



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

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EPA REGION VIII
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DOCKET NO.: CWA-08-2012-0028

IN THE MATTER OF:)	
)	
)	
WYOMING DEPARTMENT OF)	FINAL ORDER
TRANSPORTATION)	
)	
)	
Respondent)	

Pursuant to 40 C.F.R. §22.18 and 22.13(b), of EPA’s Consolidated Rules of Practice, the Expedited 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.

The Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 4th Day of September, 2012

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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In the Matter of:

Wyoming Department of Transportation

Respondent.

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**EXPEDITED CONSENT
AGREEMENT**

DOCKET NO. : CWA-08-2012-0028

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1. Pursuant to 40 C.F.R. § 22.13(b), Complainant, the United States Environmental Protection Agency, Region 8 (EPA), and the Respondent, Wyoming Department of Transportation, by their undersigned representatives, under the terms of this Expedited Consent Agreement (Agreement), hereby settle the civil cause of action arising out of violations of the Spill Prevention, Control and Countermeasure (SPCC) Plan regulations, and agree as follows:
2. The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the SPCC regulations, promulgated at 40 C.F.R. Part 112 under section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.
3. Respondent owns and/or operates the Wyoming Department of Transportation, Laramie Complex Maintenance Facility located at 3507 South 3rd Street, Laramie, Wyoming, in Albany County and the Rawlins Complex Maintenance Facility located at 301 Airport Rd., Rawlins, Wyoming, in Carbon County (Facilities).
4. Wyoming Department of Transportation is a State of Wyoming agency and therefore a "person" pursuant to section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5).

5. The Laramie Facility is located approximately 7,920 feet from the Laramie River and the Rawlins Facility is located approximately 2,640 feet from the Sugar Creek. The Laramie River and the Sugar Creek are both tributaries to the North Platte River which is a navigable water of the United States. Discharges of harmful quantities of oil from each of the Facilities could reasonably be expected to reach waters of the United States.
6. The Laramie Facility has a total storage capacity of approximately 19,185 gallons of oil and the Rawlins Facility has a total storage capacity of 12,935 gallons and both are subject to the SPCC regulations.
7. Respondent admits both of its Facilities are subject to the SPCC regulations.
8. The Laramie and Rawlins Facilities were inspected by the EPA on June 21, 2010 and June 22, 2010, respectively, at which time the Respondent was notified that the Facilities did not have adequate SPCC Plans and Respondent had not adequately implemented its SPCC Plans.
9. On September 9, 2010, Respondent submitted revised SPCC Plans to EPA for each of the Facilities. Both SPCC Plans were found to be noncompliant with the SPCC regulations.
10. On July 17, 2012, Respondent submitted photographs that documented the SPCC Plan implementation violations had been corrected. Respondent also submitted revised SPCC Plans to EPA on July 17, 2012 for each of the facilities, but failed to correct all of the written SPCC Plan violations.
11. On July 31, 2012, Respondent submitted additional amendments to the SPCC Plans which brought the Plans into compliance with the regulations.
12. Respondent admits that from the date of the EPA inspections on June 21 and 22, 2010, until July 31, 2012, Respondent failed to prepare and properly implement adequate SPCC Plans for the Facilities in accordance with 40 C.F.R. §§ 112.7 and 112.8.

13. Respondent admits that EPA has jurisdiction in this proceeding.
14. Respondent waives its right to a hearing before any civil tribunal to contest any issue of law or fact set forth in this Agreement.
15. This Agreement, upon incorporation into a final order, applies to and is binding upon the EPA and upon the Respondent and Respondent's successors and assigns. Any change in status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement.
16. This Agreement contains all terms of the settlement agreed to by the parties.
17. Respondent consents and agrees to the assessment of a civil penalty of \$1,575.00 for violations of section 311(j) of the Act, which shall be paid no later than thirty (30) calendar days after the effective date of the Final Order by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF – 311" and the title and docket number of this case. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

If the Respondent sends payment by overnight mail, the payment shall be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire transfers shall be directed to:

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."

18. The Respondent shall submit copies of the check (or, in the case of a wire transfer, copies of the confirmation) to the following persons:

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

and

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

19. Respondent shall implement and maintain an SPCC plan in accordance with 40 C.F.R. § 112.
20. If Respondent fails to pay the penalty amount as required by this Agreement once incorporated into the Final Order, EPA may file a motion to withdraw this agreement and Final Order. If that motion is granted, EPA may then file an administrative or civil enforcement action against Respondent for the violations addressed herein.
21. The undersigned representative of the Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this Agreement and to bind the Respondent to the terms and conditions of this Agreement.

22. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
23. Each party shall bear its own costs and attorneys fees in connection with this matter.
24. 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 civil settlement of the specific violations described in this Agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice: Complainant.**

By: JENNIFER SCHULLER Date: 8/3/12
Darcy O'Connor, Acting Director FOR
UIC/FIFRA/OPA Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Wyoming Department of Transportation: Respondent.

By: [Signature] Date: 8-13-2012
Name: PAT PERSSON
Title: DISTRICT ENGINEER

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT AND FINAL ORDER** in the matter of **WYOMING DEPARTMENT OF TRANSPORTATION; DOCKET NO.: CWA-08-2012-0028**, was filed with the Regional Hearing Clerk on September 4, 2012.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, 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 on September 4, 2012, to:

John Cox, Director
Wyoming Department of Transportation
5300 Bishop Blvd.
Cheyenne, WY 82009-3340

And emailed to:

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

September 4, 2012


Tina Artemis
Paralegal/Regional Hearing Clerk