

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

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EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

IN THE MATTER OF: )

VIKING OIL COMPANY )  
10 Crossroads Plaza, West Hartford, )  
Connecticut 06117-2470 )

Respondent. )

Docket No. CWA-01-2009-0041

**CONSENT AGREEMENT AND  
FINAL ORDER**

This Consent Agreement and Final Order (“CAFO”) is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(ii) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, and under the authority provided 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, set forth at 40 C.F.R. Part 22 (“Part 22”).

**I. PRELIMINARY STATEMENT**

1. EPA initiated this proceeding against Viking Oil Company (“Respondent”) pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6) by filing an Administrative Complaint, Docket No. CWA-01-2009 -0041 (“Complaint”).

2. The Complaint alleges that Respondent's violation of Section 311(b)(3) of the CWA had subjected Respondent to penalties up to the statutory maximum authorized under those statutes.

3. The factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint and incorporated herein by reference.

## **II. CONSENT AGREEMENT**

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.

5. Respondent neither admits nor denies the specific factual allegations contained in the Complaint. The parties hereby agree that the execution and/or performance of this Agreement does not constitute an admission by Respondent of any of the violations alleged in the Complaint.

### **Waiver of Rights**

6. Respondent waives any defenses it might have as to jurisdiction and venue and consents to the terms of this CAFO.

7. Respondent waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

8. Respondent waives its right to appeal any Final Order in this matter, and consents to the issuance of a Final Order without further adjudication.

### **Penalty**

8. For the purpose of settlement of this action, Complainant proposes and Respondent consents to the assessment of a civil penalty of \$30,000.

### Payment Terms

9. Respondents shall pay a total penalty of \$30,000, plus interest (calculated at 4%) on any penalty payment not paid within 30 calendar days of the date the Final Order becomes final pursuant to this document and Section 311(b)(6)(D) of the CWA, 33 U.S.C. § 1321(b)(6)(D), according to the following schedule:

- a. \$15,000 shall be due within 30 calendar days of the date the Final Order becomes final pursuant to this document;
- b. \$15,300 (i.e. \$15,000 principle, plus \$300 in interest) shall be due within 6 months from the date the Final Order becomes final pursuant to this document.

10. In agreeing to the penalty described in paragraph 9 above, EPA has taken into account the statutory penalty factors at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8).

11. Respondent shall make payment by cashier's or certified check, or check issued in the normal course of business operations, payable to "Environmental Protection Agency," and referencing the title and docket number of the action ("In the Matter of Viking Oil Company, CWA-01-2009-0041") and "Oil Spill Liability Trust Fund - 311." The payment shall be mailed to:

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

12. Respondent shall simultaneously submit a copy of the check referenced in paragraph 11 above to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (RCA)

Boston, Massachusetts 02114-2023

and

Steven Schlang, Senior Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (SEL)  
Boston, Massachusetts 02114-2023

13. Pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), failure by the Respondent to pay the penalty amounts relating to the CWA violation assessed by this CAFO in full by the date required shall subject the Respondent to a civil action to collect the assessed penalty, plus interest at the prevailing rates from the effective date of the CAFO. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Further, under Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), if Respondent fails to pay on a timely basis any CWA penalty payment assessed by this CAFO, Respondent shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. Interest will be assessed pursuant to 31 C.F.R. § 901.9(b), promulgated pursuant to 31 U.S.C. § 3717.

14. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. § 162(f) and is not tax deductible for purposes of federal, state, or local law.

15. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

16. Respondent shall bear its own costs and attorneys fees in this proceeding.

17. This CAFO shall not limit the authority of the United States to enforce the underlying substantive legal requirements of this administrative penalty assessment, whether administratively or judicially.

18. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

19. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 311(b) of the CWA for the violation of the CWA specifically alleged in the Complaint. Compliance with this CAFO 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. Respondent understands that this CAFO constitutes a settlement of the civil matters alleged and does not have any applicability to any possible criminal liability, if any, of Respondent or its employees. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

20. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and legally bind Respondent.

FOR RESPONDENT VIKING OIL COMPANY

  
Lewis Steinberg, President  
Viking Oil Company

Date: 7/20/09

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

Susan Studlien

Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

Date: 09/08/09

### III. FINAL ORDER

22. In accordance with 40 C.F.R. Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Final Order shall become final 30 days from today pursuant to Section 311(b)(6)(D) of the CWA, 33 U.S.C. § 1321(b)(6)(D).

U.S. ENVIRONMENTAL PROTECTION AGENCY

  
\_\_\_\_\_  
Jill Metcalf  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

Date: Sept. 14, 2009

**In the Matter of Viking Fuel Company**  
**Docket No. CWA-01-2009-0041**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Consent Agreement and Final Order (CAFO) was sent to the following persons, in the manner specified, on the date below:

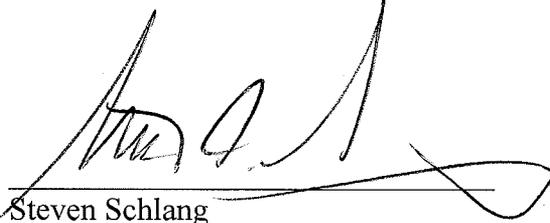
Original and one copy  
hand-delivered:

Wanda Rivera  
Regional Hearing Clerk  
U.S. EPA, Region 1  
One Congress Street (RAA)  
Boston, MA 02114-2023

Copy of CAFO  
Certified Mail, Return Receipt  
Requested

Francis S. McGurrin, Esq.  
O'Brien & von Rosenvinge, P.C.  
27 Mica Lane, Suite 202  
Wellesley, MA 02481

Dated: 2/14/09

  
Steven Schlang  
Senior Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (SEL)  
Boston, MA 02114-2023  
Tel: (617) 918-1773  
Fax: (617) 918-0773  
Email : schlang.steven@epa.gov

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Judy Lao for Steven Schlang  
Name of Case Attorney

9/14/09  
Date

in the ORC (RAA) at 918-1454  
Office & Mail Code Phone number

Case Docket Number CWA-01-2009-0041

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Viking Oil Company  
10 Crossroads Plaza  
West Hartford, CT 06117-2470

Total Dollar Amount of Receivable \$ 30,000.00 Due Date: 10/14/09

SEP due? Yes \_\_\_\_\_ No \_\_\_\_\_ Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>st</sup> \$ 15,000 on 10/14/09

2<sup>nd</sup> \$ 15,300.00 on 4/14/10

3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

Phone Number