coastal Energy Corporation, a corporation organized under the laws of Missouri with a place of business located at 232 Burnham Road, Willow Springs, Missouri 65793.

#### **Statutory and Regulatory Framework**

##### *SPCC and FRP*

5. Section 311(j) of the CWA, 33 U.S.C. § 1321(j), provides for the regulation of

onshore facilities to prevent or contain discharges of oil. Section 311(j) of the CWA, 33 U.S.C. § 1321(j), provides in part that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges.”

6. To implement Section 311(j), 33 U.S.C. § 1321(j), EPA promulgated regulations to prevent oil pollution. These regulations, codified at 40 C.F.R. Part 112, set forth the requirements for the preparation and implementation of Spill Prevention Control and Countermeasure Plans (“SPCC Plans”).

7. The requirements of 40 C.F.R. Part 112 apply to owners and operators of non-transportation-related onshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products, which due to their locations, could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines.

8. Sections 311(j)(5) of the CWA, 33 U.S.C. § 1321(j)(5), provides that the President shall issue regulations requiring the owner or operator of “an onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or upon the navigable waters [or] adjoining shorelines” to “submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil.”

9. Under the authority of Section 311(j)(5) of the CWA, Subparts A and D of 40 C.F.R. Part 112 (“the Facility Response Plan” or “FRP regulations”) require FRP-regulated

facilities to prepare a Facility Response Plan as specified in 40 C.F.R. § 112.20(h), and to develop and implement a facility response training program and a drill/exercise program that satisfies the requirements of the regulations (40 C.F.R. § 112.21(a)).

10. Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6) authorizes administrative penalties for violations of the regulations issued pursuant to Section 311(j), 33 U.S.C. § 1321(j)(5).

*EPCRA*

11. On October 17, 1986, the Superfund Amendments and Reauthorization Act (SARA) became effective. Title III of SARA included the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 11001-11050 (EPCRA). The purpose of EPCRA is to help local communities protect public health, safety, and the environment from chemical hazards.

12. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a) and the regulations set forth at 40 C.F.R. Part 370, require an owner or operator of a facility that is required to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, to submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II report) to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility, by March 1, 1988, and annually thereafter.

13. The Tier I or Tier II report must contain the information required by Section 312(d) of EPCRA and 40 C.F.R. Part 370 for hazardous chemicals present at the facility at any one time in the calendar year in amounts equal or greater to 10,000 pounds, per 40 C.F.R.

370.10(a)(2)(i).

14. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes civil and administrative penalties for violations of the requirements of Section 312 of EPCRA, 42 U.S.C. § 11022.

### **Factual Allegations**

#### *SPCC and FRP*

15. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), 40 CFR §112.2.

16. Between 2002 and the present, Respondent was at all relevant times the “owner or operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6) and 40 C.F.R. § 112.2, of a facility located at 232 Burnham Road, Willow Springs, Missouri 65793 (“Facility”).

17. The Facility is directly adjacent to the Eleven Point River and a tributary of the Eleven Point River.

18. The Facility has a documented storage capacity of 2,812,000 gallons, with the capacity divided amongst storage of liquid asphalt, denatured ethanol, and diesel fuel.

19. The Eleven Point River is a navigable water of the United States within the meaning of 40 C.F.R. § 112.2.

20. Respondent’s Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

21. Respondent’s Facility is a “non-transportation-related facility” as defined by Appendix A to 40 C.F.R. Part 112, as incorporated by reference within 40 C.F.R. § 112.2.

22. Asphalt, denatured ethanol, and fuel oil are forms of oil as defined by Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1) and 40 C.F.R. § 112.2.

23. On February 10, 2014 and March 18, 2014, the EPA conducted inspections of the facility to determine the facility's compliance with the SPCC and FRP regulations of 40 C.F.R. Part 112.

*EPCRA*

24. Respondent is, and at all times referred to herein was, a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

25. Respondent is the owner and/or operator of a facility that stores and uses propane as fuel, located at 232 Burnham Road, Willow Springs, Missouri 65793, a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66.

26. Propane is a "hazardous chemical" within the meaning of 40 C.F.R. § 370.66 because, pursuant to 29 C.F.R. § 1910.1200(c), it is a chemical that is classified as a physical or health hazard. As such, Respondent is required to prepare or have available an MSDS for propane under OSHA at its facility.

