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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGIONAL HEARING CLERK
EPA REGION VI

REGION 6

IN THE MATTER OF

Tarwater Oil & Gas, LLC
Okmulgee County, OK

Respondent.

**ADMINISTRATIVE COMPLAINT AND
OPPORTUNITY TO REQUEST A HEARING**

Proceeding to Assess Class II Civil Penalty Under
Clean Water Act Section 311

Docket No. CWA-06-2009-4853

LEGAL AUTHORITY

1. This Administrative Complaint is issued 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 ("Act"), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990. The Administrator has delegated this authority to the Regional Administrator of EPA, Region 6, Delegation No. 2-52-A, dated May 11, 1994 and Delegation No. R6-2-52-A, dated January 31, 2008 ("Complainant").

2. Pursuant to Section 311(b)(6)(B)(ii) of the Act, and in accordance with 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," codified at 40 CFR Part 22 ("Part 22"), Complainant hereby provides notice of its proposal that the Administrator assess a civil penalty against **Tarwater Oil & Gas, LLC** ("Respondent") for failing to comply with Spill Prevention Control and Countermeasure regulations set forth at 40 CFR Part 112 under the authority of Section 311(j) and other

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provisions of the Clean Water Act, 33 U.S.C. [§ 1321(j)][§§ 1251 *et seq.*] (“SPCC regulations”), and for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in a quantity that has been determined may be harmful, in violation of Section 311(b)(3) of the Act, 33 U.S.C. §1321(b)(3), and notice of Respondent's opportunity to file an Answer to this Complaint and to request a hearing on the proposed penalty assessment.

ALLEGATIONS

3. Section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from onshore . . . facilities, and to contain such discharges"

4. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.

5. EPA subsequently promulgated the SPCC regulations pursuant to these delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, which established certain procedures, methods and requirements upon each owner and operator of a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as EPA has determined in 40 CFR § 110.3 may be

harmful to the public health or welfare or the environment of the United States (“harmful quantity”).

6. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. Respondent is a corporation doing business in the State of Oklahoma with a place of business located at P.O. Box 130, Bull Shoals, AR 72619. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 CFR § 112.2.

8. Respondent is the owner and operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 CFR § 112.2 of an Oil Production Company with the following two facilities: 1) The Bartolina Lease, which was located in the SE 1/4 of the NW 1/4 of Section 22, Township 12N, Range 13E, on the Deep Fork NWR, in Okmulgee County, Oklahoma, drainage from the facility flows Northwest approximately 150 feet into Deep Fork River. 2) The Doneghy Lease, which was located in the NW 1/4 of the SW 1/4 of Section 22, Township 12N, Range 13E, on the Deep Fork NWR, in Okmulgee County, Oklahoma, drainage from the facility flows Southwest approximately 800 feet into an unnamed tributary of Coal Creek; thence approximately two miles South to Coal Creek; thence approximately two and a half miles North to Deep Fork River (“the facilities”).

9. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons.

10. Coal Creek and the Deep Fork River are navigable waters of the United States within the meaning of 40 C.F.R. § 112.2, and Section 502(7) of the Act, 33 U.S.C. § 1362(7).

11. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the facility.

12. The facility is a non-transportation-related facility within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

13. 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 CFR § 112.2.

14. The facility is therefore 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 ("an SPCC-regulated facility").

15. Pursuant to the Act, E.O. 12777, and 40 CFR § 112.1 Respondent, as the owner and/or operator of an SPCC-regulated facility, is subject to the SPCC regulations.

16. Respondent's predecessor began operating the facility prior to 1972 and Respondent (Tarwater Oil & Gas, LLC) began operating the facility prior to 2004.

COUNT 1: Bartolina Lease Tank Battery; Failure to prepare an adequate SPCC plan in accordance with 40 CFR § 112.3(a)

17. Paragraphs 3 through 16 above are hereby incorporated by reference.

18. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a written SPCC plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

19. On October 31, 2007 and December 19, 2008, EPA inspected the facility and found that Respondent had prepared an SPCC plan that was not in accordance with 40 CFR § 112.7.

