

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

FOUR STAR SUPPLY, INC.

Pullman, Washington

Respondent.

DOCKET NO. CWA-10-2024-0006

CONSENT AGREEMENTProceedings Under Section 311(b)(6) of the
Clean Water Act, 33 U.S.C. § 1321(b)(6)**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 311(b)(6) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(6).

1.2. Pursuant to CWA Section 311(b)(6)(A), EPA is authorized to assess a civil penalty against any owner, operator, or person in charge of an onshore facility from which oil or a hazardous substance is discharged in violation of CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3), and/or who fails or refuses to comply with any regulation issued under CWA Section 311(j), 33 U.S.C. § 1321(j).

1.3. CWA Section 311(b)(6)(B), 33 U.S.C. § 1321(b)(6)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to the 2015 amendments to the Federal Civil Penalty Inflation Adjustment Act, 28 U.S.C. § 2461, and 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed \$22,324 per day for each day during which the violation continues, up to a maximum penalty of \$279,036. *See also* 88 Fed. Reg. 986 (January 6, 2023) (2023 Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to CWA Section 311(b)(6)(A) and (b)(6)(B), 33 U.S.C. § 1321(b)(6)(A)

and (B), and in accordance with Section 22.18 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, Four Star Supply, Inc. (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 311(b)(6), 33 U.S.C. § 1321(b)(6), to the Regional Administrator of EPA Region 10, who has re delegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA together with the specific provisions of the CWA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Framework

3.1. The objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

3.2. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person from any point source into waters of the United States except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

3.3. CWA Section 311(j), 33 U.S.C. § 1321(j), provides for the regulation of onshore

facilities to prevent or contain discharges of oil. CWA Section 311(j)(1)(C), 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from onshore facilities . . . and to contain such discharges”

3.4. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311 authority to issue the regulations referenced in Paragraphs 3.2 and 3.3 for non-transportation related onshore facilities.

3.5. Pursuant to these delegated statutory authorities and pursuant to its authorities under the CWA, 33 U.S.C. § 1251 *et seq.*, to implement Section 311 the EPA promulgated the Oil Pollution Prevention regulations in 40 C.F.R. Part 112, which set forth procedures, methods and equipment and other requirements to prevent the discharge of oil from non-transportation-related onshore facilities into or upon the navigable waters of the United States or adjoining shorelines, including requirements for preparation and implementation of a Spill Prevention Control and Countermeasure (SPCC) Plan.

3.6. The requirements of 40 C.F.R. Part 112 apply to owners and operators of non-transportation-related onshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products, which due to their location, 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. 40 C.F.R. § 112.1.

3.7. “Discharge of a pollutant” means any addition of any pollutant to navigable waters from any point source. 33 U.S.C. § 1362(12).

3.8. “Pollutant” is defined to include “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive

materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6).

3.9. CWA § 502(7) defines “navigable waters” as “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).

3.10. A “point source” is any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. 33 U.S.C. § 1362(14).

3.11. “Onshore facility” is defined to mean any facility of any kind located in, on, or under, any land within the United States other than submerged lands. 40 C.F.R. § 112.2.

3.12. In the case of an onshore facility, the regulations define “owner or operator” to include any person owning or operating such onshore facility. 40 C.F.R. § 112.2.

3.13. A “person” is an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body. 33 U.S.C. § 1362(5).

3.14. “Non-transportation-related,” as applied to an on-shore facility is defined to include oil storage facilities including all equipment and appurtenances related thereto as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps and drainage systems used in the storage of oil, but excluding inline or breakout storage tanks needed for the continuous operation of a pipeline system and any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel. 40 C.F.R § 112 App. A.

3.15. “Oil” is defined to mean oil of any kind or in any form, including, but not limited to, vegetable oils, petroleum, fuel oil, sludge, synthetic oils, oil refuse, and oil mixed with wastes other than dredged spoil. 40 C.F.R. § 112.2.

3.16. Pursuant to 33 U.S.C. § 1321(b)(4), EPA has determined by regulation that the quantities of oil that may be harmful to the public health or welfare or the environment of the United States include discharges of oil that (1) violate applicable water quality standards; (2) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. 40 C.F.R. § 110.3.

