

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

BEFORE THE ADMINISTRATOR

In the Matter of

Adamson Grease Company, L.L.C.,

and

Sooner Trading, Inc.

Respondents

Proceeding Under Section 311(e) of the
Federal Water Pollution Control Act, as
amended, 33 U.S.C. § 1321(e).

Docket No. CWA-07-2024-0047

ADMINISTRATIVE ORDER ON
CONSENT

1. The following Administrative Order on Consent ("Order") is issued pursuant to the authority of Section 311(e) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321(e), and pertains to a threatened discharge of oil from an animal fat and vegetable oil refining and blending facility located at 3909 West Dogwood Lane, Joplin, Missouri, 64801 (the "Facility"), owned and operated by Adamson Grease Company, L.L.C. and Sooner Trading, Inc. ("Respondents").

2. The authority to issue orders pursuant to Section 311(e) of the CWA was delegated to the Administrator of U.S. Environmental Protection Agency ("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 of EPA Region 7 has delegated the authority to the Director of the Enforcement and Compliance Assurance Division of Region 7, with concurrence from the Office of Enforcement and Compliance Assurance and the Regional Counsel, under Delegation No. R7-2-85 (Clean Water Act: Imminent and Substantial Endangerment, Revised April 29, 2019).

Statutory and Regulatory Framework

3. The objective of the CWA, 33 U.S. § 1251 et seq., is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."

4. Section 311(b)(1) of the CWA, 33 U.S.C. § 1321(b)(1), declares it a national policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States or adjoining shorelines.

5. 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.

6. 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: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases....”

7. Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(1) and 40 C.F.R. § 112.2, define “discharge” to include, but not limited to any spilling, leaking, pumping, pouring, emitting, or dumping except under very limited conditions.

8. Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), authorizes 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.

9. 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.”

10. 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 Plans (“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.

11. 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

12. Respondent, Adamson Grease Company, L.L.C., is and was at all relevant times a limited liability company under the laws of, and authorized to conduct business in, the state of Missouri.

13. Respondent, Sooner Trading, Inc., is and was at all relevant times an Oklahoma corporation authorized to conduct business in the state of Missouri.

14. Respondents 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. At all times relevant to this action, Respondents were the owners and/or operators, within the meaning of Section 311(a)(6) of the CWA and 40 C.F.R. § 112.2, of the animal fat and vegetable oil refining and blending facility located at 3909 West Dogwood Lane, Joplin, Missouri, 64801 (the "Facility").

16. At all times relevant to this action, the Respondents did not have an SPCC Plan for the Facility.

17. The Facility has a total storage capacity of approximately 265,000 gallons of animal fats and vegetable oils.

18. At all times relevant to this action, Respondents have not provided secondary containment for ten aboveground storage tanks which have approximately 20,000 gallons of storage capacity each.

19. At all times relevant to this action, Respondents have not conducted regular integrity testing of ten aboveground storage tanks which have approximately 20,000 gallons of storage capacity each.

20. At all times relevant to this action, Respondents have not conducted training of their staff on how to respond to a discharge of oil from the Facility.

21. A discharge from the Facility would flow to Turkey Creek and then to the Spring River.

22. The Spring River is a traditionally navigable water.

23. Turkey Creek is a perennial, continuously flowing tributary of the Spring River.

24. Turkey Creek is a relatively permanent water connected to the Spring River, a traditionally navigable water, and thus both are navigable waters of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

25. Respondents are engaged in storing, processing, using or consuming oil or oil products located at the Facility.

26. The Facility is a “non-transportation-related” facility within the meaning of 40 C.F.R. § 112 Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.

27. 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 C.F.R. § 112.2.

28. The Facility is 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 and, therefore, is an SPCC-regulated facility pursuant to Section 311(j)(1)(C) of the Act, Executive Order 12777 and 40 C.F.R. § 112.1.

29. Pursuant to Section 311(j)(1)(C) of the Act, Executive Order 12777, and 40 C.F.R. § 112.1, Respondents, as the owners and/or operators of SPCC-regulated facilities, are subject to the SPCC regulations at all times relevant to this action.

30. On June 6, 2023, representatives of the EPA inspected the Facility to determine its compliance with the SPCC regulations of 40 C.F.R. Part 112 and obtained information about the Facility. At the inspection, the EPA found evidence of previous oil discharges as defined by Section 311(a)(2) of the CWA and 40 C.F.R. § 112.2, at the Facility and observed an active discharge from an aboveground storage tank located within the Facility.

31. EPA’s findings about the Facility were documented in an inspection report. The EPA transmitted a copy of this inspection report to Respondents on July 12, 2023.

