

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

Received by
EPA Region 7
Hearing Clerk

BEFORE THE ADMINISTRATOR

In the Matter of)	
)	
Running Foxes Petroleum, Inc.,)	Docket No. CWA-07-2021-0076
)	
Steven Tedesco,)	
)	
and)	FINDINGS OF VIOLATION AND
)	ORDER FOR COMPLIANCE
Joe Taglieri,)	
)	
Respondents)	
)	
Proceedings under Section 311(c) and (e) of the)	
Clean Water Act, 33 U.S.C. §§ 1321(c) and (e))	
)	

1. The following Findings of Violation are made and Order for Compliance (“Order”) is issued pursuant to the authority of Sections 311(c) and (e) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1321(c) and (e).

2. The authority to issue an order pursuant to Sections 311 (c) and (e) of the CWA was delegated to the Administrator of EPA on October 22, 1991, by Executive Order 12777, 56 Fed. Reg. 54757, and further delegated to Regional Administrators by EPA Delegation Nos. 2-85 (Administrative Orders Under Section 311(e) of the CWA, January 19, 2017) and 2-89 (Removal of Discharge or Threat of Discharge, January 19, 1993). The Regional Administrator, EPA Region 7, has delegated the authority to the Director of the Enforcement and Compliance Assurance Division.

3. This Order pertains to a substantial threat of a discharge of oil, which may occur at two oil production facilities (“Facilities”): The North Stoner Lease, located at South 100 Road at East Hudson Road, Richards, Missouri 64778, and the Emmerson Lease, located at South 100 Road at Soldier Road, approximately 3.4 miles northwest of Richards, Missouri. This order requires the Respondents to conduct actions described herein to abate or mitigate an imminent and substantial threat to the public health or welfare of the United States that may be presented by the actual or substantial threat of a discharge of oil or hazardous substances from Respondents’ facilities into waters of the United States or adjoining shorelines.

4. Respondent Running Foxes Petroleum, Inc., is an oil and gas extraction company headquartered at 14550 East Easter Ave #200, Centennial, Colorado 80012, and registered and authorized to conduct business in, *inter alia*, the states of Kansas and Missouri.

5. Respondents Steven Tedesco and Joe Taglieri are corporate officers of Running Foxes Petroleum, Inc.

Statutory and Regulatory Framework

6. 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.”

7. 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 that have been determined may be harmful to the public health or welfare or environment of the United States.

8. 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 [or] fuel oil”

9. Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), authorizes the EPA to promulgate a regulation to define what discharges of oil may be harmful to the public health or welfare or environment of the United States. 40 C.F.R. § 110.3 defines such discharges to include discharges of oil that violate applicable water quality standards or 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.

10. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides in part that 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 offshore facilities, and to contain such discharges.”

11. To implement Section 311(j)(1)(C), EPA promulgated 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, 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.

12. Section 311(c) of the CWA, 33 U.S.C. § 1321(c), provides authority, delegated to EPA, to “remove or arrange for the removal of a discharge, and mitigate or prevent a threat of a discharge . . .” of oil.

13. Section 311(e) of the CWA, 33 U.S.C. § 1321(e), provides authority, delegated to EPA, to issue “administrative orders that may be necessary to protect the public health and welfare” due to an “actual or threatened discharge of oil . . . from a . . . facility in violation of [Section 311(b) of the CWA]” if “the President determines that there may be an imminent and substantial threat to the public health or welfare.”

Allegations of Fact and Conclusions of Law

14. Respondents, a corporation and two individuals, are persons 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 C.F.R. 112.2.

15. Running Foxes Petroleum, Inc., is the owner and/or operator, within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2, of two oil production facilities (“Facilities”): The North Stoner Lease, located at South 100 Road at East Hudson Road, Richards, Missouri 64778, and the Emmerson Lease, located at South 100 Road at Soldier Road, approximately 3.4 miles northwest of Richards, Missouri.

