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Nusser Oil Company, Hanston, KS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In accordance with Section 311(b)(6)(C) of the Clean Water Act ("CWA"), 33 U.S.C. ;§ 1321(b)(6)(C), and 40 C.F.R. Part 22 of 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 ("Consolidated Rules"), the U.S. Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against the Nusser Oil Company ("Respondent"), for failure to have a Spill Prevention Control and Countermeasures ("SPCC") plan for its oil products storage and distribution facility located at 101 Railroad Row, Hanston, Kansas. Respondent's facility is approximately 1000 feet away from a navigable water of the United States.

Pursuant to Section 311(j)(1)(C) of the Clean Water Act, Executive Order 12777, and 40 C.F.R. Sec. 112.1, Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations. The regulations at 40 C.F.R. Sec. 112.3 requires the owner of a SPCC-regulated facility to prepare and implement a SPCC plan in accordance with the requirements of 40 C.F.R. Sec. 112.7

Under Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 1321(b)(6), the EPA is authorized to issue orders assessing civil penalties for various violations of the Clean Water Act. The EPA may issue such orders after filing a Complaint commencing a Class II penalty proceeding. The EPA provides notice of the proposed assessment of a Class II penalty pursuant to 33 U.S.C. § 1321(b)(6)(C)(i). Class II proceedings are conducted under EPA's Consolidated Rules, 40 C.F.R. Part 22. In this case, the EPA is filing a Complaint against Respondent that alleges that Respondent violated Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and regulations promulgated thereunder and codified at 40 C.F.R. Part 112 governing SPCC plan requirements. The violations cited in the Complaint stem from an EPA inspection of the Respondent's facility in Hanston, Kansas. The inspection documented Respondent's failure to prepare a written SPCC plan. The Complaint proposes a penalty of \$46,134 for the above-stated violations of the Clean Water Act.

The EPA will receive written comments on the proposed Administrative Penalty Assessment for a period of thirty (30) days from the date of publication of this notice. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. Persons wishing to receive a copy of EPA's Consolidated Rules, review the CAFO, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101, 913-551-7567. Please reference Docket No. CWA-07-2010-0011. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to forty (40) days from the date of this notice.

11/20/2009
Date

/s/ John J. Smith for
Becky Weber
Director, Air and Waste Management Division
U.S. Environmental Protection Agency
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