3.17. Owners or operators of onshore facilities that have an aboveground storage capacity of more than 1,320 gallons of oil, and due to their location could reasonably be expected to discharge oil in harmful quantities into or upon the navigable waters of the United States or adjoining shorelines, must prepare an SPCC Plan in writing, certified by a licensed Professional Engineer, and in accordance with the requirements of 40 C.F.R. § 112.7.

General Allegations

3.18. Respondent is a cooperative association conducting business in the state of Washington, and a “person” under CWA Sections 311(a)(7), 33 U.S.C. §§ 1321(a)(7), and 40 C.F.R. § 112.2.

3.19. At all times relevant to this Consent Agreement, Respondent was the “owner or operator,” within the meaning of 40 C.F.R. § 112.2 and Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of the bulk storage facility located at 355 NW State St., Pullman, WA 99163.

3.20. The Facility is an “onshore facility” within the meaning of CWA Section 311(a)(10), 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

3.21. The Facility is “non-transportation-related” within the meaning of 40 C.F.R. § 112.2.

3.22. On April 25, 2022, at approximately 7:00 A.M., a Four Star Supply, Inc. truck driver checked the Facility’s bulk tank farm on the south side of the South Fork Palouse River

(SFPR) and found diesel fuel leaking from the 12,000-gallon Tank No. 4 containing red-dyed diesel fuel to the secondary containment area's concrete floor.

3.23. The truck driver placed booms in the secondary containment area and then, approximately 25 minutes later, called another Four Star Supply truck driver and safety protocol representative, who arrived and began deploying more sorbent materials from a spill response kit. Additionally, the employees notified the general manager of the leak to the secondary containment area, who arrived at the Facility two hours later.

3.24. When the general manager arrived on scene, he noticed the leak had gone beyond the secondary containment area and diesel fuel was entering the SFPR at the bank down slope of the Facility's bulk tank farm. The Four Star Supply personnel deployed sorbent materials at the bank river interface, and began using tank truck to drain, remove, and empty the remaining diesel fuel from the leaking Tank No. 4.

3.25. Approximately four hours later, at 2:05 P.M., the general manager notified the United States Coast Guard's (USCG) National Response Center (NRC) of the Facility's oil spill to the SFPR and at 2:15 P.M. he called the Washington State Emergency Management Division.

3.26. The NRC Incident Report No. 1334387 indicated that the reddish oil sheen in the SFPR was reported to be 2 feet long by 3 feet wide, and the report indicated that the release had been secured, that booms had been deployed in the SFPR, and that the leaking tank was emptied.

3.27. The Washington State Department of Ecology (Ecology) estimated that 309 to 485 gallons of diesel fuel leaked from Tank No. 4. Ecology estimated that 168 to 344 gallons of oil were held in soil on the riverbank (which was later excavated), and an estimated 113 gallons of oil reached the water.

3.28. On July 27, 2022, an authorized EPA representative inspected the Facility to determine compliance with Section 311(j) of the CWA and the requirements 40 C.F.R. Part 112 ("Inspection").

3.29. At the time of the Inspection, Respondent was engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products as described in 40 C.F.R. § 112.1(b).

3.30. At the time of the Inspection, the Facility had an aggregate, above-ground storage capacity greater than 1,320 gallons of oil in containers, each with a shell capacity of at least 55 gallons.

3.31. The Facility operated an oil storage tank farm on the south side of the South Fork Palouse River (SFPR) with single-walled oil piping system (five separate pipes) extended by cable and related concreted supports over the river to the retail farm store on the north side of the SFPR.

3.32. The SFPR is a tributary of the Snake River, which is a traditionally navigable water. As such the SFPR is a water of the United States and a navigable water within the meaning of CWA § 507(7), 33 U.S.C. § 1362(7).

3.33. Accordingly, the Facility is a non-transportation-related, onshore facility that, due to location, could reasonably have been expected, at the time of the Inspection, to discharge oil into or upon the navigable waters of the United States or adjoining shorelines in harmful quantities. The Facility is therefore subject to the regulations at 40 C.F.R. Part 112.

