



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 28 2013

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Lee Damron  
President  
Damron Trucking, Inc.  
645 Damron Loop  
Counce, Tennessee 38326-2818

Re: Damron Trucking, Inc.  
Consent Agreement and Final Order, Docket Number: CWA-04-2013-5127(b)

Dear Mr. Damron:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC. Payment of the civil penalty of twenty thousand five hundred dollars (\$20,500) is due within thirty (30) calendar days after the effective date.

As a reminder, copies of all payments should be submitted to both of the following individuals:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

And to:  
Doug McCurry, Chief  
North Section, RCRA & OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Damron Trucking, Inc. on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Naeha Dixit, Assistant Regional Counsel, at (404) 562-9441.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Farmer". The signature is fluid and cursive, with the first name "Alan" and the last name "Farmer" clearly distinguishable.

G. Alan Farmer, Director  
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS II
	)	CONSENT AGREEMENT AND
Damron Trucking, Inc.	)	FINAL ORDER
645 Damron Loop	)	UNDER 40 C.F.R. § 22.13(b)
Counce, Tennessee 38326-2818	)	
	)	
Respondent	)	Docket No. CWA-04-2013-5127(b)
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HEARING CLERK

**LEGAL AUTHORITY**

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(ii) of the Clean Water Act (“Act”), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities to the Director, RCRA Division (“Complainant”) pursuant to EPA Region 4 Clean Water Act Delegation 2-52-A.

**CONSENT AGREEMENT**

Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (CA/FO), and Respondent hereby agrees to comply with the terms of this CA/FO. For purposes of this CA/FO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

## Stipulations

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

1. Respondent, Damron Trucking, Inc., is a privately held company based in Counce, Tennessee and incorporated in Tennessee. Respondent is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).
2. The Respondent is the “owner” and “operator” (as defined in Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6)) of a tanker truck (facility), which was an “onshore facility” (as defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10)) at the time relevant to this CA/FO.
3. The facility was located at the time relevant to this CA/FO at Highway 20 in Summertown, Lawrence County, Tennessee, near North Fork Saw Creek.
4. North Fork Saw Creek is a navigable water as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1 and is therefore subject to the jurisdiction of Section 311 of the CWA, 33 U.S.C. § 1321.
5. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil 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. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), the determination of quantities of oil that may be harmful and thereby prohibited under Section 311(b)(3), 33 U.S.C. § 1321(b)(3), is defined at 40 C.F.R. § 110.3 to include discharges of oil that (1) violate applicable water quality standards or (2) 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.

### **Allegations**

Complainant alleges, and Respondent neither admits nor denies, that:

7. On or about June 16, 2011, Respondent discharged approximately 133 barrels of oil, as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), from its facility into or upon North Fork Saw Creek and/or its adjoining shorelines.

8. Respondent's June 16, 2011, discharge of oil from its facility caused a sheen upon or discoloration of the surface of North Fork Saw Creek and its adjoining shoreline and caused a sludge or emulsion to be deposited beneath the surface of the water or upon its adjoining shorelines, and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

### **Waiver of Rights**

9. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), to appeal any Final Order in this matter under Section 311(b)(6)(G)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(ii), and consents to the issuance of a Final Order without further adjudication.

10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.

**Penalty**

11. Respondent consents to the assessment of a civil penalty of TWENTY THOUSAND FIVE HUNDRED DOLLARS (\$20,500).

**Payment Terms**

Based on the foregoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

12. No later than thirty (30) calendar days after the effective date of the Final Order, the Respondent shall pay the amount of TWENTY THOUSAND FIVE HUNDRED DOLLARS (\$20,500) by means of a corporate/cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate/cashier's or certified check, payable to the "Environmental Protection Agency." The check shall bear the notation "OSLTF – 311" and Respondent shall reference the title and docket number of this case on the face of the check.

If the Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

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

If the Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx, or UPS, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
**U.S. EPA Fines & Penalties**  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-1028

If the Respondent sends payment by wire transfer, the wire transfer should be directed to the

Federal Reserve Bank of New York:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045

The Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency.”