16. The Facilities include production wells, flowlines, separator units, crude oil tanks, and produced water tanks. The North Stoner Lease has an estimated aggregate above-ground storage capacity of 50,400 gallons of oil and produced water. The Emmerson Lease has an estimated above-ground storage capacity of 42,420 gallons of oil and produced water.

17. The North Stoner Lease is 750 feet from an unnamed tributary of Shiloh Creek that flows two and a half miles to Shiloh Creek. The Emmerson Lease is located less than 100 feet from the unnamed tributary to Shiloh Creek. Both the unnamed tributary of Shiloh Creek and Shiloh Creek are navigable waters of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

18. Running Foxes Petroleum, Inc., is engaged in storing, processing, using or consuming oil or oil products located at the Facilities.

19. The Facilities are “non-transportation-related” facilities within the meaning of 40 C.F.R. § 112 Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.

20. The Facilities are “onshore facilities” within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), Section 1001(24) of the OPA, 33 U.S.C. § 2701(24), and 40 C.F.R. § 112.2.

21. The Facilities are non-transportation-related onshore facilities which, due to their 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, are SPCC-regulated facilities pursuant to Section 311(j)(1)(C) of the CWA, Executive Order 12777, and 40 C.F.R. § 112.1.

22. Running Foxes Petroleum, Inc., has prepared one SPCC plan for all its active leases in Kansas and Missouri. The SPCC plan was last amended on August 28, 2019.

23. Respondents Steven Tedesco and Joe Taglieri are corporate officers with the authority to exercise control over the activities of Running Foxes Petroleum, Inc., and so are liable for the CWA violations committed by that corporation.

24. EPA has notified the state of Missouri of this action pursuant to Sections 309(a)(4) and 311(e)(1)(B) of the CWA, 33 U.S.C. §§ 1319(a)(4) and 1321(e)(1)(B).

Pattern of Violations

25. On June 6, 2016, a landowner adjacent to the Emmerson Lease reported to the Bourbon, Kansas Emergency Management Office, a release of produced water and crude oil from that lease. Missouri Department of Natural Resources (“MoDNR”) personnel responded and determined that, due to inadequate primary and secondary containment, approximately 1,700 gallons of produced water and crude oil were discharged into the unnamed tributary to Shiloh Creek.

26. On June 13, 2016, EPA Region 7 conducted compliance inspections of the Emmerson and North Stoner Facilities. Among other findings, EPA determined that secondary containment berms were significantly lower than described in the Facilities’ SPCC Plan and that the actual containment at each site was significantly lower than described in the SPCC Plan.

27. On February 8, 2017, Running Foxes Petroleum, Inc., entered into an Expedited Settlement Agreement, Docket No. CWA-07-2017-0015, to resolve SPCC violations at the Emmerson Lease, namely: failure to amend the SPCC plan after a change in design, construction, operation, or maintenance which affected the facility’s discharge potential; an inadequate or missing facility diagram; failure to maintain records for three years; and inadequate secondary containment.

28. On May 10, 2017, EPA Region 7 issued a Notice of Noncompliance to Running Foxes Petroleum, Inc., for violations of the SPCC Plan at the North Stoner Lease.

29. On July 26, 2017, a landowner adjacent to the Emmerson Facility reported a release of produced water and crude oil from the North Stoner Facility to MoDNR and EPA. Personnel from Running Foxes Petroleum responded to the spill and concluded that the spill resulted from vandalism at the Facility, that approximately 8,400 gallons of produced water and crude oil breached secondary containment, and that approximately 3,360 gallons of produced water and crude oil were discharged into the unnamed tributary to Shiloh Creek.

30. On July 28, 2017, EPA Region 7 conducted compliance inspections of the Emmerson and North Stoner Facilities. Among other findings, at both facilities, EPA identified that secondary containment berms were significantly lower than described in the Facilities’ SPCC Plan and that actual containment at each site was significantly lower than described in the SPCC Plan.