3.34. Additionally, Respondent has discharged pollutants from a point source into waters of the United States at the Facility, within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

3.35. Respondent failed to immediately notify the NRC of the oil discharge as required by CWA Section 311(b)(5), 33 U.S.C. § 1321(b)(5) and 40 C.F.R. § 110.6.

3.36. Further, Respondent was unable to produce an SPCC plan written in accordance with 40 C.F.R. § 112.3 but produced an unsigned PDF copy of the October 2010 SPCC Plan, which is the subject of the Inspection.

Violations

Violation 1 – Failure of Professional Engineer to Attest the SPCC Plan

3.37. 40 C.F.R. § 112.7 states that the plan must be prepared “in accordance with good engineering practices.”

3.38. 40 C.F.R. § 112.3(d) requires a licensed PE to review and certify the SPCC Plan. “By means of this certification the Professional Engineer attests” that: (1) “he is familiar with the requirements” of 40 C.F.R. § 112; (2) “he or his agent has visited and examined the facility”; (3) “the Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards and the requirements of” 40 C.F.R. § 112; (4) “procedures for *required* inspections and testing have been established”; and (5) “the Plan is adequate for the facility” (emphasis added).

3.39. EPA alleges that Respondent violated 40 C.F.R. § 112.7 and 40 C.F.R. § 112.3(d) by failing to have a PE-certified SPCC Plan and only producing an unsigned copy of the October 2010 SPCC Plan.

Violation 2 – Failure to Include a Facility Diagram and Discharge Prevention Measures in the SPCC Plan

3.40. 40 C.F.R. § 112.7(a)(3) requires the SPCC Plan to describe “the physical layout of the facility and include a facility diagram, which must mark the location and contents of each fixed oil storage container and the storage area where mobile or portable containers are located.”

3.41. EPA alleges that Respondent violated 40 C.F.R. § 112.7(a)(3) by failing to include a facility diagram in the unsigned October 2010 SPCC Plan.

3.42. 40 C.F.R. § 112.7(a)(3)(ii) further requires the SPCC Plan to address “[d]ischarge prevention measures including procedures for routine handling of products (loading, unloading, and facility transfers, etc.).”

3.43. EPA alleges that Respondent violated 40 C.F.R. § 112.7(a)(3)(ii) by failing to

discuss prevention measures for the single-wall piping of five separate fuel pipes located over the SFPR that conveyed fuel from the tank farm to the truck loading and unloading rack, and the retail fuel sales related transfer areas, and no prevention measures for the underground piping to the retail dispenser island.

Violation 3 – Failure to Provide Appropriate Secondary Containment

3.44. 40 C.F.R. § 112.7(c) requires the SPCC Plan to “[p]rovide appropriate containment and/or diversionary structures or equipment to prevent a discharge.”

3.45. EPA alleges that Respondent violated 40 C.F.R. § 112.7(c) by incorrectly describing the cross-river piping as double-walled piping, when the post-April 2022 spill incident removal of the pipes revealed the pipes were single wall pipe, and therefore lacked any type of secondary containment. Further, Respondent indicated that the April 2022 discharge to the SFPR occurred because of a secondary containment leak near intersection of poured concrete Tank Farm floor with the Tank 4 concrete pedestal.

Violation 4 – Failure to Conduct Inspections in Accordance with Written Procedures and Provide

Records

3.46. 40 C.F.R. § 112.7(e) requires the facility to “[c]onduct inspections and tests required by this part in accordance with written procedures that you or the certifying engineer develop for the facility.” Further, the facility “must keep these written procedures and a record of the inspections and tests, signed by the appropriate supervisor or inspector, with the SPCC Plan for a period of three years. Records of inspections and tests kept under usual and customary business practices will suffice for purposes of this paragraph.”

3.47. The unsigned October 2010 SPCC Plan Part 3.7.4 states that “[i]n addition to the [] monthly and annual inspections by facility personnel, the [aboveground storage tanks] should be periodically evaluated by an outside certified tank inspector following the Steel Tank Institute (STI) *Standard for the Inspection of Aboveground Storage Tanks*, SP-001.”