27. Pursuant to 40 C.F.R. § 370.10(a)(2)(i), the threshold level for propane is 10,000 pounds.

28. On or about June 20, 2014, EPA transmitted an information request pursuant to the Clean Air Act (CAA) Section 114 and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 104, to determine Respondent's compliance with EPCRA, among other requirements. EPA received a response to this information request from Respondent on July 1, 2014.

**Alleged Violations**

**Count 1**

**Facility Response Plan Violations**

29. The facts stated in paragraphs 1 through 23 above are hereby incorporated by reference.

30. During the EPA inspection, it was documented that Respondent's facility was located directly adjacent to the Eleven Point River and the facility did not have adequate secondary containment.

31. Based this information collected during the EPA inspection, EPA has determined that a release from Respondent's facility would threaten fish, wildlife, and sensitive environments by discharging oil into or on the navigable waters or adjoining shorelines.

32. During EPA's inspection, EPA documented Respondent failed to develop an FRP and failed to implement FRP requirements at the facility, including documenting contracts for Oil Spill Removal Organizations (OSRO) and conducting annual spill response drills, among other requirements.

33. Respondent's failure to develop and implement an FRP is a violation of 40 C.F.R. Part 112 and Section 311(j)(5) of the CWA.

**Count 2**

**Violations of SPCC Requirements**

34. The facts stated in paragraphs 1 through 23 above are hereby incorporated by reference.

35. During EPA's inspection, EPA collected and reviewed Respondent's December



2009 SPCC plan.

36. During EPA's inspection, EPA documented the following non-compliance with SPCC requirements at Respondent's facility. Specifically:

- a. The PE certification on Respondent's SPCC plan was inadequate, in violation of 40 C.F.R. Part 112.3(d).
- b. Changes to Respondent's facility had been made and the Respondent's SPCC plan was not amended within six months of the change in violation of 40 C.F.R. Part 112.5(a).
- c. Respondent's SPCC plan did not include the appropriate facility diagram in violation of 40 C.F.R. Part 112.7(a)(3).
- d. Respondent's SPCC plan did not adequately describe each fixed container, type of oil stored, and container storage capacity, in violation of 40 C.F.R. Part 112.7(a)(3)(i).
- e. Respondent's SPCC plan did not describe discharge prevention measures in violation of 40 C.F.R. Part 112.7(a)(3)(ii).
- f. Respondent's SPCC plan did not describe discharge or drainage controls, in violation of 40 C.F.R. Part 112.7(a)(3)(iii).
- g. Respondent's SPCC plan did not describe countermeasures for discharge discovery, response, and cleanup, in violation of 40 C.F.R. Part 112.7(a)(3)(iv).
- h. Respondent's SPCC plan's list of contacts was not accurate, in violation of 40 C.F.R. Part 112.7(a)(3)(vi).
- i. Respondent did not have appropriate containment and/or diversionary structures,

in violation of 40 C.F.R. Part 112.7(c).

- j. Respondent had no records of inspections or tests conducted in accordance with written procedures, in violation of 40 C.F.R. Part 112.7(e).
- k. Respondent failed to train oil handling personnel appropriately or conduct discharge prevention briefings at least once per year, in violation of 40 C.F.R. Part 112.7(f)(1, 3).
- l. Respondent's SPCC plan failed to address the loading/unloading rack drainage flow to a catchment basin and whether the containment system is capable of holding at least the maximum capacity of the largest single compartment of a tank car/tank truck that is loaded/unloaded at the facility, in violation of 40 C.F.R. Part 112.7(h)(1).
- m. Respondent's SPCC plan failed to address measures to prevent vehicles from departing before complete disconnection of flexible or fixed oil transfer lines, in violation of 40 C.F.R. Part 112.7(h)(2).
- n. Respondent's SPCC plan failed to address certain inspection requirements required by 40 C.F.R. Part 112.7(h)(3).
- o. Respondent had not provided adequately sized secondary containment for all fixed bulk storage tanks, in violation of 40 C.F.R. Part 112.8(c)(2).
- p. Respondent's SPCC plan did not discuss regular tank inspections, in violation of 40 C.F.R. Part 112.8(c)(6), or appropriate qualifications for personnel performing tests/inspections. Certain inspections were not conducted.
- q. Respondent's SPCC plan did not address the potential for leakage through

defective heating coils, in violation of 40 C.F.R. Part 112.8(c)(7).

