

**U.S. EPA REGION 7
HEARING CLERK**

3. The authority to act under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), is vested in the Administrator of the EPA. The Administrator has delegated this authority to the Regional Administrator, EPA Region 7, who in turn has delegated the

authority under Section 311(b)(6) to the Director of the Enforcement and Compliance Assurance Division ("Complainant") with concurrence of the Regional Counsel.

4. This Complaint and Consent Agreement/Final Order ("CAFO") serves as notice that the EPA has reason to believe that Respondents have violated Section 311 of the CWA, 33 U.S.C. § 1321, and regulations promulgated thereunder.

Statutory and Regulatory Framework

5. The objective of the CWA, 33 U.S.C. § 1251 *et seq.*, is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."

6. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil or hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities as have been determined may be harmful to the public health or welfare of the United States.

7. Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 112.2 define "oil" as "oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse..."

8. Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), authorizes the EPA to promulgate regulations to define what discharges of oil may be harmful to the public health or welfare or environment of the United States.

9. 40 C.F.R. § 110.3 defines discharges of oil that the Administrator has determined may be harmful to the public health or welfare or the environment of the United States to include discharges of oil that: (a) violate applicable water quality standards, or (b) cause a film or sheen upon 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.

10. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), says 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 to contain such discharges.

11. To implement Section 311(j)(1)(C), the EPA promulgated the regulations to prevent oil pollution at 40 C.F.R. Part 112 that set forth the requirements for the preparation and implementation of Spill Prevention, Control, and Countermeasure ("SPCC") Plans. The requirements of 40 C.F.R. Part 112 apply to owners and operators of non-transportation-related onshore facilities with an aboveground storage capacity of 1,320 gallons or greater who are engaged in gathering, storing, 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.

Allegations of Fact and Conclusions of Law

12. Respondent, Ramsey Oil, Hutchinson, Inc. is and was at all relevant times a corporation organized under the laws of, and authorized to conduct business in, the state of Kansas.

13. Respondents, Ramsey Oil, L.L.C., Crossfaith Ventures, L.C., and Eagle Crest Properties, L.C., are and were at all relevant times limited liability companies organized under the laws of, and authorized to conduct business in, the state of Kansas.

14. Respondents, Ramsey Oil, Hutchinson, Inc., Ramsey Oil, L.L.C., Crossfaith Ventures, L.C., and Eagle Crest Properties, L.C. are “persons” within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. 112.2.

15. At all times relevant to this action, Respondents were the owners and/or operators, within the meaning of Section 311(a)(6) of the CWA and 40 C.F.R. § 112.2, of the oil retail, bulk storage, and distribution facility located in or around 1101 W. 4th Avenue, Hutchinson, Kansas 67504 (the “Facility”).

16. The Facility has a total storage capacity of approximately 122,800 gallons of oil.

17. A discharge from the Facility would flow to Cow Creek, which is a perennial stream with continuous flow.

18. Cow Creek is connected to the Arkansas River, which is a traditionally navigable water.

19. Cow Creek is a relatively permanent stream that is connected to the Arkansas River, a traditionally navigable water, and thus both are navigable waters of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

20. Respondents are engaged in storing, processing, using or consuming oil or oil products located at the Facility.

21. The Facility is a “non-transportation-related” facility within the meaning of 40 C.F.R. § 112 Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.

22. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

23. The Facility is a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity and, therefore, is an SPCC-regulated facility pursuant to Section 311(j)(1)(C) of the Act, Executive Order 12777 and 40 C.F.R. § 112.1.

24. The Respondents have been out of compliance with 40 C.F.R. Part 112 since at least August 28, 2016.

25. The Facility was the subject of previous enforcement discussions based on a December 13, 2019, SPCC inspection by the EPA. During the 2019 inspection and review of Respondent's SPCC Plan (the "Plan"), EPA representatives found violations of the SPCC regulations including, but not limited to, inadequate or no secondary containment, and no tank integrity testing system.

26. The findings of the December 13, 2019, inspection are documented in an inspection report that was transmitted to Respondents on January 10, 2020.

27. The SPCC plan being implemented from August 28, 2016, until May 9, 2023, was the Plan.

28. On May 10, 2023, representatives of the EPA again inspected the Facility to determine its compliance with the SPCC regulations of 40 C.F.R. Part 112 and obtain information about the Facility.