31. On or about September 27, 2018, Running Foxes Petroleum, Inc., and EPA Region 7 entered into a Consent Agreement and Final Order, Docket No. CWA-07-2017-0175, to resolve SPCC plan violations at the North Stoner Lease and the Emmerson Lease, namely: failure to provide adequate secondary containment, insufficient descriptions of facilities in the SPCC Plan, and failure to maintain records. The Consent Agreement and Final Order required payment of a significantly reduced \$5,000 penalty, mitigated by Respondent’s demonstrated inability to pay the penalty appropriate for the identified violations.

32. On or about June 4, 2020, Running Foxes Petroleum, Inc., reported to MoDNR that a discharge of approximately 150 gallons of crude oil/produced water from the North Stoner Lease reached an unnamed tributary that flows from Missouri west into Kansas (the “June 2020 Spill”).

33. On or about July 30, 2020, Running Foxes Petroleum, Inc., reported to MoDNR and the Kansas Corporation Commission (“KCC”) that a discharge of approximately five barrels of crude oil and two barrels of produced water from the Emmerson facility had reached and caused the observable presence of oil and a sheen in the unnamed tributary to Shiloh Creek that flows from Missouri west into Kansas (the “July 2020 Spill”).

34. On August 21, 2020, a representative of EPA conducted compliance inspections of the Emmerson and North Stoner Facilities and found SPCC violations described in Paragraph 47 of this order. Copies of the inspection reports for each Facility were transmitted to Running Foxes Petroleum, Inc., by EPA on September 14, 2020.

35. On or about March 21, 2022, a Kansas property owner reported the visible presence of oil in an unnamed tributary to Shiloh Creek. The Kansas Department of Health and Environment (KDHE) and the EPA responded to the spill and ascertained that the oil originated from the Emmerson lease, that approximately 60 barrels of oil and produced water were released from a tank battery on the Emmerson Lease, and that an unknown amount of oil and produced water breached secondary containment and impacted the creek and adjoining shorelines (the “March 2022 Spill”).

Findings of Violation

Count 1: Unauthorized Discharge

36. The facts stated above are incorporated herein by reference.

37. Section 311(b) of the CWA, 33 U.S.C. § 1321, prohibits the discharge of oil in or onto “navigable waters of the United States.” Pursuant to 40 C.F.R. § 110.3, such discharges include discharges of oil that violate applicable water quality standards or 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.

38. Following the June 2020 and July 2020 Spills, representatives of MoDNR and the KCC inspected the Emmerson and North Stoner Lease facilities and obtained photographs of sheen in Shiloh Creek and the unnamed tributary as well as sampling data that documented the presence of oil in these waters.

39. During the August 21, 2020, inspections of the Facilities, a representative of Running Foxes Petroleum, Inc., stated to an EPA inspector that the June 2020 Spill consisted of approximately 150 gallons of crude oil/produced water from the North Stoner Lease facility and that it had caused the observable presence of oil and a sheen in the unnamed tributary to Shiloh Creek.

40. The June 2020, July 2020, and March 2022 Spills each caused a film or sheen upon the surface of the unnamed tributary of Shiloh Creek and/or adjoining shorelines, and, therefore, constituted discharges of oil in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, in violation of Section 311(b)(3) and (b)(4) of the CWA, 33 U.S.C. § 1321(b)(3) and (b)(4).

Count 2: Failure to Report

41. The facts stated above are incorporated herein by reference.

42. 40 C.F.R. § 110.6 requires any person in charge of an onshore facility to immediately report any discharge of oil from the facility in violation of Section 311(b)(3) of the CWA to the National Response Center (“NRC”).

43. 40 C.F.R. § 112.3 further requires Running Foxes Petroleum, Inc., to prepare and implement an SPCC Plan. To implement the SPCC Plan, Running Foxes Petroleum, Inc., must make immediate contact with the NRC after a spill into or on a navigable water of the United States. See 40 CFR Appendix F to Part 112(A)(2), section 1.3.1.