3.48. EPA alleges that Respondent violated 40 C.F.R. § 112.7(e) by failing to conduct and document the monthly and annual inspections called for in the unsigned October 2010 SPCC Plan, including any tank or tank farm observations for SPCC-related issues. Further, no formal integrity testing or inspections of the Facility’s six oil storage tanks were conducted in accordance with STI SP-001, which as dictated in the unsigned October 2010 SPCC Plan.

Violation 5 – Failure to Conduct and Document Annual Discharge Prevention Briefings

3.49. 40 C.F.R. § 112.7(f)(3) requires the facility to “[s]chedule and conduct discharge prevention briefings for [] oil-handling personnel at least once a year to assure adequate understanding of the SPCC Plan for that facility. Such briefings must highlight and describe known discharges as described in § 112.1(b) or failures, malfunctioning components, and any recently developed precautionary measures.”

3.50. EPA alleges that Respondent violated 40 C.F.R. § 112.7(f)(3) by failing to conduct and document routine annual SPCC Plan discharge prevention trainings and briefings.

Violation 6 – Failure to Describe Security Details

3.51. 40 C.F.R. § 112.7(g) requires the facility to describe “how [Respondent] secure[s] and control[s] access to the oil handling, processing and storage areas; secure mater flow and drain valves; prevent unauthorized access to starter controls on oil pumps; secure out-of-service and loading/unloading connections of oil pipelines; and address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges.”

3.52. EPA alleges that Respondent violated 40 C.F.R. § 112.7(g) by failing to describe in the unsigned October 2010 SPCC Plan the details of security and access control to all Facility oil handling, processing and storage areas; securing master flow and drain valves; preventing unauthorized access to starter controls on oil pumps; and securing out-of-service and loading and unloading connections of oil pipelines. The unsigned October 2010 SPCC Plan did, however, briefly mention fencing and lighting in Part 3.9.

Violation 7 – Secondary Containment Inadequately Sized and Not Sufficiently Impervious

3.53. 40 C.F.R. § 112.8(c)(2) requires the facility to “[c]onstruct all bulk storage tank installations (except mobile refuelers and other non-transportation-related tank trucks) so that [the facility can] provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation.”

3.54. EPA alleges that Respondent violated 40 C.F.R. § 112.8(c)(2) by failing to provide secondary means of containment for the entire capacity of the largest single container. The unsigned October 2010 SPCC Plan, Part 3.1 and Appendix F, indicated the Tank Farm secondary containment volume was not sufficiently adequate to hold the volume of the largest AST (19,000 gallons) using a design storm event (25-year, 24-hour) of 2.2 inches. The unsigned SPCC Plan’s Appendix F indicates the inadequacy was approximately 1.2 inches in wall height or about 1000 gallons short.

3.55. 40 C.F.R. § 112.8(c)(2) further requires the facility to “ensure that diked areas are sufficiently impervious to contain discharged oil.”

3.56. EPA alleges that Respondent violated 40 C.F.R. § 112.8(c)(2) by failing to ensure that the diked areas were sufficiently impervious to contain discharged oil. As discovered during the July 2022 Inspection, and stated in Ecology’s spill report, the April 2022 Tank 4 spill leaked out of the secondary containment area (SCA) at the intersection of the tank’s concrete pedestal with the SCA poured concrete floor, and gaps without caulking existed between SCA walls and floors.

Violation 8 – Failure to Test or Inspect Aboveground Containers on a Regular Schedule

3.57. 40 C.F.R. § 112.8(c)(6) requires the facility to “[t]est and inspect each aboveground container for integrity on a regular schedule and whenever [the facility] make[s] material repairs.

3.58. EPA alleges that Respondent violated 40 C.F.R. § 112.8(c)(6) by failing to

conduct formal STI SP-001 integrity testing and inspections of the Facility's six oil storage tanks in addition to failing to conduct and document the SPCC's monthly and annual inspections of the Facility's bulk storage containers in accordance with the SPCC Plan provisions and related checklists.

