

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

ADMINISTRATIVE ORDER

2010 FEB 11 AM 9:25

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF ___Western Convenience Store #104, Castle Rock Site

Docket Number: **CWA-08-2010-0007**

Proceedings under Section 311 (c) of the Clean Water Act (CWA), 33 U.S.C. § 1321 (c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq.

I. DEFINITIONS

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the CWA, 33U.S.C. §1321(a)(1)).

"Hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section (Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14)).

"Navigable water of the United States" means the waters of the United States, including the territorial seas (Section 502(7) of the CWA, 33 U.S.C. § 1362(7)).

"Facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than submerged land (Section 311(a)(10) of the CWA, 33U.S.C. §1321(a)(10)).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of CWA, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of CWA, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of CWA which are caused by events occurring within the scope of relevant operating or treatment systems (Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2)).

II. FINDINGS OF FACT AND VIOLATIONS

A. This Order is being issued under §311(c) of the Clean Water Act, 33 U.S.C. §1321 for a discharge or a substantial threat of discharge of oil and/or a hazardous substance into waters of the United States.

B. On or about unknown (date of discharge), a discharge or a substantial threat of a discharge of unknown gallons/barrels of oil and/or (none), which

is/are hazardous substance(s), reached or may reach East Plum Creek
 (body of water) which is a navigable water of the United States. This discharge
or substantial threat of a discharge from the Western Convenience Store #104 gas
station at 800 S. Wilcox Street, Castle Rock, CO (Name and address of facility)
facility constitutes a substantial threat to the public health or welfare.

C. Respondent(s) Western Convenience Stores Inc.
is/are the owner(s)/operator(s) of the facility.

III. WORK TO BE PERFORMED (Initial all that apply)

A. **RESPONDENT IS HEREBY ORDERED** to complete the tasks described below within
the dates specified and in accordance with the National Contingency Plan, 40 CFR Part
300, and any appropriate area contingency plan, and any applicable §311(j) facility
response plan.

B. IMMEDIATE STABILIZATION AND MITIGATION ACTIONS
(see attached sheet for further requirements)

Investigate groundwater contamination near shoreline of E. Plum Creek and install
mitigation system, e.g., air sparging system or other system to be proposed by
Respondent. Lab turnaround times to be 36 hours or less.
Work schedule can be revised by EPA according to lack of access from landowners and
adverse weather conditions.

BY: Work to begin by
2/15/2010 and be
completed by 2/26/2010

Continue recovery of free product from groundwater. Respondent shall submit locations
and schedule for free product recovery to EPA by 2/12/10.

BY: 2/8/2010

BY / /.

BY / /.

BY / /.

C. REMOVAL ACTION

____ Within 3 days from the date this Order is signed by EPA, Respondent(s) shall
develop and submit to EPA for approval, a Work Plan and schedule for completing the
tasks described below. Respondent(s) shall begin work within 5 days of EPA approval
of the Work Plan. The Work Plan shall include the following tasks:

Installation of wells and direct push borings to determine extent of groundwater plume.
EPA anticipates that Respondent will begin work on 2/15/2010.

____ Within 14 days from the date this Order is signed by EPA, Respondent(s)

shall develop and submit to EPA for approval, a Sampling Plan and schedule for sampling. Respondent(s) shall implement the Sampling Plan within 3 days of EPA approval. The Sampling Plan must satisfy the following requirements:

Sampling schedule shall propose sampling for shoreline wells/piezometers and surface water samples from E. Plum Creek.

D. REPORTING REQUIREMENTS

____ Respondent(s) shall prepare and submit to the On-Scene Coordinator the following reports:

____ Bi-Weekly Progress Reports due on Monday afternoons

____ Monthly Progress Reports due on _____

____ Final Completion Report due days after the completion of the Removal Action

E. OTHER REQUIREMENTS

Respondent shall work with EPA and Colorado Division of Oil & Public Safety to implement investigation and cleanup actions via e-mail, meetings, and letters. The EPA On-Scene Coordinator shall submit a letter to the Respondent should the required tasks, due dates, or frequency of reporting change.

IV. RESERVATION OF RIGHTS AND PENALTIES

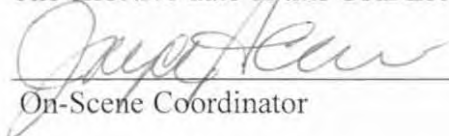
A. This Order does not preclude EPA from taking any actions authorized by CWA, the National Contingency Plan, or any other law. EPA reserves the right to direct all activities and to comment on and direct changes to deliverables, off-site shipping and disposal, and all other matters.

B. Respondent shall notify EPA of any response actions it takes as to this discharge that are in addition to those described in this Order.

C. Violation of any term of this ORDER may subject Respondents to an administrative civil ^{\$ 37,500} penalty of up to ~~\$27,500~~ per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure. (Section 311(b)(7)(B) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(B) as amended by the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.)

V. EFFECTIVE DATE

The effective date of this ORDER shall be the date of the receipt of this Order by the Respondents.


On-Scene Coordinator

2-8-2010
Date

Received by WZ 2.8.10
Representing Respondent Date

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ADMINISTRATIVE ORDER** in the matter **WESTERN CONVENIENCE STORE #104; DOCKET NO.: CWA-08-2010-0007** was filed with the Regional Hearing Clerk on February 11, 2010.

Further, the undersigned certifies that a true and correct copy of the documents were delivered Marc Weiner, Senior 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 certified/return receipt requested on February 11, 2010, to:

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February 11, 2010



Tina Artemis
Paralegal/Regional Hearing Clerk