44. A representative of Running Foxes Petroleum, Inc., notified MoDNR and the KCC of the June and July 2020 Spills as was required in their SPCC Plan. KCC informed the representative of Running Foxes Petroleum, Inc.’s duty to report spills into or on navigable waters to the NRC. Despite KCC’s direction, Respondents failed to report the June and July 2020 Spills to the NRC.

45. Respondents further failed to report the March 2022 spill to the NRC.

46. Respondents’ failure to notify the NRC of the June 2020, July 2020, and March 2022 Spills is a violation of 40 C.F.R. § 110.6 and of its SPCC Plan, and therefore also a violation of 40 C.F.R. § 112.3.

47. Respondents’ discharge of pollutants from a point source into waters of the United States occurred without a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, and, therefore, these discharges violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 3: Failure to Fully Prepare and Implement an SPCC Plan

48. The facts stated above are incorporated herein by reference.

49. 40 C.F.R. § 112.3 requires Running Foxes Petroleum, Inc., to fully prepare and implement an SPCC Plan.

50. EPA’s August 21, 2020, inspection documented Running Foxes Petroleum, Inc.’s failure to fully prepare and implement an SPCC plan at the Facilities.

51. Running Foxes Petroleum, Inc.’s errors and omissions included the following:

- a. Running Foxes Petroleum, Inc., failed to include accurate information in the SPCC Plan’s facility diagrams, including the locations of all tanks and containers, production and injection wellheads, test barrels, breakout tanks, portable containers, transfer areas, flowlines, and intra-facility gathering lines, in violation of 40 C.F.R. § 112.7(a)(3);
- b. Running Foxes Petroleum, Inc., failed to describe an adequate procedure for reporting a discharge, in violation of 40 C.F.R. § 112.7(a)(4);

- c. Running Foxes Petroleum, Inc., failed to list all scenarios of a reasonable potential for equipment failure, such as discharges from wellheads, breakout tanks, flowlines, or intra-facility gathering lines, and for discharges from transfers, and failed to provide a prediction of the direction, rate of flow, and total quantity of oil, in violation of 40 C.F.R. § 112.7(b);
- d. Running Foxes Petroleum, Inc., failed to have adequate secondary containment and/or describe secondary containment in the Plans (both general and sized containment; including for portable containers, production wellheads, transfer area at the tank batteries, above-ground flowlines and buried flowlines), in violation of 40 C.F.R. § 112.7(c), or to clearly explain in the Plan why secondary containment measures are not practicable, in violation of 40 C.F.R. § 112.7(d);
- e. Running Foxes Petroleum, Inc., failed to include an adequate oil spill contingency plan, as required by 40 C.F.R. §§ 112.7(d)(1) and 112.9(d)(3)(i), following the provisions of 40 C.F.R. Part 109, including failure to provide information specific to the Facilities for the components required by 40 C.F.R. §§ 109.5(b)(2)-(3), 109.5(c)(1)-(3), 109.5(d)(1), and 109(d)(5); and
- f. Running Foxes Petroleum, Inc., failed to prepare and implement a written program of flowline maintenance, in violation of 40 C.F.R. §§ 112.9(b)(2) and 112.9(d)(4), that addresses procedures to ensure compatibility, visually inspect and test flowlines and any associated appurtenances on a periodic and regular schedule, take corrective action based on regularly scheduled inspections, tests, or evidence of discharge, and promptly remediate any accumulations of oil discharges.

52. Running Foxes Petroleum, Inc.'s failure to prepare and implement an SPCC Plan is a violation of 40 C.F.R. § 112.7 and 40 C.F.R. § 112.3.