Violation 9 – Failure to Include Specific Details for Regulatory Provisions

3.59. 40 C.F.R. § 112.8(d) requires the facility to describe in its SPCC Plan how it will (1) "Provide buried piping that is installed or replaced on or after August 16, 2002, with a protective wrapping and coating" and "cathodically protect such buried piping installations or otherwise satisfy the corrosion protection standards for piping in part 280 of this chapter or a State program approved under part 281 of this chapter"; (2) "Cap or blank-flange the terminal connection at the transfer point and mark it as to origin when piping is not in service or is in standby service for an extended time"; (3) "Properly design pipe supports to minimize abrasion and corrosion and allow for expansion and contraction"; and (4) "Regularly inspect all aboveground valves, piping, and appurtenances."

3.60. EPA alleges that Respondent violated 40 C.F.R. § 112.8(d)(1)-(4) by failing to include site-specific details and descriptions in the SPCC Plan for required facility transfer operations, pumping, and facility process measures: (1) Buried piping exposed for any reason is inspected for deterioration; corrosion damage is examined; and corrective action is taken; (2) Piping terminal connection at the transfer point is marked as to origin and capped or blank-flanged when not in service or in standby service for an extended time; (3) Pipe supports are properly designed to minimize abrasion and corrosion and allow for expansion and contraction; (4) Aboveground valves, piping, and appurtenances such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces are inspected regularly to assess their general condition; and (5) Integrity and leak testing conducted on buried piping at time of installation, modification, construction, relocation, or replacement.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 311(b)(8), 33 U.S.C. § 1321(b)(8), EPA has taken into account the seriousness of the alleged violations; Respondent's economic benefit of noncompliance; the degree of culpability involved; any other penalty for the same incident; any history of prior violations; the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge; the economic impact of the penalty on the violator; and any other matters as justice may require. After considering all of these factors, EPA has determined that an appropriate penalty to settle this action is \$111,000.

4.4. Respondent consents to the assessment of the civil penalty set forth in Paragraph 4.3 and agrees to pay the total civil penalty within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www.epa.gov/financial/makepayment>. Payments made by check must be payable to the order of "Environmental Protection Agency" and delivered to the following address:

Address format for standard delivery (no delivery confirmation requested):

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, MO 63197-9000

Address format for signed receipt confirmation (FedEx, DHL, UPS, USPS certified, registered, etc):

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Respondent must note on the check the docket number of this action and “Oil Spill Liability Trust Fund – 311.”

4.6. Respondent must serve photocopies of the check, or proof of other payment method described in Paragraph 4.5, on the Regional Hearing Clerk and EPA Region 10 Compliance Officer at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Rick Cool
U.S. Environmental Protection Agency
Region 10
Cool.richard@epa.gov

4.7. If Respondent fails to pay the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondent to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.7.1. Interest. Pursuant to CWA Section 311(b)(6)(H), 33 U.S.C.

§ 1321(b)(6)(H), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

4.7.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to CWA Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), if Respondent fails to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondent shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. The penalty described in Paragraph 4.3, including any additional expenses incurred under Paragraph 4.7 above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.10. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III above.

4.11. Except as described in Subparagraph 4.7.2, above, each party shall bear its own fees and costs in bringing or defending this action.

4.12. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Consent Agreement and to appeal the Final Order.

4.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.14. The above provisions are STIPULATED AND AGREED upon by Respondent

and EPA Region 10.

DATED:

FOR RESPONDENT:

Kevin McDonnell
General Manager
Four Star Supply, Inc.

FOR COMPLAINANT:

EDWARD J. KOWALSKI
Director
Enforcement and Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

FOUR STAR SUPPLY, INC.

Pullman, Washington

Respondent.

DOCKET NO. CWA-10-2024-0006

FINAL ORDER

Proceedings Under Section 311(b)(6) of the
Clean Water Act, 33 U.S.C. § 1321(b)(6)

1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of the U.S. Environmental Protection Agency (EPA) Region 10, who has in turn delegated this authority to the Regional Judicial Officer in EPA Region 10.

2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act (CWA) for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

4. This Final Order shall become effective upon filing.

IT IS SO ORDERED.

RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10