Specific inadequacies are described below:

- a). No management approval of the plan, as required in 40 CFR § 112.7.
- b). Inadequate information and procedures for reporting discharges, as required in 40 CFR § 112.7(a)(4).

20. Respondent's failure to prepare an SPCC plan for the facility in accordance with 40 CFR § 112.7 violated 40 CFR § 112.3. Respondent has violated these requirements for each day, at least 1759 days, during the period from November 5, 2004 (date of SPCC plan) through present, in violation of 40 CFR § 112.3.

21. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

COUNT 2: Bartolina Lease Tank Battery; Failure to amend SPCC plan as required in 40 CFR § 112.5(a)

22. Paragraphs 3 through 16 above are hereby incorporated by reference.

23. 40 CFR § 112.5(a) requires the owner or operator of an SPCC-regulated facility to amend the SPCC plan in accordance with the general requirements of 40 CFR § 112.7 and with any specific section of the SPCC regulations applicable to the facility within six months following

a change in the facility's design, construction, operation or maintenance which materially affects its potential for a discharge as described in 40 CFR § 112.1(b).

24. Between the dates of November 5, 2004 and October 31, 2007, Respondent changed the facility's operation, and/or maintenance in a manner which materially affected its potential for a discharge as described in 40 CFR § 112.1(b) by changing the operator and responsible official, including contact information. The changes caused the information and procedures in the SPCC Plan to be no longer relevant and seriously impacted the ability to prevent or respond to a discharge.

25. On October 31, 2007 and December 19, 2008, EPA inspected the facility and found that Respondent had failed to amend the SPCC plan in accordance with the general requirements of 40 CFR § 112.7 and with any specific section of the SPCC regulations applicable to the facility within six months following this change.

26. Respondent's failure to amend the SPCC plan in accordance with the general requirements of 40 CFR § 112.7 and with any specific section of the SPCC regulations applicable to the facility within six months following this change violated 40 CFR § 112.5(a). Respondent has violated these requirements for each day, at least 670 days, during the period from October 31, 2007 (date of first SPCC inspection), to present in violation of 40 CFR § 112.5(a).

27. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

COUNT 3: Bartolina Lease Tank Battery; Failure to implement the SPCC Plan in accordance with 40 CFR § 112.7 and any other applicable section under 40 CFR Part 112, as required by 40 CFR § 112.3

28. Paragraphs 3 through 16 are hereby incorporated by reference.

29. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must have fully implemented their SPCC plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

30. During the October 31, 2007 and December 19, 2008, inspections, EPA found that Respondent had also failed to adequately implement its SPCC Plan for the facility by:

- a). failing to remove accumulated oil on the rainwater and return it to storage or dispose of it in accordance with legally approved methods in accordance with 40 CFR 112.9(b);
- b). failing to regularly inspect field drainage systems and/or promptly remove oil in accordance with 40 CFR § 112.9(b);
- c). failing to conduct inspections and maintain documentation of required inspections of the tanks, piping, valves, supports, and other facility equipment, in accordance with written procedures developed for the facility, as required at 40 CFR § 112.7(e) and 112.9(d);
- d). failing to provide required training and discharge prevention procedures for oil handling personnel, as required at 40 CFR § 112.7(f);
- e). failing to implement the required Flowline Maintenance program, as required at 40 CFR § 112.9(d)(3);
- f). failing to provide dikes, berms, or retaining walls (secondary containment) sufficiently impervious to contain oil, as required by 40 CFR § 112.7(c)(1)(i).

31. Respondent's failure to fully implement its SPCC plan for the facility, as described in the preceding Paragraphs, violated 40 CFR § 112.3. Respondent has violated these requirements

for each day, at least 670 days, during the period from October 31, 2007 (date of first SPCC inspection), through present, in violation of 40 CFR § 112.3.

32. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

COUNT 4: Doneghy Lease Tank Battery; Failure to prepare an adequate SPCC plan in accordance with 40 CFR § 112.3(a)

33. Paragraphs 3 through 16 above are hereby incorporated by reference.

34. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a written SPCC plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

35. On October 31, 2007 and December 19, 2008, EPA inspected the facility and found that Respondent had prepared an SPCC plan that was not in accordance with 40 CFR § 112.7.

Specific inadequacies are described below:

- a). No management approval of the plan, as required in 40 CFR § 112.7.
- b). Inadequate information and procedures for reporting discharges, as required in 40 CFR § 112.7(a)(4).

36. Respondent's failure to prepare an SPCC plan for the facility in accordance with 40 CFR § 112.7 violated 40 CFR § 112.3. Respondent has violated these requirements for each day, at least 1590 days, during the period from November 5, 2004 (date of old SPCC plan), through March 30, 2009 (date SPCC plan was updated), in violation of 40 CFR § 112.3.

37. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

COUNT 5: Doneghy Lease Tank Battery; Failure to amend SPCC plan as required in 40 CFR § 112.5(a)

38. Paragraphs 3 through 16 above are hereby incorporated by reference.

39. 40 CFR § 112.5(a) requires the owner or operator of an SPCC-regulated facility to amend the SPCC plan in accordance with the general requirements of 40 CFR § 112.7 and with any specific section of the SPCC regulations applicable to the facility within six months following a change in the facility's design, construction, operation or maintenance which materially affects its potential for a discharge as described in 40 CFR § 112.1(b).

40. Between the dates of November 5, 2004 and October 31, 2007, Respondent changed the facility's operation, and/or maintenance in a manner which materially affected its potential for a discharge as described in 40 CFR § 112.1(b) by changing the owner/operator and responsible official, through purchase of the company. The changes caused the information and procedures in the SPCC Plan to be no longer relevant and seriously impacted the ability to prevent or respond to a discharge.

41. On October 31, 2007 and December 19, 2008, EPA inspected the facility and found that Respondent had failed to amend the SPCC plan in accordance with the general requirements of 40 CFR § 112.7 and with any specific section of the SPCC regulations applicable to the facility within six months following this change.

42. Respondent's failure to amend the SPCC plan in accordance with the general requirements of 40 CFR § 112.7 and with any specific section of the SPCC regulations applicable to the facility within six months following this change violated 40 CFR § 112.5(a). Respondent has violated these requirements for each day, at least 454 days, during the period from October 31, 2007 (date of first SPCC Inspection) to March 31, 2009 (date plan was updated), in violation of 40 CFR § 112.5(a).

43. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

COUNT 6: Doneghy Lease Tank Battery; Failure to implement the SPCC Plan in accordance with 40 CFR § 112.7 and any other applicable section under 40 CFR Part 112, as required by 40 CFR § 112.3

44. Paragraphs 3 through 16 are hereby incorporated by reference.

45. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must have fully implemented their SPCC plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

46. During the October 31, 2007 and December 19, 2008, inspections, EPA found that Respondent had also failed to adequately implement its SPCC Plan for the facility by:

- a). failing to remove accumulated oil on the rainwater and return it to storage or dispose of it in accordance with legally approved methods in accordance with 40 CFR 112.9(b);
- b). failing to regularly inspect field drainage systems and/or promptly remove oil in accordance with 40 CFR § 112.9(b);

- c). failing to conduct inspections and maintain documentation of required inspections of the tanks, piping, valves, supports, and other facility equipment, in accordance with written procedures developed for the facility, as required at 40 CFR § 112.7(e) and 112.9(d);
- d). failing to provide required training and discharge prevention procedures for oil handling personnel, as required at 40 CFR § 112.7(f);
- e). failing to implement the required Flowline Maintenance program, as required at 40 CFR § 112.9(d)(3);
- f). failing to provide dikes, berms, or retaining walls (secondary containment) sufficiently impervious to contain oil, as required by 40 CFR § 112.7(c)(1)(i).

