

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
ADMINISTRATIVE ORDER

2010 APR 20 PM 3:06

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF ___ Gilco Transport (FPN E10809) _____

Docket Number: CWA-08-2010-0010

Proceedings under Section 311 (c) of the Clean Water Act (CWA), 33 U.S.C. § 1321 (c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq.

I. DEFINITIONS

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the CWA, 33U.S.C. §1321(a)(1)).

"Hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section (Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14)).

"Navigable water of the United States" means the waters of the United States, including the territorial seas (Section 502(7) of the CWA, 33 U.S.C. § 1362(7)).

"Facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than submerged land (Section 311(a)(10) of the CWA, 33U.S.C. §1321(a)(10)).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of CWA, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of CWA, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of CWA which are caused by events occurring within the scope of relevant operating or treatment systems (Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2)).

II. FINDINGS OF FACT AND VIOLATIONS

A. This Order is being issued under §311(c) of the Clean Water Act, 33 U.S.C. §1321 for a discharge or a substantial threat of discharge of oil and/or a hazardous substance into waters of the United States.

B. On or about 9 April 2010 (date of discharge), a discharge or a substantial threat of a discharge of 1,280 gallons of oil and/or _____, which is/are

hazardous substance(s), reached or may reach the North Fork of the Snake River
(body of water) which is a navigable water of the United States. This discharge or
substantial threat of a discharge from the _____
_____ (Name and address of facility) facility
constitutes a substantial threat to the public health or welfare.

C. Respondent(s) Keith Gilstrap (owner of Gilco Transportation)
_____ is/are the owner(s)/operator(s) of the facility.

III. WORK TO BE PERFORMED (Initial all that apply)

A. **RESPONDENT IS HEREBY ORDERED** to complete the tasks described below within
the dates specified and in accordance with the National Contingency Plan, 40 CFR Part
300, and any appropriate area contingency plan, and any applicable §311(j) facility
response plan.

B. IMMEDIATE STABILIZATION AND MITIGATION ACTIONS
(see attached sheet for further requirements)

1) Continue current protection efforts in roadside
including booming and maintenance of underflow
dam structure installed at the verbal direction of the
on April 14th until directed to cease by the OSC. BY Ongoing

2.) Excavate soils contaminated with diesel fuel oil
at the accident site to the maximum extent practical
given the extreme slope below the accident site. BY 4/30/10.

3.) Begin daily water sampling and analysis for Diesel
Range Organics (DRO) of the surface water/runoff in
the roadside ditch along side of US 6 below the spill
area. Continue until workplan below is approved. BY 4/26/10.

C. REMOVAL ACTION

X Within 15 days from the date this Order is signed by EPA, Respondent(s)
shall develop and submit to EPA for approval, a Work Plan and schedule for completing
the tasks described below. Respondent(s) shall begin work within 15 days of EPA
approval of the Work Plan. The Work Plan shall include the following tasks:

1.) A sampling plan to characterize the contamination on the hillside due to this spill. This
should also include subsurface investigation wherever possible, but at a minimum, below
the spill site along the USFS access road and along US 6.

2.) A proposal, for RRT approval, an evaluation plan to evaluate up to 5 NCP Subpart J
Biological Agents against Nitrogen/Phosphate augmented bioremediation as well as
unassisted bioremediation for portions of the slope identified in item 1 that were not able
to be excavated. This evaluation period should last no longer than 2 weeks.

3.) A proposal, for RRT approval, for an in-situ treatment plan to implement the most
successful treatment option identified in item 2.

____ Within ____ days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Sampling Plan and schedule for sampling. Respondent(s) shall implement the Sampling Plan within ____ days of EPA approval. The Sampling Plan must satisfy the following requirements:

D. REPORTING REQUIREMENTS

X Respondent(s) shall prepare and submit to the On-Scene Coordinator the following reports:

- X Weekly Progress Reports due on Monday until end of agent evaluation phase.
- X Monthly Progress Reports due on the 15th of each month thereafter.
- X Final Completion Report due 60 days after the completion of the Removal Action.

E. OTHER REQUIREMENTS

IV. RESERVATION OF RIGHTS AND PENALTIES

- A. This Order does not preclude EPA from taking any actions authorized by CWA, the National Contingency Plan, or any other law. EPA reserves the right to direct all activities and to comment on and direct changes to deliverables, off-site shipping and disposal, and all other matters.
- B. Respondent shall notify EPA of any response actions it takes as to this discharge that are in addition to those described in this Order.
- C. Violation of any term of this ORDER may subject Respondents to an administrative civil penalty of up to \$27,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure. (Section 311(b)(7)(B) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(B) as amended by the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.)

V. EFFECTIVE DATE

The effective date of this ORDER shall be the date of the receipt of this Order by the Respondents.

 4-20-10
On-Scene Coordinator Date

Received by  4-20-10
Representing Respondent Date

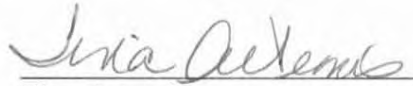
CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ADMINISTRATIVE ORDER** in the matter **GILCO TRANSPORT CO.; DOCKET NO.: CWA-08-2010-0010** was filed with the Regional Hearing Clerk on April 20, 2010.

Further, the undersigned certifies that a true and correct copy of the documents were delivered Brenda Morris, Senior 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 certified/return receipt requested on April 20, 2010, to:

Keith D. Gilstrap
Gilco Cos.
P. O. Box 1061
Rifle, CO 81650
kdgilco@yahoo.com

April 20, 2010



Tina Artemis
Paralegal/Regional Hearing Clerk

