

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Civil Action No. 2:20cv14318-KMM

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE E. WARREN LLC,

Defendant.

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**STIPULATION OF SETTLEMENT AND ORDER**

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WHEREAS Plaintiff United States of America, by authority of the Attorney General of the United States and acting at the request of the United States Environmental Protection Agency (“EPA”), filed a Complaint against Defendant George E. Warren LLC (“GEW”) pursuant to Sections 211(d) and 205(b) of the Clean Air Act (the “Act”), 42 U.S.C. §§ 7545(d) and 7524(b), to recover penalties relating to Defendant’s alleged violations of the regulations prescribed under Sections, 211(c) and (k) of the Act, 42 U.S.C. §§ 7545(c) and (k), and promulgated at 40 C.F.R. Part 80.

WHEREAS Defendant neither admits nor denies the alleged violations of law stated in the Complaint;

WHEREAS Plaintiff and Defendant have agreed that settlement of this matter is in the public interest and that entry of this Order without further litigation is the most appropriate means of resolving this matter; and

NOW THEREFORE, before the taking of any testimony, without adjudication or admission of any issue of fact or law, and upon consent and agreement of the Parties to this Stipulation, it is hereby AGREED, STIPULATED, and ORDERED:

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355 and 42 U.S.C. §§ 7524 and 7545.
2. The obligations of this Stipulation apply to and are binding upon the United States and upon the Defendant and its successors. Any change in Defendant's ownership or corporate status shall not alter its obligations hereunder.
3. Defendant shall pay to the United States of America a total penalty of \$5,100,000 on or before thirty (30) calendar days after entry of this Stipulation as an Order. Payment of this amount shall be made to the United States by electronic funds transfer ("EFT") to the U.S. Department of Justice lockbox bank, referencing the DOJ file number 90-5-2-1-12012 Payment shall be made in accordance with the instructions provided by the United States to GEW upon entry of this Stipulation. Payment by EFT must be received by the U.S. Department of Justice lockbox bank by 11 a.m. to be credited on that day. A copy of the EFT transmittal notice shall be delivered to:

Director, Air Enforcement Division  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 2242A  
Washington, D.C. 20460

and

Chief, Environmental Enforcement Section  
Environmental and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044-7611  
Re: DOJ 90-5-2-1-12012

4. Within thirty (30) business days of receipt of GEW's payment referred to above, the United States shall file a notice with the Court, indicating that payment has been received, and that the United States' claims against GEW alleged in the Complaint may be dismissed with prejudice, with each party bearing its own costs and attorney fees.

5. In the event that Defendant does not comply with the payment obligations of Paragraph 3 above, it shall be in violation of this Stipulation and shall pay a stipulated penalty to the United States in the amount of five thousand dollars (\$5,000) per day for each day that the civil penalty remains unpaid. Stipulated penalties shall accrue regardless of whether Defendant has been notified of a violation or demand for payment by the United States. Stipulated penalties shall be paid in the same manner as that provided for in Paragraph 3 above for payment of the civil penalty. Further, interest shall continue to accrue on the unpaid balance of civil and/or stipulated penalties in accordance with 28 U.S.C. § 1961 commencing on the date that such penalties are due and continuing until paid. If payment specified in Paragraph 3 is not made when due, then, in addition to other remedies herein, the United States reserves the right to move this Court to vacate this Stipulation.

6. If the payment provided for in this Stipulation is not timely paid, this Stipulation shall be considered an enforceable judgment for purposes of post-judgment collection of any unpaid amounts in accordance with Rule 69 of the Federal Rules of Civil Procedure, the Federal Debt Collection Procedure Act, 28 U.S.C. §§ 3001-3308, and other applicable federal authority.

GEW shall be liable for reasonable attorneys' fees and costs incurred by the United States to collect any amounts past due under this Stipulation.

7. This Court shall retain jurisdiction for the purpose of interpreting and enforcing this Stipulation.

8. GEW's payment of the civil penalty identified in Paragraph 3 above and any stipulated penalties and interest required by Paragraph 5 above shall resolve GEW's civil liability to the United States for violations identified in the Complaint.

9. GEW waives any counterclaims against the United States that might have been filed in this action.

10. Except as covered by the resolution of liability in Paragraph 8, in any subsequent proceeding brought by the United States, GEW shall not assert any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case.

11. Nothing in this Stipulation is intended to operate in any way to resolve any civil claims, other than those addressed in Paragraph 8, or any criminal liability of GEW or its agents, successors, assigns, or other entities or persons otherwise bound by law.

12. This Stipulation may not be construed to prevent or limit the rights of the United States to obtain penalties or injunctive relief under the Clean Air Act, or under other federal laws, regulations, or permit conditions, except as provided in Paragraph 8.

13. Civil penalties and any stipulated penalties paid pursuant to this Stipulation are not deductible by Defendant or any other person for federal tax purposes.

14. Nothing in this Stipulation creates, nor shall it be construed as creating, any rights or claims in favor of any person not a Party to this Stipulation.

15. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits. Except as provided in Paragraph 8, Defendant's compliance with this Stipulation is not a defense to any action commenced pursuant to said laws, regulations, or permits.

16. There are no separate agreements or understandings with respect to this matter that have not been set forth in this Stipulation.

17. This Stipulation may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

18. Defendant agrees to accept service by mail with respect to all matters arising under or relating to this Stipulation and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. Service shall be mailed to Jonathan Martel, Arnold & Porter, 601 Massachusetts Ave., NW Washington, DC 20001. Defendant need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Stipulation as an Order of the Court.

19. If for any reason this Court should decline to approve this Stipulation in the form presented, this Stipulation is voidable at the sole discretion of any Party and the terms of the Stipulation may not be used as evidence in any litigation between the Parties.

20. The Parties hereby agree that, upon the Court's approval and entry of this Stipulation, it shall constitute a final Order of the Court.

**ORDER**

As stipulated to and agreed by the parties, IT IS SO ORDERED AND ADJUDGED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

THE UNDERSIGNED PARTIES enter into this Stipulation of Settlement in the matter of United States v. George E. Warren LLC

**FOR THE UNITED STATES OF AMERICA:**

Dated: 9/11/2020

  
\_\_\_\_\_  
NATHANIEL DOUGLAS  
Deputy Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice

Dated: 9/9/20

  
\_\_\_\_\_  
JAMES D. FREEMAN  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
999 18th Street  
South Terrace, Suite 370  
Denver, Colorado 80202

THE UNDERSIGNED PARTIES enter into this Stipulation of Settlement in the matter of United States v. George E. Warren LLC

**FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:**

Dated: 8/6/20



SUSAN PARKER BODINE  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Washington, DC 20004

ROSEMARIE A. KELLEY  
Director, Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Washington, DC 20004

EVAN BELSER  
Acting Director, Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Washington, DC 20004

JEFFREY KODISH  
Attorney-Adviser, Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Denver, CO 80202

THE UNDERSIGNED PARTIES enter into this Stipulation of Settlement in the matter of United States v. George E. Warren LLC

**FOR GEORGE E. WARREN LLC:**

Dated: 7/6/2020

  
\_\_\_\_\_  
DARREN SYLVIA  
Chief Financial Officer  
George E. Warren LLC  
3001 Ocean Drive, Suite 203  
Vero Beach, FL 32963-1953

THE UNDERSIGNED PARTIES enter into this Stipulation of Settlement in the matter of United States v. George E. Warren LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on **September 11, 2020**, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on the following party by U.S. Mail:

Jonathan Martel  
Arnold & Porter, LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001

/s/ James D. Freeman  
JAMES D. FREEMAN