47. Respondent's failure to fully implement its SPCC plan for the facility, as described in the preceding Paragraphs, violated 40 CFR § 112.3. Respondent has violated these requirements for each day, at least 454 days, during the period from October 31, 2007 (date of first SPCC inspection), through March 31, 2009 (date SPCC plan was updated) in violation of 40 CFR § 112.3.

48. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

COUNT 7: Discharge of Oil into or upon Waters of the US and its adjoining shoreline.

49. Paragraphs 3 through 16 are hereby incorporated by reference.

50. Respondent is the owner and/or operator of an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. §1321(a)(10), which is located in Section 22, Township 12N, Range 13E, on the Deep Fork NWR, in Okmulgee County, Oklahoma ("facility").

51. Section 311(b)(3) of the Act prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined

may be harmful to the public health or welfare or environment of the United States.

52. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 CFR §110.3 to include discharges of oil that cause a film or a 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 the adjoining shorelines.

53. On October 27, 2007, Respondent discharged 1 barrel of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 CFR §110.1, from its facility into or upon a wetland area immediately adjacent to the Deep Fork of the Canadian River and adjoining shorelines.

54. The Deep Fork of the Canadian River is a water body subject to the jurisdiction of Section 311 of the Act as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 CFR §110.1.

55. Respondent's October 27, 2007, discharge of oil from its facility caused a sheen upon or discoloration of the surface of the wetland area immediately adjacent to the Deep Fork of the Canadian River and adjoining shorelines and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R §110.3, in violation of Section 311(b)(3) of the Act.

56. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$11,000 per day of oil discharged, up to a maximum of \$157,500.

COUNT 8: Discharge of Oil into or upon Waters of the US and its adjoining shoreline.

57. Paragraphs 3 through 16 and 50 through 52 are hereby incorporated by reference.

58. On March 14, 2009, Respondent discharged 5 barrels of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 CFR §110.1, from its facility into or upon Coal Creek and adjoining shorelines.

59. Coal Creek is a perennial water body subject to the jurisdiction of Section 311 of the Act as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 CFR §110.1.

60. Respondent's March 14, 2009, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Coal Creek and adjoining shorelines and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R §110.3, in violation of Section 311(b)(3) of the Act.

61. As alleged in the preceding Paragraph, and pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day of oil discharged, up to a maximum of \$177,500.

PROPOSED PENALTY

Based on the forgoing Allegations, and pursuant to the authority of Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Complainant proposes that the Administrator, after considering the statutory penalty factors set forth at Section 311(b)(8) of the Act, issue a Final Order assessing administrative penalties against the Respondent in an amount not to exceed \$16,000 per violation, up to a maximum of \$177,500. The violations alleged in **COUNTS 1-6** represents a very serious violation of the Act because cumulatively, the violations essentially undermine the ability of the Respondent to prevent or respond to worst case spills through the
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proper development and implementation of a plan. This assertion is documented by the two spill violations described in **COUNTS 7 & 8**. The Spill Violations (COUNTS 7 & 8) alleged represent serious violations of the Act, with Moderate impact to Waters of the United States of America.

OPPORTUNITY TO REQUEST A HEARING

In your answer to this Complaint Tarwater Oil & Gas, LLC may, pursuant to Section 311(b)(6) of the Act and 40 CFR § 22.15(c), request a hearing on any material fact alleged in this Complaint, or on the appropriateness of any penalty it proposes. Even if you do not explicitly request a hearing in your Answer, a Presiding Officer may hold such a hearing if your Answer raises issues appropriate for adjudication. The procedures for any such hearing and for all proceedings in this action are set out in 40 CFR Part 22, a copy of which is enclosed with this Complaint.

