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ENVIRONMENTAL PROTECTION AGENCY REGION VII
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION VII**
**901 NORTH 5TH STREET**
**KANSAS CITY, KANSAS 66101**

**BEFORE THE ADMINISTRATOR**

| | | |
|---|---|---|
| IN THE MATTER OF | ) | |
| | ) | Docket No. CWA-~~X~~ KE 07 2002-0075 |
| | ) | |
| DJ Extruding, L.C. | ) | |
| Conway Springs, Kansas | ) | **CONSENT AGREEMENT AND** |
| | ) | **FINAL ORDER** |
| Respondent. | ) | |

**CONSENT AGREEMENT AND FINAL ORDER**

This proceeding for the assessment of a civil penalty was initiated on or about February 20, 2002, pursuant to Section 311(b)(6) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (hereinafter CWA), 33 U.S.C. § 1321(b)(6), as amended by the Oil Pollution Act of 1990, when the United States Environmental Protection Agency, Region VII (hereinafter Complainant or EPA) issued to DJ Extruding, L.C. (hereinafter Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of CWA Section 311(b)(6), 33 U.S.C. § 1321, and the regulations promulgated pursuant to Section 311(b)(3) and (j) of the CWA and codified at 40 C.F.R. Part 110 and 112. The Complaint proposed a civil penalty of Twenty Two Thousand Dollars ($22,000) for these violations.

Complainant and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order are the result of such negotiations.

## CONSENT AGREEMENT

1. Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the factual allegations of the Complaint.

2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.

3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing, and to bear their respective costs and attorneys' fees.

4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent is presently in compliance with all requirements of Section 311 of the CWA, 33 U.S.C. § 1321, and all regulations promulgated thereunder.

5. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

6. The settlement pursuant to this Consent Agreement shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

7. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as set forth below in the Final Order.

8. Respondent understands that its failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 1 below, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the

Treasury on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

8. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

**FINAL ORDER**

Pursuant to the provisions of Section 311 of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), 33 U.S.C. § 1321, as amended by the Oil Pollution Act of 1990, and based upon the information set forth in the Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Two Thousand Dollars ($2,000) within thirty (30) days of the entry of this Final Order. Payment shall be by cashier's or certified check **made payable to the "Oil Spill Liability Trust Fund"** and remitted to:

Kathy Robinson
Regional Hearing Clerk
901 N. 5th Street
Kansas City, Kansas 66101

2. Respondent shall send a **copy** of the check to:

Kristina Kemp
Office of Regional Counsel
EPA, Region VII
901 North Fifth Street
Kansas City, Kansas 66101.

4. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as

a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By _____
Leo Alderman
Director
Water, Wetlands, and Pesticides Branch

Date 8/28/02

By _____
Kristina Kemp
Assistant Regional Counsel
Office of Regional Counsel

Date 8/14/02

RESPONDENT:
DJ Extruding, L.C.

**Signature** _____
**Printed** Ronald E Hipp
**Title** CFO
**Date** 8-22-02

IT IS SO ORDERED. This Final Order shall become effective immediately.

_____
Robert L. Patrick
Regional Judicial Officer
Region VII

Date August 29, 2002

IN THE MATTER OF DJ Extruding, L.C., Respondent
Docket No. CWA-07-2002-0075

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristina Kemp
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Douglas A. Aldrich
2111 W. Harry Street
Wichita, Kansas 67213-3299

Copy by First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W./Mail Code 1900L
Washington, D. C. 20460

The Honorable Thomas W. Hoya
Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W./Mail Code 1900L
Washington, D. C. 20460

Dated: 8/30/02

Kathy Robinson
Kathy Robinson
Regional Hearing Clerk