29. Facility staff provided a revised SPCC plan to EPA representatives on the day of the May 10, 2023, inspection, (the "Revision"), and informed EPA that they had received the Revision the day before the inspection.

30. The Revision indicated that sometime in July of 2021, Respondent had replaced the bulk tank area's steel tanks with polyethylene tanks, along with other technical changes. No amendments were made to the Plan from approximately August 28, 2016, until the date of the Revision.

31. The EPA's observations about the Facility, and findings found after reviewing the Revision were documented in an inspection report. The EPA transmitted a copy of this inspection report to Respondents on July 6, 2023.

Allegations of Violation

Count 1: Failure to Fully Prepare and Implement an SPCC Plan

32. 40 C.F.R. § 112.3 requires Respondents to fully prepare and implement an SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable section of 40 C.F.R. § 112.

33. The EPA's inspections, along with its review of the Plan and Revision, revealed violations of 40 C.F.R. § 112.3. Specifically, the Respondents failed to:

- a. Amend the Plan or indicate whether the Plan required an amendment after conducting plan reviews and making technical changes to the Facility, in violation of 40 C.F.R. §§ 112.5(a) & (b).
- b. Fully describe the physical layout of the Facility in the Plan and include a facility diagram marking the location and contents of all fixed oil containers, storage areas where

portable containers are located, transfer stations, connecting pipes, and appurtenances, in violation of 40 C.F.R. § 112.7(a)(3).

c. Identify the type of oil stored in each portable container and provide an estimate of the potential number of portable containers with anticipated storage capacities in the Plan, in violation of 40 C.F.R. § 112.7(a)(3)(i).

d. Address discharge prevention measures for the routine handling of products in the Plan, in violation of 40 C.F.R. § 112.7(a)(3)(ii).

e. Address structures, equipment, and procedures for the control of a discharge in the Plan, in violation of 40 C.F.R. § 112.7(a)(3)(iii).

f. Provide appropriate containment, diversionary structures, and/or equipment at the Facility to prevent a discharge, in violation of 40 C.F.R. § 112.7(c).

g. Train all oil handling personnel pursuant to, and in violation of, 40 C.F.R. § 112.7(f)(1).

h. Schedule and conduct discharge briefings pursuant to, and in violation of, 40 C.F.R. § 112.7(f)(3).

i. Construct all bulk storage tank installations to provide a secondary means of containment for the entire capacity of the largest single container, in violation of 40 C.F.R. § 112.8(c)(2).

j. Warn all vehicles entering the Facility of aboveground piping that may be endangered, in violation of 40 C.F.R. § 112.8(d)(5).

k. Complete a Certification of the Applicability of the Substantial Harm Criteria, in violation of 40 C.F.R. § 112.20(e).

34. Respondents' failure to fully prepare and implement an SPCC Plan is a violation of 40 C.F.R. §§ 112.3, and 112.7.

Consent Agreement

General Provisions

35. Respondents and the EPA agree to the terms of this CAFO and Respondents agree to comply with the terms of this CAFO.

36. Respondents waive their right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal any portion of this CAFO.

37. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

38. Respondents and Complainant agree to bear their own costs and attorney's fees incurred as a result of this action.

39. Respondents agree that, in settlement of the claims alleged in this CAFO, Respondents shall pay a civil penalty of \$ 40,422.00, as set forth in the Penalty section below.

40. Respondents admit the jurisdictional allegations of this CAFO and agree not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO.

41. Respondents neither admit nor deny the factual allegations asserted above by the EPA.

42. Respondents certify by the signing of this CAFO that Respondents are in compliance with all requirements of the CWA.

43. The effect of settlement is conditional upon the accuracy of Respondents' representations to the EPA in this CAFO.

44. The Effective Date of this CAFO is the date on which a copy of the fully signed and executed CAFO is filed with the Regional Hearing Clerk.

Reservation of Rights

45. This CAFO addresses all civil and administrative claims for the CWA violations alleged above. With respect to matters not addressed in this CAFO, the EPA reserves the right to take any enforcement action pursuant to the CWA and its implementing regulations, or any other available legal authority, including without limitation, the right to seek injunctive relief, penalties and damages.

