



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2013 DEC 30 AM 11:54

1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

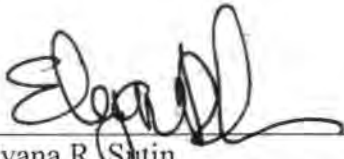
FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CWA-08-2014-0009

IN THE MATTER OF:	)	
	)	
<b>NORTH COUNTRY OIL, INC.</b>	)	<b>FINAL ORDER</b>
Parshall, ND	)	
	)	
<b>RESPONDENT</b>	)	

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2), of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 30<sup>th</sup> DAY OF December, 2013.



\_\_\_\_\_  
Elyana R. Satin  
Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2013 DEC 30 AM 11:54

IN THE MATTER OF:	)	Docket No. <b>CWA-08-2014-0009</b>
	)	
North Country Oil, Inc.	)	<b>COMBINED COMPLAINT AND</b>
Parshall, ND	)	<b>CONSENT AGREEMENT</b>
	)	
	)	Proceeding to Assess Class I Civil Penalty
	)	Under Section 311
Respondent,	)	of the Clean Water Act

FILED  
EPA REGION VIII  
HEARING CLERK

The United States Environmental Protection Agency (EPA) and North Country Oil, Inc. (Respondent), by their undersigned and authorized representatives, hereby consent and agree as follows.

**AUTHORITY**

1. This Combined Complaint and Consent Agreement (Agreement) is issued under the authority vested in the Administrator of the EPA by sections 311(b)(6)(B)(i) of the Clean Water Act (the Act), 33 U.S.C. § 1321(b)(6)(B)(i). The authority to enter into this Agreement has been delegated to the undersigned official.
2. With this Agreement, the parties intend to commence and conclude this matter simultaneously, as authorized by 40 C.F.R. §§ 22.13(b) and 28.18(b)(2) and (3).

**STATEMENTS OF THE PARTIES**

3. Respondent admits the jurisdictional allegations contained in this Agreement. The Respondent consents to the assessment of the civil penalty referenced below and waives any right to a hearing or appeal before any tribunal or to contest any statement of law or fact in this Agreement. The Respondent neither admits nor denies the violations EPA has alleged below.
4. The EPA takes the position that settlement of this matter is in the public interest.
5. The parties agree that the entry of this Agreement without litigation or adjudication of any issue of fact or law is the most appropriate means of resolving this matter. The parties reserve any

and all rights and defenses they may have against any person or entity not a party to this Agreement.

## **EPA'S ALLEGATIONS**

### **Spill Prevention Control and Countermeasure (SPCC) Requirements**

6. Section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C), directed the President to issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from vessels and from onshore and offshore facilities, and to contain such discharges . . . .”
7. In response to the directive referenced in paragraph 6, above, the EPA promulgated 40 C.F.R. part 112.
8. A facility subject to 40 C.F.R. part 112 is required to prepare a written SPCC plan and to adhere to the discharge prevention and containment procedures specified in that regulation.

### **The Respondent**

9. The Respondent is a corporation organized under the laws of the State of Nevada and authorized to do business in the State of North Dakota.
10. The Respondent is a “person” as defined in sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5).
11. The Respondent owns and/or operates a facility as defined in 40 C.F.R. § 112.2, including, but not limited to flow lines, tank batteries, storage tanks, and associated piping, located at 7258 38<sup>th</sup> Street NW in Parshall, North Dakota (the Facility).
12. The Respondent is an “owner or operator” as defined in section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6).
13. The Respondent is engaged in drilling, producing, gathering, storing, processing, transferring, and/or distributing oil at the Facility.

14. The Facility is an “onshore facility” and as defined in section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and a “non-transportation related” facility as defined in 40 C.F.R. § 112.2.
15. The oil referenced in paragraph 13, above, meets the definition of “oil” in 40 C.F.R. § 112.2 and section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1).
16. When discharged into water, the oil referenced in paragraphs 13 and 15, above, also meets the definition of “pollutant” in section 502(6) of the Act, 33 U.S.C. § 1362(6).
17. The Facility consists of three storage tanks that have a capacity of 16,800 gallons of used oil; 16,800 gallons of flowback water; and 10,000 gallons of distillate, respectively. The Facility also has multiple 55-gallon drums containing different grades of lubricant oils and transmission fluids.
18. Due to its location, the Facility could reasonably be expected to discharge oil and/or other pollutants to East Fork Shell Creek and then into Lake Sakakawea (an impoundment of the Missouri River) and/or their tributaries and/or their adjoining shorelines in quantities that would (a) violate applicable water quality standards or (b) cause a film or sheen upon or discoloration of the surface of the navigable waters of the United States or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of such waters or their adjoining shorelines.
19. Lake Sakakawea and the Missouri River are both navigable-in-fact waters.
20. Lake Sakakawea and the Missouri River are both a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 110.1 and 112.2.
21. At all relevant times, Respondent’s Facility has been subject to the SPCC requirements of 40 C.F.R. part 112.

