



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of)
)
)
Super Salvage, Inc.)
) U.S. EPA Docket No.: CWA-03-2019-0001
Respondent,)
)
44459 St. Andrews Church Road) Proceeding under Sections 309(g) and 311(b)
California, MD 20619) of the Clean Water Act
)
130 Skipjack Road)
Prince Frederick, MD 20678,)
)
Facilities)

CONSENT AGREEMENT

Statutory Authority

This Consent Agreement (CA) is entered into by the Director of the Water Protection Division, the Director of the Hazardous Site Cleanup Division, the Director of the Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region III (EPA or Complainant), and Super Salvage, Inc. (Respondent or Super Salvage), pursuant to Sections 309(g) and 311(b) of Clean Water Act (CWA), 33 U.S.C. §§ 1319(g) and 1321(b), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as CAFO) as prescribed by the Consolidated Rules pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CAFO, agree to comply with the terms of this CAFO.

General Provisions

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. §§ 22.1(a)(6).
2. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement.

3. With the exception of Paragraph 2, above, for the purpose of this proceeding, Respondent neither admits nor denies the factual allegations or conclusions of law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

4. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5), and Section 311(b)(6)(G) of the CWA, 33 U.S.C. § 1321(g)(6)(G).

5. The provisions of the CAFO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

6. This CAFO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CAFO shall be construed to limit the United States' authority to pursue criminal sanctions.

7. Each party to this action shall bear its own costs and attorney's fees.

8. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA will provide public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order. In addition, pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 22.38(b), EPA has consulted with the Maryland Department of the Environment (MDE) regarding this action, and in addition will mail a copy of this document to the appropriate MDE official.

EPA's Findings of Fact and Conclusions of Law

9. In accordance with the Consolidated Rules at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the findings of fact and conclusions of law which follow.

10. Respondent is a corporation duly formed and in good standing under the laws of the State of Delaware and duly authorized to transact business and in good standing under the laws of the State of Maryland.

11. Respondent is the owner and operator of a scrap recycling facility at 44459 St. Andrews Church Road, California, MD 20619-7121 (California Facility). Respondent began operations at the California Facility in 2009.

12. Respondent is the owner and operator of a scrap recycling facility at 130 Skipjack Road, Prince Frederick, MD 20678-3408 (Prince Frederick Facility). Respondent began operations at the Prince Frederick Facility in 2012.

13. EPA inspected the California Facility on December 2, 2014, and the Prince Frederick Facility on December 3, 2014.

14. As a corporation, Respondent is a “person” as defined by Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7), Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and the regulations at 40 C.F.R. §§ 112.2 and 122.2.

Count I – Industrial Activity Storm Water-California Facility

15. The allegations in each of the preceding paragraphs are incorporated by reference herein as though fully set forth at length.

16. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant from a point source into waters of the United States except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the CWA, 33 U.S.C. § 1342.

17. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States or may authorize states to issue such permits. The discharges are subject to specific terms and conditions as prescribed in the permit. Pursuant to 40 C.F.R. § 122.2 (1993), “water of the United States” has been defined to include, inter alia, all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce and tributaries to such waters.

18. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that, with some exceptions, not relevant here, storm water discharges are “point sources” subject to NPDES permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).

19. “Storm water” is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).

20. “Storm water discharge associated with industrial activity” is defined as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant...[T]he term includes...material handling sites.” 40 C.F.R. § 122.26(b)(14). Included in the categories of facilities considered to be engaging in “industrial activity” are “[f]acilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but not limited to those classified as Standard Industrial Classification 5015 and 5093.” 40 C.F.R. § 122.26(b)(14).

21. “Material handling activities” is defined as including “storage, loading and unloading,

transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product.” 40 C.F.R. § 122.26(b)(14)(vi).

22. The Maryland Department of the Environment has been authorized by EPA to administer the federal NPDES program in the State of Maryland pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. As an authorized state under the CWA, in December 2002, the State of Maryland issued General Permit Number 02-SW, which expired on November 30, 2007, but was administratively extended for facilities that were covered under the permit at the time it expired. In January 2014, the State of Maryland issued General Permit Number 12-SW, which replaced General Permit Number 02-SW. Both Maryland General Permit Number 02-SW and General Permit 12-SW authorized certain discharges of storm water associated with industrial activity at permitted facilities. In order to seek coverage under these General Permits, any entity seeking to discharge industrial storm water is required to submit a Notice of Intent to the Maryland Department of the Environment.

23. Beginning in or about December 2009, Respondent has been the owner and operator of a scrap recycling facility, operating under Standard Industrial Classification (SIC) Code 5093, located at 44459 St. Andrews Church Road in California, Maryland.

24. The scrap recycling activities at the California Facility constitute “industrial activity” within the meaning of Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26(b)(14)(vi).