Default constitutes an admission of all facts alleged in this Complaint and a waiver of your right to a hearing on such factual allegations. In order to avoid default in this matter, you must within 30 days after receipt of this Complaint either (1) settle this matter with the Complainant; or (2) file both an original and one copy of a written Answer to this Complaint with:

Lorena Vaughn
Regional Hearing Clerk (6RC)
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

You are also required, pursuant to § 22.5(b) of the enclosed Consolidated Rules of Practice, to provide a contemporaneous copy of any Answer to the Complainant. Complainant's counsel,
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who is authorized to receive service on behalf of the Complainant, shall be served at the following address:

Amy Salinas (6RC-S)
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Pursuant to 40 CFR § 22.15, your Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint with regard to which you have knowledge. If you state in your Answer that you have no knowledge of a particular factual allegation, the allegation shall be deemed denied. Otherwise, your failure to admit, deny, or explain any material factual allegation contained in this Complaint constitutes an admission of the allegation. Your Answer shall also state the circumstances or arguments for any defense you wish to assert, challenges to any factual allegation in the Complaint, and any basis you may have to oppose the Complainant's proposed penalty.

Following receipt of your Answer, a Presiding Officer will be assigned. The Presiding Officer will notify the parties of his assignment, and shall notify the parties of the time and place of further proceedings in the case.

PUBLIC NOTICE

Pursuant to Section 311(b)(6)(C) of the Act, 33 U.S.C. §1321(b)(6)(C), the Complainant is providing public notice of and reasonable opportunity to comment on this proposed issuance of a Final Order assessing administrative penalties against you. If a hearing is held on this matter, members of the public who submitted timely comments on this proceeding have the right under Section 311(b)(6)(C) of the Act to be heard and present evidence at the hearing.

SETTLEMENT

If you wish to settle this matter without a hearing, you may waive your right to a hearing by signing the enclosed Consent Agreement and sending it to:

OPA Enforcement Coordinator
U. S. Environmental Protection Agency
Region 6 (6SF-PC)
1445 Ross Avenue
Dallas, Texas 75202-2733

Payment Instructions

You must pay by a cashier's or certified check, or by an electronic funds transfer (EFT). If you pay by check, make it payable to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number CWA-06-2009-4853. Send the payment to "U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, PO Box 979077, St. Louis, Mo. 63197-9000."

If you pay by Electronic Funds Transfer ("EFT"), you must instruct your agent to transfer funds to "Federal Reserve Bank of New York, ABA 021030004, Account 68010727, 33 Liberty Street, New York, NY 10045." Field Tag 4200 of the EFT message shall read "D 68010727 Environmental Protection Agency." (In the case of an international transfer of funds, use the SWIFT address FRNYUS33.)

Pursuant to 40 CFR § 22.18(a)(1), you must file a copy of your check with the Regional Hearing Clerk at the address provided above. For EFT transfers, you must instead file a copy of your EFT confirmation with the Regional Hearing Clerk. In either case, you shall simultaneously send a copy of the check or EFT confirmation to OPA Enforcement Coordinator at the address provided above.

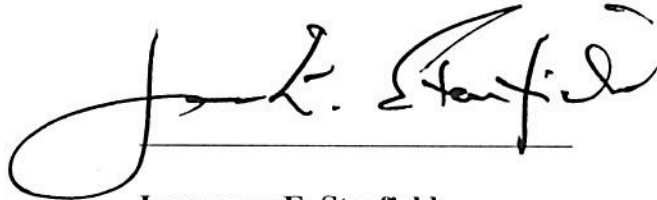
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Opportunity to Meet with EPA

You may also request an informal conference with the Complainant concerning the alleged violations and the amount of the proposed penalty. A request for an informal conference does not extend any deadline in this proceeding, including the deadline by which you must submit an Answer to this Complaint.

If you have any questions concerning the enclosed Consent Agreement or the settlement process, or wish to arrange for an informal conference, please contact **Bryant Smalley** at 214-665-7368.

Date: 9/16/09

A handwritten signature in black ink, appearing to read "Lawrence E. Starfield", written over a horizontal line.

Lawrence E. Starfield
Acting Regional Administrator