Continuing Threat

53. Based on Running Foxes Petroleum, Inc.'s history of violating SPCC requirements, continued SPCC noncompliance, discharges resulting from the noncompliance, and the failure of previous EPA enforcement action to deter noncompliance, the EPA finds there exists a continuing threat of a "discharge" of oil as defined in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2), and 40 C.F.R. § 112.2, into navigable waters of the United States at the North Stoner and Emerson Leases. The quantity of oil which may be discharged from the Facilities is a harmful quantity within the meaning of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), and 40 C.F.R. § 110.3(b), because the substantial threat of a discharge may cause a violation of applicable water quality standards and/or may cause a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines.

54. The threat of a discharge is a violation of Section 311(b) of the CWA, 33 U.S.C. § 1321(b), and Section 1001 of the OPA, 33 U.S.C. § 2701(7), because a harmful quantity of oil may be discharged from the onshore facility into or upon the navigable waters of the United States or adjoining shorelines.

55. The threat of a discharge of oil from the Facilities may pose an imminent and substantial threat to public health or welfare of the United States, including drinking water, fish and other wildlife, public and private property, shorelines, habitat, and other living and nonliving natural resources under the jurisdiction and control of the United States.

56. Based on Running Foxes Petroleum's continued SPCC noncompliance and discharges resulting from the noncompliance even after EPA enforcement actions, the EPA finds that threat of discharge remains unless a third-party verifier assists in mitigating the threat of discharge and confirms it has been mitigated.

Order for Compliance

57. Based on the foregoing allegations of fact, conclusions of law, and findings of violation and pursuant to the authority of Sections 311(c) and (e) of the CWA, 33 U.S.C. §§ 1321(c) and (e), Respondents are hereby ordered as follows.

58. Each Respondent shall notify EPA in writing within 15 days after the Effective Date of this Order of Respondent's intent to comply with this Order. Failure of any Respondent to provide such notification within this time period shall be a violation of this Order by such Respondent.

59. Respondents shall retain, at their expense, a qualified third-party verifier ("Verifier") to evaluate and ensure the North Stoner and Emmerson Leases' compliance with the requirements of this Order, Section 311(j) of the CWA, and regulations promulgated at 40 C.F.R. Part 112. The Verifier shall be qualified to assess Respondents' compliance with the relevant legal authorities and its SPCC Plan. Respondents shall require that the Verifier act independently and objectively when performing all activities related to assessing Respondents' compliance with this Order and the CWA. Respondents shall provide the Verifier with full access to the Emmerson and North Stoner Leases and provide or otherwise make available any necessary personnel and documents to fully perform all verification activities.

60. Respondents must notify the EPA of their first choice of Verifier within 30 days of the effective date of this Order.

61. EPA may (using objective criteria) review and approve of the Verifier's qualifications, provided, however, that EPA cannot select, recommend or propose any firms or individuals for hire/employment by Respondents.

62. If the EPA provides written disapproval of Respondents' choice of Verifier, Respondents must notify the EPA of an alternate choice of Verifier within 14 days of that disapproval.

63. Within 10 days of written approval of the Verifier by the EPA, Respondents shall retain the Verifier to perform an assessment and evaluation of the Emmerson and North Stoner Leases for compliance with the SPCC requirements of Section 311 of the CWA and 40 C.F.R. Part 112, including but not limited to the requirements of the CWA violated at those leases during the August 21, 2020, inspection, as described in Paragraphs 36 to 52 of this Order.

64. The Verifier shall complete the actions specified in Paragraph 63 within thirty (30) days of being retained by Respondents.

65. Within thirty (30) days of completing the actions specified in Paragraph 63, the Verifier shall concurrently submit a verification report (“Verification Report”) to EPA and Respondents.

66. The Verification Report shall include all findings and monitoring results of the Verifier.

67. The Verifier shall provide copies of all documents reviewed and identify all Facility personnel interviewed in support of the Verification Report.

68. Respondents shall require the Verifier to include in any Verification Report submitted to the EPA pursuant to this Order a certification that the Verifier has remained in compliance with all the conditions set forth in this Order, including that the Verifier conducted the verification independent from any influence by Respondents.