25. Storm water discharges from the California Facility discharge to St. Mary’s River.

26. St. Mary’s River is a “water of the United States” as that term is defined at 40 C.F.R. § 122.2 (1993).

27. Even though the California Facility has been in operation since 2009, the California Facility did not seek coverage under Maryland General Permit 12-SW until March 2014. Maryland issued the California Facility Permit Number MDR002413, with an effective date of April 15, 2014.

28. Respondent has never submitted a permit application for an individual NPDES permit pursuant to 40 C.F.R. § 122.26.

29. Prior to April 15, 2014, Respondent discharged unpermitted, unallowable, storm water associated with an industrial activity to the St. Mary’s River.

30. Respondent’s unpermitted discharges prior to April 15, 2014, constitute a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Count II – Industrial Activity Storm Water-Prince Frederick Facility

31. The allegations in each of the preceding paragraphs are incorporated by reference herein as though fully set forth at length.

32. Beginning in 2012, Respondent has been the owner and operator of a scrap recycling facility, operating under SIC Code 5093, located at 130 Skipjack Road in Prince Frederick, Maryland.

33. The scrap recycling activities at the Prince Frederick Facility constitute “industrial activity” within the meaning of Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26(b)(14)(vi). Accordingly, the Prince Frederick Facility was required to seek coverage under the Maryland General Permit pertaining to storm water discharges associated with industrial activity.

34. Storm water discharges from the Prince Frederick Facility discharge initially to a storm water basin and from there to an unnamed tributary to Buzzard Island Creek. Buzzard Island Creek discharges to the Patuxent River.

35. The unnamed tributary to Buzzard Island Creek is a “water of the United States” as that term is defined at 40 C.F.R. § 122.2 (1993).

36. Even though the Prince Frederick Facility has been in operation since 2012, the Prince Frederick Facility did not seek coverage under Maryland General Permit 12-SW until March 2014. Maryland issued the Prince Frederick Facility Permit Number MDR002414, with an effective date of April 15, 2014.

37. Respondent has never submitted a permit application for an individual NPDES permit pursuant to 40 C.F.R. § 122.26.

38. Prior to April 15, 2014, Respondent discharged unpermitted, unallowable, storm water associated with an industrial activity to an unnamed tributary to Buzzard Island Creek, a water of the United States.

39. Respondent’s unpermitted discharges prior to April 15, 2014, constitute a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Count III – Spill Prevention-California Facility

40. The allegations in each of the preceding paragraphs are incorporated by reference herein as though fully set forth at length.

41. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), requires the President to promulgate regulations which, among other things, establish procedures, methods, and other requirements for preventing discharges of oil from onshore facilities into navigable waters and for containing such discharges.

42. By Executive Order 12777, the President delegated the authority to promulgate regulations under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), to the Administrator of EPA for non-transportation-related onshore and offshore facilities.

43. Pursuant to its delegated authority under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), EPA promulgated the Oil Pollution Prevention Regulations, 40 C.F.R. Part 112, 38 Fed. Reg. 34165 (Dec. 11, 1973), effective January 10, 1974. These regulations, as amended from time to time, are codified at 40 C.F.R. Part 112 (Oil Pollution Prevention Regulations).

44. 40 C.F.R. § 112.1(b) of the Oil Pollution Prevention Regulations states “. . . this part applies to any owner or operator of a non-transportation-related onshore and offshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, which due to its location, could reasonably be expected to discharge oil in quantities that may be harmful, as described in part 110 of this chapter, into or upon the navigable waters of the United States or adjoining shorelines. . . .” The term “navigable waters” is defined at Section 502(7) of the CWA, 33 U.S.C. § 1362(7), as, “the waters of the United States, including the territorial seas.” 40 C.F.R. § 112.2 (1993) defines the term “navigable waters” as including the CWA statutory definition and including certain interstate and intrastate waters.

45. The term “oil” is defined as “oil of any kind or in any form, including, but not limited to . . . petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.” 40 C.F.R. § 112.2.

46. Respondent is engaged in the storage and use of hydraulic fluid, diesel fuel, motor oil, waste oil, and gear lubricant, each of which are oil as defined at 40 C.F.R. § 112.2, at the California Facility.

47. Respondent is the owner and operator of the California Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.

48. The California Facility’s oil storage capacity, at the time of the EPA inspection on December 2, 2014, and currently, exceeds the 1,320 gallon above ground capacity threshold of the Oil Pollution Prevention Regulations, as set forth at 40 C.F.R. § 112.1(d)(2)(ii).

49. The California Facility is located approximately 250 meters from the St. Mary’s River.

50. Storm water from the California Facility discharges to the St. Mary’s River.

51. The St. Mary’s River is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2 (1993).

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

53. The California Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2 and Appendix A of 40 C.F.R. Part 112, as incorporated by reference within 40 C.F.R. § 112.2.

54. Due to its location, the California Facility could reasonably be expected to discharge oil

in harmful quantities, as defined by 40 C.F.R. § 110.3, into or upon navigable waters of the United States or its adjoining shoreline.

55. Pursuant to 40 C.F.R. § 112.1, Respondent, as the owner and operator of the California Facility, is subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.