- r. Respondent's SPCC plan did not address the inspection of aboveground valves, piping, and appurtenances, in violation of 40 C.F.R. Part 112.8(d)(4).
- s. Respondent's SPCC plan did not address warning vehicles about aboveground piping and oil transfer operations, in violation of 40 C.F.R. Part 112.8(d)(5).

37. Respondent's failures to comply with the SPCC requirements are violations of 40 C.F.R. Part 112 and Section 311(j) of the CWA.

### Count 3

#### **Failure to File a Tier II Report**

38. The facts stated in paragraphs 1 through 28 above are hereby incorporated by reference.

39. In Respondent's July 1, 2014 information request response, Respondent stated propane was stored at Respondent's facility in a maximum quantity of 4,000 gallons (or approximately 16,800 pounds) of propane during 2013. Therefore, during calendar year 2013, propane was present at Respondent's facility in amounts equal to or greater than 10,000 pounds.

40. Respondent failed to submit a completed emergency and hazardous chemical inventory form for propane to the SERC, the LEPC, or the local fire department with jurisdiction over Respondent's facility by the March 1 deadline for reporting year 2013.

41. Respondent's failure to timely submit a completed emergency and hazardous chemical inventory form for propane is a violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. § 370.40(a).

### CONSENT AGREEMENT

42. Respondent and EPA agree to the terms of this Consent Agreement and Final Order (“CA/FO”) and Respondent agrees to comply with the terms of this CA/FO.

43. Respondent admits the jurisdictional allegations of this CA/FO and agrees not to contest EPA’s jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this CA/FO.

44. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CA/FO.

45. Respondent waives its right to a judicial or administrative hearing and its right to appeal this CA/FO.

46. Respondent and Complainant agree to conciliate the matters set forth in this CA/FO without the necessity of a formal hearing and agree to each bear their own costs and attorney’s fees incurred as a result of this action.

47. This CA/FO addresses all civil and administrative claims for the CWA and EPCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA, EPCRA or any other applicable law.

48. Respondent certifies by the signing of this CA/FO that to the best of its knowledge, Respondent’s Site is in compliance with the CWA, EPCRA, and all regulations promulgated thereunder.

49. The effect of settlement described in paragraph 47, above, is conditional upon the accuracy of the Respondent’s representations to EPA, as memorialized in paragraph 48, above, of this CA/FO.

50. In settlement of this matter, Respondent agrees to complete the following Supplemental Environmental Project (“SEP”), which the parties agree is intended to secure significant environmental and/or public health benefits. Respondent shall install enhanced tank monitoring, which will allow for real time remote monitoring of tank levels, to notify the facility if a release is occurring, at a cost of no less than One Hundred and Seven Thousand Three Hundred and Forty-Seven Dollars (\$107,347), in accordance with the Respondent’s SEP Work Plan (attached hereto as Attachment A and incorporated by reference). Respondent shall also enhance local emergency response capabilities by purchasing response equipment for the Willow Springs Fire Department, at a cost of no less than Seventy Three Thousand Two Hundred Dollars (\$73,200), in accordance with the Respondent’s SEP Work Plan (attached hereto as Attachment A and incorporated by reference).

51. The total expenditure for the SEPs shall be no less than \$180,547 and the SEP remote tank monitoring SEP shall be completed no later than six months from the effective date of the Final Order, and the emergency response equipment SEP shall be completed no less than five months from the effective date of the Final Order. All work required to complete the SEP shall be performed in compliance with all federal, state, and local laws and regulations.