69. The Verification Report, or any information developed or findings of the Verifier, shall not be subject to any privilege or protection, excluding any protections that may be asserted by Respondents as necessary to protect any Confidential Business Information (“CBI”) pursuant to the procedures specified in 40 C.F.R. Part 2, Subpart B. In the event Respondents seek to protect any CBI, a representative of Respondents will notify the Verifier of any CBI at the time of the onsite visit to each facility by the Verifier.

70. Within thirty (30) days of the submission of the Verification Report to Respondents and the EPA, Respondents shall submit to the EPA a Work Plan which includes a response to all findings set forth in the Verification Report. In the response, Respondents shall describe each completed or proposed action to correct each finding identified in the Verification Report submitted to the EPA, including the date(s) that such corrections occurred or are scheduled to occur, not to exceed ninety (90) days from the date of the Verification Report’s submission. Respondents’ reply to the Verification Report shall include a timeline of events that have occurred to complete these actions. The timeline must identify, but shall not be limited to, the date of starting the assessment, each date each facility was assessed, date of identified finding, date of submission of report to Respondents and the EPA, date of corrective actions, and the date of completion of the assessment.

71. Within thirty (30) working days of completion of all actions set forth in the Work Plan, Respondents shall submit for EPA review and approval a Final Report summarizing the actions taken to comply with this Order.

72. When EPA determines, after EPA’s review of the Final Report, that all actions have been fully performed in accordance with this Order, EPA will provide written notice to Respondents. If EPA determines that any actions have not been completed in accordance with this Order, EPA will notify the Respondents in writing, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Order.

73. All submissions to the EPA pursuant to the requirements of this Order shall contain the following certification:

I certify that Running Foxes Petroleum, Inc. has complied with all the applicable requirements of the Order for Compliance. I also certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Additional Discharges

74. If any incident, or change in facility conditions, during the actions conducted pursuant to this Order causes or may cause a substantial threat of a discharge or an additional discharge of oil or hazardous substances from the facility or a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Order in order to prevent, abate or minimize such discharge or substantial threat of a discharge. Respondents shall also immediately notify the On-Scene Coordinator or, in the event of his/her unavailability, shall notify the Regional Duty Officer of the incident or facility conditions. If Respondents fail to respond, EPA may respond to the discharge or threatened discharge and seek recovery of its costs of response work under Section IX. Respondents shall take such action in consultation with the OSC, unless it is not possible for the Respondents to contact the OSC prior to the time the action becomes necessary.

75. In the event of any discharge of oil or a hazardous substance, Respondents shall immediately notify the National Response Center at telephone number (800) 424-8802. Respondents shall submit a written report to EPA within seven (7) days after each discharge, setting forth the events that occurred and the measures taken or to be taken to mitigate and prevent the recurrence of such a discharge. This reporting requirement is in addition to, not in lieu of, reporting under Section 311(b)(5) of CWA and Section 304 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 *et seq.*, if applicable, or under any other Federal, State, or local laws.

Submittals

76. All documents required to be submitted to EPA by this Order shall be submitted by electronic mail to: aaron.mark@epa.gov.

77. Electronic submissions to the EPA will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically to the EPA shall be submitted in hard copy to:

Mark Aaron
U.S. Environmental Protection Agency Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Kansas 66219.

General Provisions

Effect of Compliance with the Terms of this Order

78. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondents of their responsibility to obtain any required local, state, and/or federal permits.

79. This Order does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. EPA retains the right to seek any and all remedies available applicable law for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

Access and Requests for Information

80. Nothing in this Order shall limit the EPA's right to obtain access to and/or to inspect the Facilities and/or to request additional information from Respondents pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318, and/or any other authority.

81. Respondents shall preserve all documents and information relating to work performed under this Order for six years following completion of the removal actions required by this Order. At the end of this six-year period and 60 days before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six-year period upon the written request of EPA.