Findings of Violation

Count 1: Failure to Fully Prepare and Implement an SPCC Plan

32. The factual allegations stated above are herein incorporated by reference.

33. 40 C.F.R. § 112.3 requires the owner or operator of a subject facility to prepare in writing and fully implement an SPCC Plan in accordance with the requirements of 40 C.F.R. Part 112.

34. Respondent did not have an SPCC Plan for the Facility at all times relevant to this action.

35. Respondent’s failure to prepare in writing and fully implement an SPCC Plan in accordance with the requirements of 40 C.F.R. Part 112 is a violation of 40 C.F.R. § 112.3 and Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C).

Continuing Threat

36. Based on the Respondents’ ongoing violations of Section 311 of the CWA and 40 C.F.R. Part 112, including but not limited to, the lack of an SPCC Plan, evidence of prior “discharges” as defined in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2), and 40 C.F.R. §

112.2 of oil, an active discharge of oil observed during EPA's inspection, and the failure to provide any secondary containment for ten aboveground storage containers storing approximately 200,000 gallons of stored oil, EPA finds that there exists a continuing threat of a discharge of oil from Respondents' Facility into the navigable waters of the United States that would violate Section 311(b) of the CWA, 33 U.S.C. § 1321(b).

37. The quantity of oil which may be discharged from the Facility 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. Part 110.3(b), because such 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.

38. The threat of a discharge of oil from the Facility 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.

39. The actions agreed to by Respondents and required by this Order are necessary to protect the public health and welfare of the United States, including threats and/or potential threats to 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.

40. The actions agreed to by Respondents and required by this Order are in accordance with the National Contingency Plan ("NCP") and are authorized by EPA pursuant to the authority granted in Section 311(e) of the CWA, 33 U.S.C. § 1321(e).

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

Order

42. Based on the foregoing allegations of fact, conclusions of law, findings of violations, and pursuant to the authority of Section 311(e) of the CWA, 33 U.S.C. §§ 1321(e), Respondents hereby agree and are ordered to take the following actions:

- a. **Initial Assessment of Compliance.** Upon the effective date of this Order, Respondents shall commence an assessment and evaluation of the Facility 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 the Facility as described in this Order. The results of this compliance assessment and documentation of all actions taken pursuant to this section shall be submitted by Respondents to EPA pursuant to the paragraphs below;
- b. **Report on Initial Assessments.** Within 90 days of the effective date of this Order, Respondents shall submit a report of the results of the initial assessment of compliance with the SPCC requirements of Section 311 of the CWA and 40

C.F.R. Part 112 as described in subparagraph a, above, to EPA for review and comment. This report shall include all data generated by Respondents during the initial assessment.

- c. **Second Assessment.** Within 30 days of receipt of any comments from EPA, Respondents shall commence a second assessment of compliance which addresses or responds to any comments received from EPA on the initial assessment, and as necessary to determine compliance with Section 311 of the CWA and 40 C.F.R. Part 112.
- d. **Report on Second Assessment.** Within 45 days of the conclusion of the second assessment pursuant to subsection c, above, of this Order, Respondents shall submit a report of the results of the second assessment to EPA for review and comment. This report shall include all data generated by Respondents during the second assessment.
- e. **Proposal for Work to Achieve Compliance.** Within 45 days of Respondents' receipt of any comments from EPA on the report on the second assessment of compliance, Respondents shall submit a proposal to EPA for review and comment for all proposed upgrades or improvements of spill response and/or secondary containment at the Facility, as necessary to achieve compliance with 40 C.F.R. Part 112. The proposal shall detail a schedule for all proposed work, and shall not exceed six (6) months from commencement of the proposed work. Respondents may propose a longer schedule to EPA for review and approval, if necessary to account for the construction season or if the work cannot be reasonably implemented within six (6) months from commencement.
- f. **Performance of Work.** Within 30 days of receipt of any comments from EPA on Respondents' proposed work to improve spill response and/or secondary containment at the Facility, Respondents shall commence work to upgrade or improve the Facility to achieve compliance with Section 311 of the CWA and 40 C.F.R. Part 112. This work shall be performed in a manner that addresses or responds to comments provided by EPA, and shall be completed within six (6) months of commencement by Respondents, unless a longer period has been proposed and approved by EPA pursuant to subparagraph e, above. Respondents may request additional time to complete the work for good cause.
- g. **Final Completion Report.** Within 45 days of completion of all proposed work required to improve spill response and/or secondary containment at the Facility and achieve compliance with Section 311 and 40 C.F.R. Part 112, Respondents shall submit a Final Completion Report to EPA and a copy of the Facility's SPCC Plan.