If electing to pay on-line, the Respondent should access [www.pay.gov](http://www.pay.gov). Enter “sfo 1.1” in the search field and then open the form and complete the required fields.

13. Respondent shall submit copies of each check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

and to:

Doug McCurry, Chief  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

14. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

15. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

#### **General Provisions**

16. Pursuant to Section 311(b)(6)(C), 33 U.S.C. § 1321(b)(6)(C), and 40 C.F.R. § 22.45, Complainant will provide public notice of and a reasonable opportunity to comment on this Consent Agreement and proposed Final Order.

17. Complainant reserves the right, pursuant to 40 C.F.R. § 22.45(c)(4)(iii), to withdraw from this Consent Agreement and proposed Final Order within 15 days of receipt of a commenter's petition requesting, pursuant to 40 C.F.R. § 22.45(c)(4)(ii), that the Regional Administrator set aside the Consent Agreement and proposed Final Order on the basis that material evidence was not considered.

18. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, and successors or assigns.

19. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

20. Compliance with this CA/FO resolves Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.



21. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

22. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Naeha Dixit  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-9441  
dixit.naeha@epa.gov

23. A copy of any documents that Complainant files in this action shall be sent to the following individuals who represent the Respondent in this matter and who are to receive service for the Respondent in this proceeding:

Lee Damron, President  
Damron Trucking, Inc.  
645 Damron Loop  
Counce, Tennessee 38326-2818

Samuel P. Helmbrecht  
Watkins & McNeilly, PLLC  
214 Second Avenue North  
Suite 300  
Nashville, Tennessee 37201

(continued on next page)

**Effective Date**


24. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

*In the matter of Damron Trucking, Inc., Docket No. CWA-04-2013-5127(b):*

**CONSENTED AND AGREED TO:**

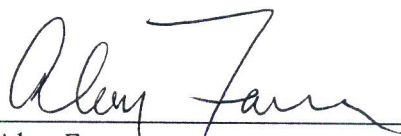
DAMRON TRUCKING, INC.

Date: 12-12-12

  
\_\_\_\_\_  
Lee Damron  
President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 12/21/12

  
\_\_\_\_\_  
G. Alan Farmer  
Director  
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

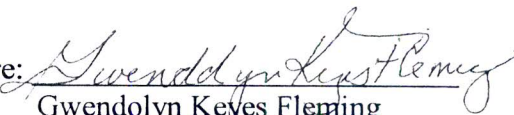
IN THE MATTER OF	)	CWA SECTION 311 CLASS II
	)	CONSENT AGREEMENT AND
Damron Trucking, Inc.	)	FINAL ORDER
645 Damron Loop	)	UNDER 40 C.F.R. § 22.13(b)
Counce, Tennessee 38326-2818	)	
	)	
Respondent	)	Docket No. CWA-04-2013-5127(b)
_____	)	

**FINAL ORDER**

Pursuant to Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 1321(b)(6), and the delegated authority of the undersigned, and in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, codified at 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties and Allegations by the Complainant are adopted as Findings in this Final Order.

Damron Trucking, Inc., the Respondent, is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2013-5127(b).

Date: FEB 27 2013

Signature:   
Gwendolyn Keyes Fleming  
Regional Administrator

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Damron Trucking, Inc., Docket No. CWA-04-2013-5127(b), on the parties listed below in the manner indicated:

Naeha Dixit  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

Quantindra Smith  
RCRA and OPA Enforcement and Compliance Branch  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

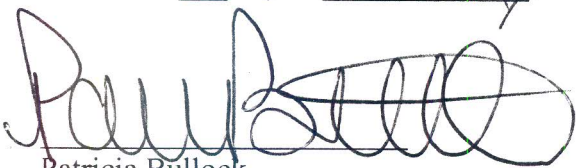
Kris Lippert  
RCRA and OPA Enforcement and Compliance Branch  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

Lee Damron  
President  
Damron Trucking, Inc.  
645 Damron Loop  
Counce, Tennessee 38326-2818

(Via Certified Mail)

Dated this 28 day of February, 2013.



Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA – Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960