Severability

82. If any provision or authority of the Order or the application of the Order to Respondents is held by federal judicial authority to be invalid, the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

Parties Bound

83. This Order shall apply to and be binding upon Respondents and their agents, successors and assigns. Respondents shall ensure that any directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for it with respect to matters included herein comply with the terms of this Order.

Failure to Comply

84. Failure to comply with the terms of this Order may result in Respondents' liability for significant statutory civil penalties for each violation under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by the EPA, the United States may impose such penalties if, after notice and opportunity for a hearing, the court determines that Respondents have violated the Act as described above and failed to comply with the terms of this Order. In determining the amount of any penalty, the court will consider the seriousness of Respondents' violations, their economic benefit resulting from the violations, any history they may have of such violations, any good faith efforts they have made to comply with legal requirements, the economic impact a penalty may have upon them, and such other matters as justice may require.

85. The district court has the authority to impose separate civil penalties for any violations of the Act and for any violations of this Order.

Confidential Business Information

86. Pursuant to 40 C.F.R. §§ 2.201-2.311, Respondents may assert a business confidentiality claim covering any portion of the submitted information which is entitled to confidential treatment and which is not effluent data. For any such claim, describe the basis for the claim under the applicable regulation. Any material for which business confidentiality is claimed should be placed in a separate envelope labeled, "Confidential Business Information." Failure to assert a claim in the manner described in 40 C.F.R. § 2.203(b) allows EPA to release the submitted information to the public without further notice. EPA may disclose information subject to the business confidentiality claim only to the extent set forth in the above-cited regulations. Special rules governing information obtained under the CWA appear in 40 C.F.R. § 2.302.

Judicial Review

87. Respondents have the right to seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701–706, upon the Effective Date of this Order. Section 706, which is set forth at <https://www.govinfo.gov/app/details/USCODE-2011-title5/USCODE-2011-title5-partI-chap7-sec706>, provides the grounds for such review.

Opportunity to Confer

88. Respondents have the opportunity to confer with and/or submit information to the EPA concerning the validity of this Order, including the basis for the Order, the terms of the Order, and the applicability of this Order to Respondents. Within ten days of receipt of this Order, Respondents may request a conference regarding the Order or to submit information to the EPA. If any Respondent requests a conference or wishes to submit information, the conference or submission of information shall take place within 20 days of receipt of this Order. The EPA shall deem a failure to request a conference or to submit information as a waiver of the opportunity to confer.

Effective Date

89. The terms of this Order shall be effective and enforceable against Respondents thirty (30) days after receipt of an executed copy of the Order. Any amendments shall become effective and enforceable on the date that the amendment is signed by all parties. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from the effective date.

Modification

90. The EPA may subsequently amend this Order in accordance with the EPA's authority under the CWA. In the event of any such subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order. All deadlines for performance under this Order may be extended upon written approval by the EPA, at its sole discretion, without formal amendment to the Order.

Termination

91. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

For the Complainant, U.S. Environmental Protection Agency Region 7:

David Cozad
Director
Enforcement and Compliance Assurance Division

Natasha Goss
Attorney-Advisor
Office of Regional Counsel

Certificate of Service

I certify that on the date noted below I delivered a true and correct copy of this Findings of Violation and Administrative Order for Compliance

By electronic mail, to:

Regional Hearing Clerk:

U.S. Environmental Protection Agency Region 7
R7_Hearing_Clerk_Filings@epa.gov

Complainant:

Natasha Goss
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7
goss.natasha@epa.gov

Mark Aaron
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency Region 7
aaron.mark@epa.gov

By electronic and certified mail, to Respondents:

Steven Tedesco
14550 East Easter Ave #200
Centennial, Colorado 80012
steventedesco@runningfoxes.com

Joe Taglieri
14550 East Easter Ave #200
Centennial, Colorado 80012
joe.taglieri@runningfoxes.com

Northwest Registered Agent Service, Inc.
Registered Agent, Running Foxes Petroleum, Inc.
117 S Lexington St, Ste 100
Harrisonville, Missouri 64701

Date

Signature