46. Nothing contained in this CAFO shall alter or otherwise affect Respondents' obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

47. Notwithstanding any other provision of this CAFO, the EPA reserves the right to enforce the terms of this CAFO by initiating a judicial or administrative action pursuant to Section 311 of the CWA, 33 U.S.C. § 1321, and to seek penalties against Respondents or to seek any other remedy allowed by law.

Penalty

48. Respondents agree to pay a civil penalty of **Forty Thousand, Four Hundred Twenty-Two Dollars (\$ 40,422.00)** pursuant to the authority of Section 311 of the CWA, 33 U.S.C. § 1321, within thirty (30) days of the Effective Date of this CAFO.

49. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

50. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-07-2024-0046.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Amy Gonzales
Regional Hearing Clerk
U.S. Environmental Protection Agency Region 7
Via electronic mail to:

R7_Hearing_Cleark_Filings@epa.gov

Samantha Pappas
Office of Regional Counsel
U.S. Environmental Protection Agency
Via electronic mail to:

pappas.samantha@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:

CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

51. Interest, Charges, and Penalties on Late Payments. 33 U.S.C. Section 1321(b)(6)(H), 31 U.S.C. Section 3717, 31 C.F.R. Part 901.9, and 40 C.F.R. Part 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts:

a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. Section 1321(b)(6)(H). The rate of interest is the IRS standard underpayment rate.

(i) Handling Charges. The United States' enforcement expenses including, but not limited to, attorney's fees and costs of collection proceedings.

(ii) Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

(iii) Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

1. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. Parts 13.13 and 13.14.

2. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13 Subparts C and H.

3. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with the EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. Part 13.17.

4. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. Section 1321(b)(6)(H). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

52. Allocation of Payments. Pursuant to 31 C.F.R. Part 901.9(f) and 40 C.F.R. Part 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

53. Respondents understand that their failure to timely pay any portion of the civil penalty described herein may result in the commencement of a civil action in the United States District Court for the District of Kansas to recover the full remaining balance, along with penalties and accumulated interest.

54. No portion of the civil penalty or interest paid by Respondents pursuant to the requirements of this CAFO shall be claimed by Respondents as a deduction for federal, state, or local income tax purposes.

55. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondents shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondents shall certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondents shall email its completed Form W-9 to EPA's Cincinnati Finance Center at weidner.lori@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondents have certified in their completed IRS Form W-9 that they has applied for a TIN and that TIN has not been issued to Respondents within 30 days after the Effective Date, then Respondents, using the same email address identified in the preceding sub-paragraph, shall notify EPA of this fact within 30 days after the Effective Date of this Consent Agreement and Final Order, and email EPA with Respondent's TIN within 5 days of Respondent's issuance and receipt of the TIN.

Signatories

56. The undersigned for each party have the authority to bind each respective party to the terms and conditions of this CAFO. The CAFO may be signed in part and counterpart by each party.

Parties Bound

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

Definitions

58. Terms used in this order that are defined in the CWA or EPA regulations promulgated under the CWA have the meanings assigned to them in the CWA or those regulations, unless otherwise provided in this Order.

Executed Agreement Filed

59. This executed Complaint and Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Electronic Service

60. Respondents consent to receiving the filed Consent Agreement/Final Order electronically at the following email address: *[trae.jones@ramseyoil.com]*

For the Respondent, Crossfaith Ventures, L.C.:

William M Jones III 9-8-25
Signature Date

William M Jones III

Name

GM

Title

Signature William M. Jones III Date 10/1/2011

GM

Title

For the Complainant, the U.S. Environmental Protection Agency:

Date: _____

David Cozad
Director
Enforcement and Compliance Assurance Division

Date: _____

Samantha Pappas
Attorney
Office of Regional Counsel

FINAL ORDER

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 and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondents are ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Date

Karina Borromeo
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify a true and correct copy of the Complaint and Consent Agreement/Final Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Respondents:

David Traster, Attorney
dtraster@foulston.com

Copy emailed to Respondents:

Trae Jones, General Manager
trae.jones@ramseyoil.com

Copy emailed to Attorney for Complainant:

Samantha Pappas
U.S. Environmental Protection Agency Region 7
pappas.samantha@epa.gov

Date