Submittals

43. All submittals to EPA that are required of Respondent by this Order shall be made by electronic submission to:

Mark Aaron
Compliance Officer
U.S. Environmental Protection Agency
Chemical Branch
Enforcement & Compliance Assurance Division
11201 Renner Boulevard
Email: aaron.mark@epa.gov

44. 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 the address provided above.

General Provisions

45. EPA and Respondents acknowledge that this Order has been negotiated in good faith and that neither consenting to the terms of this Order, nor the actions undertaken by Respondent in accordance with this Order, constitute an admission of liability.

46. By entering into this Order, Respondent (1) consents to and agrees not to contest EPA's authority or jurisdiction to issue or enforce this Order, (2) agrees to undertake all actions required by the terms and conditions of this Order, and (3) consents to be bound by the requirements set forth herein.

47. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited, any right of judicial review of this Order under the CWA, or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

48. Nothing in this Order shall be construed to relieve Respondent of the requirements of the CWA or any other applicable requirements under federal, state or local law. EPA reserves the right to take, direct, or order all actions as necessary as authorized by law for any violation of this Order, and for other future or past violations of the CWA.

49. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of liability for its responsibility to obtain and comply with any required local, state and/or federal permits.

50. Failure to comply with the terms of this Order may result in your liability for significant statutory civil penalties for each violation pursuant to Section 311(b)(7)(B) of the CWA, 33 U.S.C. §§ 1321(b)(7)(B). Upon suit by the EPA, the United States District Court for the Western District of Missouri may impose such penalties if, after notice and opportunity for a hearing, the court determines that you have violated the CWA 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 violation, the economic benefit resulting from the violations, any history of such violations, any good faith efforts made to comply with legal requirements, the

economic impact a penalty may have, and such other matters as justice may require. The district court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of this Order.

51. EPA may subsequently amend this Order, upon written agreement with Respondent, in accordance with 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 EPA, at its sole discretion, without formal amendment to the Order.

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

53. Nothing in this Order shall limit the EPA's right to obtain access to, and/or to inspect the facility, and/or to request additional information from Respondent, pursuant to the authority of Sections 308 and 311(m) of the CWA, 33 U.S.C. §§ 1318 and 1321(m), and/or any other authority. Respondent must provide and/or obtain access to the facility, to off-site areas where access is necessary to implement this Order, and to all documents related to conditions at the facility and work conducted under this Order. Respondent must provide this access to EPA and EPA's contractors and representatives, upon presentation of verifiable documentation of identity and authorization. Respondent must notify EPA immediately of any denial of access to areas that Respondent does not own or control.

54. Respondent must retain all documents and information relating to the work performed under and the implementation of this Order and relating to the oil and/or hazardous substances found on or discharged from the facility, for five years after completing actions required by this Order. Before destroying any documents or information, Respondent must notify EPA that the documents and/or information are available to EPA for inspection and, upon request, must provide the documents and/or information to EPA. In addition, Respondent must provide these documents and/or this information at any time before the five-year period expires at the written request of EPA.

55. This Order shall become effective and enforceable on the date that the Order is signed by EPA. 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 such date. Respondent agrees to receipt and service of this Order at the following email address: *BillyRLee@soonertrading.net*

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

RESPONDENT
ADAMSON GREASE COMPANY, LLC

Signature: 

Date: 7/12/24

Name: Drew Lee

Title: GM

RESPONDENT
SOONER TRADING, INC.

Signature: Billy L

Date: 7/16/24

Name: Billy LEE

Title: GM

COMPLAINANT:
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

JODI
BRUNO

Digitally signed by JODI
BRUNO
Date: 2024.07.19
15:35:42 -05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

Date: _____

Pappas,
Samantha

Digitally signed by
Pappas, Samantha
Date: 2024.07.23
10:09:29 -05'00'

Samantha Pappas
Office of Regional Counsel

CERTIFICATE OF SERVICE

I certify a true and correct copy of the Administrative Order for Compliance on Consent was sent this day in the following manner to the addressees:

Regional Hearing Clerk:

R7_Hearing_Clerk_Filings@epa.gov

Copy emailed to Respondent:

Billy R. Lee
BillyRLee@soonertrading.net

Copy emailed to representatives of EPA:

Samantha Pappas
EPA Region 7 Office of Regional Counsel
pappas.samantha@epa.gov

Mark Aaron
EPA Region 7 Enforcement and Compliance Assurance Division
aaron.mark@epa.gov

Date: _____

Signature