52. Within thirty (30) days of completion of both SEPs, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall contain the following:

- (i) A detailed description of the SEP as implemented; and
- (ii) Itemized costs, documented by copies of purchase orders, receipts, or canceled checks.
- (iii) All reports shall be directed to the following:

Mr. Mark Aaron

Storage Tanks and Oil Pollution Branch  
U.S. Environmental Protection Agency  
Region 7  
11202 Renner Boulevard  
Lenexa, Kansas 66101

53. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders, and other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled checks/drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

54. Respondent agrees to the payment of stipulated penalties as follows: In the event the Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP as set forth in paragraphs 50 and 51 of this CA/FO and/or to the extent that the actual expenditures of the SEP does not equal or exceed the cost of the SEP described in paragraphs 50 and 51 of this CA/FO, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. Except as provided in subparagraph (b) and (c) of this paragraph, if the SEP is not completed satisfactorily and timely pursuant to the agreement set forth in paragraphs 50 and 51 of this CA/FO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of Two Hundred

Thousand Dollars (\$200,000), minus any documented expenditures determined by EPA to be acceptable for the SEP.

- b. If Respondent fails to timely and completely submit the SEP Completion Report required by paragraph 52, Respondent shall be liable and shall pay a stipulated penalty in the amount of Two Hundred and Fifty Dollars (\$250) per day.
- c. If the SEP is not completed in accordance with paragraphs 50 and 51 of this CA/FO, but EPA determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

55. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CA/FO.

56. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 1 of the Final Order portion of this CA/FO.

57. Respondent certifies that it is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Respondent further certifies that Respondent has not received, and is not

presently negotiating to receive, credit in any other enforcement action for the SEP.

58. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

59. Any public statement made to print, film or other communications media, oral or written, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency."

60. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Respondent understands that its failure to timely pay any portion of the civil penalty described in paragraph 1 of the Final Order below or any portion of a stipulated penalty as stated in paragraph 54 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid



balance until such civil or stipulated penalty and any accrued interest are paid in full.

61. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth in the Final Order.

62. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of the CA/FO and to legally bind Respondent to it.

### **FINAL ORDER**

#### **Payment Procedures**

Pursuant to the authority of Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and according to terms of this CA/FO, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a total mitigated civil penalty of Twenty-Five Thousand Dollars (\$25,000) within 30 days of entry of this Final Order. Payments shall be by cashier's or certified check made payable to the "Environmental Protection Agency – OSLTF – 311" and remitted to:

United State Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000.

2. The payments shall identify Respondent by name and docket number (CWA-07-2015-0054 and EPCRA-07-2015-0005). Copies of the checks shall be mailed to:

Regional Hearing Clerk  
United States Environmental Protection Agency - Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219

and to:

Kristen Nazar  
Assistant Regional Counsel  
United States Environmental Protection Agency - Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CA/FO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

#### **Parties Bound**

4. This CA/FO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CA/FO.

#### **General Provisions**

5. This CA/FO shall resolve EPA's claims for penalties for the violations alleged herein. Notwithstanding any other provision of this CA/FO, EPA reserves the right to enforce the terms of this CA/FO by initiating a judicial or administrative action pursuant to Section 311 of the CWA, 33 U.S.C. § 1321 and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and to seek penalties against Respondent, or to seek any other remedy allowed by law for violations not resolved by this CA/FO.

6. Complainant reserves the right to take enforcement action against Respondent for any past or future violations of the CWA, EPCRA, and those statutes' implementing regulations and to enforce the terms and conditions of this CA/FO.

7. The Parties acknowledge that this Consent Agreement/Final Order is subject to the

public notice and comment required pursuant to Section 311(b)(6)(C)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(C)(i), and 40 C.F.R. § 22.45.

8. Pursuant to 40 C.F.R. § 22.31(b), this Consent Agreement/Final Order shall be effective after entry by the Regional Judicial Officer and upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. All time periods herein shall be calculated therefrom in calendar days unless otherwise provided in this Consent Agreement/Final Order.

9. Respondent and Complainant shall each bear their respective costs and attorney's fees.


10. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

COMPLAINANT:  
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date 7/28/2016

By   
John J. Smith  
Director, Air and Waste Management Division

Date 7/19/2016

By   
Kristen Nazar  
Assistant Regional Counsel

RESPONDENT:  
COASTAL ENERGY CORPORATION

By *David Montgomery*  
Title *President*  
Date *08/17/2015*

IT IS SO ORDERED. This Final Order shall become effective immediately.