### Alleged Violations

22. On or about July 25, 2012, EPA inspected the Facility and determined that Respondent failed to prepare and/or implement a facility SPCC plan in violation of 40 C.F.R. § 112.3 in accordance with 40 C.F.R. §§ 112.7, 112.8 and 112.20.
23. During the inspection described in paragraph 22, above, EPA delivered a Notice of Inspection and list of deficiencies to Respondent which included failure to prepare an SPCC plan in violation of 40 C.F.R. § 112.3 and numerous implementation violations of 40 C.F.R. §§ 112.7, 112.8, and 112.20.
24. On or about August 23, 2012, EPA received a copy of Respondent's SPCC plan.
25. On or about January 24, 2013, EPA sent a Notice of Potential Violations letter to Respondent describing deficiencies with Respondent's SPCC Plan and continuing violations.
26. On or about March 18, 2013, Respondent submitted a revised SPCC plan and a signed statement of correction.
27. On or about April 10, 2013, EPA determined that Respondent had corrected the violations identified in the July 25, 2012 inspection.
28. Any person who fails or refuses to comply with any regulation issued under section 311(j) of the Act, 33 U.S.C. § 1321(j), may be assessed a Class I administrative penalty by the EPA, according to section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i). As adjusted for inflation pursuant to 40 C.F.R. part 19, the maximum penalty is \$16,000 per violation with a maximum amount not to exceed \$37,500.
29. Each instance of failing to prepare and implement an approvable SPCC plan, as described in paragraphs 22 through 27, above, constitutes a violation of 40 C.F.R. part 112, for which the Respondent is liable for civil administrative penalties pursuant to section 311(b)(6)(A)(i) of the Act, 33 U.S.C. § 1321(b)(6)(A)(i).

### Civil Penalty

30. Respondent consents and agrees to pay a civil penalty in the amount of twenty seven thousand dollars (\$27,000.00) within sixty (60) days of the Final Order issued in this matter incorporating this Agreement.
31. If the due date of the payment falls on a weekend or legal federal holiday, the due date is the next business day. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
32. Payment shall be made by any of the methods set forth in Appendix 1 to this Agreement.
33. At the same time that payment is made, notice that the payment has been made shall be provided to:

Cynthia Peterson  
Technical Enforcement Program (8ENF-UFO)  
U.S. EPA Region 8  
1595 Wynkoop  
Denver, CO 80202-1129

and

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop  
Denver, CO 80202-1129

34. If a payment is made by cashiers or certified check, the notice shall include a copy of the check. If a payment is made in any other manner, the notice shall include documentation demonstrating that the payment was made.
35. In the event a payment is not received by the specified due date, interest on the late payment shall accrue from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until

payment in full is received (e.g., on the 1<sup>st</sup> late day for the first payment, 30 days of interest accrues).

36. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31<sup>st</sup> day from the date of the Final Order, and each subsequent 30-day period that the initial payment, or any portion thereof, remains unpaid, and a handling charge of fifteen dollars (\$15) shall be assessed on the 1<sup>st</sup> day after the due date of the payment, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (e.g., the 121<sup>st</sup> day from the date the Final Order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount. Further, Respondent shall be subject to the fees, costs, and nonpayment penalty set forth in section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H).

37. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

38. The civil penalty set forth in paragraph 30 of this Agreement was determined by Complainant after taking into account all factors identified in section 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8), i.e., the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

### General Provisions

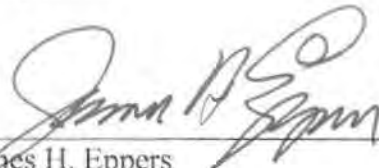
39. Nothing in this Agreement shall relieve the Respondent of the duty to comply with the Act and its implementing regulations.
40. Any failure by the Respondent to comply with any term of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.
41. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by the Respondent to comply with this Agreement.
42. The undersigned representative of the Respondent certifies that he is fully authorized to enter into the terms and conditions of this Agreement and to bind the Respondent to the terms and conditions of this Agreement.
43. Each party shall bear its own costs and attorney fees in connection with this matter.




44. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full settlement of the Respondent's liability for federal civil penalties relating to the violations alleged above.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**  
Complainant

Date: 12/19/13

  
\_\_\_\_\_  
James H. Eppers  
Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 12/19/13

  
\_\_\_\_\_  
Darcy O'Connor  
Director UIC, FIFRA and OPA Enforcement Programs  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**NORTH COUNTRY OIL, INC.**  
Respondent

Date: 12-10-13

By:   
\_\_\_\_\_  
Bruce Vazzana, President

## Combined Complaint and Consent Agreement - Appendix 1

The following are acceptable payment methods for the civil penalty required to be paid pursuant to the Agreement.

1. If payment is being made by cashier's or certified check, submit the check, bearing the notation "OSTLF-311" and the name and docket number of this case, payable to "Environmental Protection Agency," to:

Regular Mail:

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

Federal Express, Airborne, or other commercial carrier:

US Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson  
314-418-4087

2. Wire Transfers:

Wire transfers must indicate the name and docket number of this case and be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency "

3. ACH (also known as REX or remittance express):

ACH payments must indicate the name and docket number of this case and be paid in accordance with the following information:

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact - Jesse White 301-887-6548  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006  
CTX Format

4. On-line Payment:

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter "sfo 1.1" (without the quotation marks) in the "Search Public Forms" field.

Click on the first link to open the form, complete required fields, and then click on "Submit Data" button at bottom of form.

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT/FINAL ORDER** in the matter of **NORTH COUNTRY OIL, INC.; DOCKET NO.: CWA-08-2014-0009** was filed with the Regional Hearing Clerk on December 30, 2013.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were emailed and placed in the United States Mail certified/return receipt requested to:

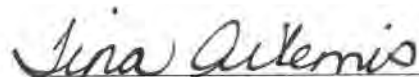
Bruce Vazanna, President  
North Country Oil, Inc.  
7258 38<sup>th</sup> Street  
Parshall, ND 58770

Bruce Vazanna, President  
North Country Oil, Inc.  
600 Greentree Lane  
1414 Industrial Road  
Las Vegas, NV 89102  
bruce@northcountryoil.com

And emailed to:

Kim White  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

December 30, 2013



Tina Artemis  
Paralegal/Regional Hearing Clerk