Date 8-1-16 By   
fa Mark Hague  
Regional Administrator

**Attachment A**

**Supplemental Environmental Project #1: Enhanced Tank Monitoring**

Project Description. Coastal has never had a release from any of its tanks and it currently monitors all its tanks manually on a routine daily basis. To enhance tank monitoring, Coastal will install and maintain for no less than five years an electronic monitoring and control system for its five largest asphalt tanks and also install and maintain for no less than five years electronic monitoring of the supplemental ethanol containment area. The proposed system Coastal has identified is an innovative, state-of-the-art monitoring system that will have direct pollution prevention benefits. The monitoring system includes advanced radar level transmitters, or their equivalent, to automatically measure product levels in the asphalt tanks. The transmitters will be connected to a centralized alarm management and computerized control system. This system will provide real-time reporting of selected alarms and will allow for e-mail or text notification of tank events during off hours. This system will allow for 24 hour monitoring of tank product levels and will give an early warning if any releases occur. In addition, the monitor in the ethanol containment system will give an early warning of any tank leakage within the containment long before any leaks would accumulate.

Environmental Benefit. This proposed electronic system will continuously monitor product levels in the five largest asphalt tanks and within the ethanol containment structure. The alarm system will be configured so that Coastal personnel will be automatically notified off-site if product levels in one of the tanks decrease, or if liquid levels in the ethanol containment area increase on a 24 hour basis, facilitating monitoring during the day, but greatly increasing the ability to respond early to any incident during off-hours. With the addition of these monitors, Coastal will be able to detect any spills from these tanks on a 24 hour basis. The notification will allow for a very rapid response to any loss from one of these tanks during off-hours, reducing any chance that a release would affect the local environment.

Minimum Cost. Coastal proposes to spend a minimum of \$107,347 to install this system on the five largest tanks and the ethanol containment area. If this sum is sufficient to provide monitoring for additional tanks, Coastal will add monitoring for additional tanks up to a total cost of \$107,347.

Schedule. This SEP shall be installed within six months of final settlement.



## **Supplemental Environmental Project #2: Enhance Local Emergency Response Capabilities.**

Project Description. Coastal Energy's Willow Springs' facility is operated with the utmost concern for the surrounding community. The facility is surrounded by a containment berm that will more than contain any release of asphalt product from the facility. To further provide for protection in the unlikely event of a facility fire, and to provide better fire response resources to the Willow Springs community, Coastal Energy is proposing to enhance the capability of the Willow Springs Fire Department to respond to incipient fires. Coastal has discussed equipment needs with the Willow Springs Fire Chief and proposes that Coastal purchase for the Willow Springs Fire Department the following resources:

- Ten sets of bunker gear at \$1,500 each (\$15,000 total)
- Six sets of air pack assembly at \$5,000 each (\$30,000 total)
- Emergency oxygen for each fire truck at \$5,000 each (\$20,000 total)
- 600 feet of containment boom at a cost of approximately \$8,200.

Environmental Benefit. Asphalt oil has a flash point of 600 degrees F, and it is not likely to catch fire on its own. It is possible, however, that a fire ignited in another area of the facility could affect the asphalt. A fire affecting the asphalt would increase the potential for an asphalt release within containment. To best avoid any incipient fire from developing into a fire that could cause a product release, it is best that any fire at the facility be handled professionally at its incipient stage. Coastal would like to augment the resources of the Willow Springs Fire Department so that incipient fires will be managed capably. This equipment would assist in the response to any incident at the Coastal facility, but it will also be available to assist in any other response in the Willow Springs community, including response to fires that could result in an impact to the environment. In particular, this equipment will assist in providing better incident response on Highway 63 so that no motor vehicle accident will impact the Eleven Point River, which runs close to the highway. The containment boom will provide new capabilities to the Willow Springs Fire Department to contain releases of gasoline from accidents on the highway.

Minimum Cost. Coastal proposes to spend a minimum of \$73,200 in providing the above equipment for the Willow Springs Fire Department.

Schedule. This SEP shall be completed within five months of final settlement.

IN THE MATTER Of Coastal Energy Corporation, Respondent  
Docket Nos. CWA-07-2015-0054 and EPCRA-07-2015-0005

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

nazar.kristen@epa.gov

Copy by First Class Mail to Respondent:

Amy L. Wachs

Husch Blackwell

The Plaza in Clayton

190 Carondelet Plaza, Suite 600

St. Louis, Missouri 63105

Dated: 8/1/16



Kathy Robinson  
Hearing Clerk, Region 7