56. Pursuant to Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and 40 C.F.R. §§ 112.1 and 112.3, the California Facility is subject to the Spill Prevention, Control, and Countermeasure (SPCC) requirements of 40 C.F.R. § 112.3 because the Facility's oil storage capacity exceeds the 1,320-gallon above ground capacity threshold of the Oil Pollution Prevention Regulations and the California Facility is an onshore non-transportation-related facility that, due to its location, could reasonably be expected to discharge oil in harmful quantities into or upon the navigable waters of the United States or adjoining shorelines. Pursuant to 40 C.F.R. § 112.3, as an owner and operator of an onshore facility, Respondent was required to prepare an SPCC Plan in writing in accordance with 40 C.F.R. § 112.7, and any other applicable sections of 40 C.F.R. Part 112.

57. At the time of the EPA Inspection on December 2, 2014, Respondent had an SPCC Plan which on its cover reflected a date of November 2014, but which was not signed or dated by any California Facility representative. The SPCC Plan appeared to be a draft and was not completed in accordance with 40 C.F.R. §§ 112.3 and 112.7.

58. Respondent's failure to prepare an SPCC Plan for the California Facility in accordance with 40 C.F.R. §§ 112.3 and 112.7 prior to November 2014, constitutes a violation of 40 C.F.R. § 112.3.

Count IV – Spill Prevention-Prince Frederick Facility

59. The allegations in each of the preceding paragraphs are incorporated by reference herein as though fully set forth at length.

60. Respondent is engaged in the storage and use of hydraulic fluid, diesel fuel, motor oil, and waste oil, and gear lubricant at the Prince Frederick Facility.

61. Respondent is the owner and operator of the Prince Frederick Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.

62. The Prince Frederick Facility's oil storage capacity, at the time of the EPA inspection on December 3, 2014, and currently, exceeds the 1,320 gallon above ground capacity threshold of the Oil Pollution Prevention Regulations, as set forth at 40 C.F.R. § 112.1(d)(2)(ii).

63. Storm water from the Prince Frederick Facility discharge initially to a storm water basin and from there to an unnamed tributary to Buzzard Island Creek. Buzzard Island Creek discharges to the Patuxent River.

64. The unnamed tributary to Buzzard Island Creek is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2 (1993).

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

66. The Prince Frederick Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2 and Appendix A of 40 C.F.R. Part 112, as incorporated by reference within 40 C.F.R. § 112.2.

67. Due to its location, the Prince Frederick Facility could reasonably be expected to discharge oil in harmful quantities, as defined by 40 C.F.R. § 110.3, into or upon navigable waters of the United States or its adjoining shoreline.

68. Pursuant to 40 C.F.R. § 112.1, Respondent, as the owner and operator of the Prince Frederick Facility, is subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.

69. Pursuant to Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and 40 C.F.R. §§ 112.1 and 112.3, the Prince Frederick Facility is subject to the SPCC requirements of 40 C.F.R. § 112.3 because the Facility's oil storage capacity exceeds the 1,320-gallon above ground capacity threshold of the Oil Pollution Prevention Regulations and the Prince Frederick Facility is an onshore non-transportation-related facility that, due to its location, could reasonably be expected to discharge oil in harmful quantities into or upon the navigable waters of the United States or adjoining shorelines. Pursuant to 40 C.F.R. § 112.3, as an owner and operator of an onshore facility, Respondent was required to prepare an SPCC Plan in writing in accordance with 40 C.F.R. § 112.7, and any other applicable sections of 40 C.F.R. Part 112.

70. At the time of the EPA Inspection on December 3, 2014, Respondent had an SPCC Plan which on its cover reflected a date of November 2014.

71. Respondent's failure to prepare an SPCC Plan for the Prince Frederick Facility in accordance with 40 C.F.R. §§ 112.3 and 112.7 prior to November 2014, constitutes a violation of 40 C.F.R. § 112.3.

Civil Penalty

72. Respondent consents to the assessment of a civil penalty of **one hundred fifty thousand dollars (\$150,000.00), to be paid in three installments and to which accrued interest shall be assessed**, in full satisfaction of all claims for civil penalties for the violations alleged in the above four counts of this CAFO. Respondent must pay the civil penalty in the manner described in Paragraph 73 of this CAFO.

73. Payment of the civil penalty assessed herein, plus accrued interest shall be made in the manner and over time period specified below:

- a. The first payment is due within 60 days of the Effective Date of this CAFO in the amount of \$50,000;
- b. The second payment is due within 120 days of the Effective Date of this CAFO in the amount of \$50,000, plus \$250.00 in interest, for a second installment payment of

\$50,250.00;

- c. The third payment is due within 180 days of the Effective Date of this CAFO in the amount of \$50,000, plus \$250 in interest, for a third installment payment of \$50,250.00.

74. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 73, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 76-78, in the event of any such failure or default.

75. Payment of the civil penalty plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 76 through 78, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, CWA-03-2019-0001;
- b. If payment is made by check, then the check shall be payable to "**United States Treasury;**"
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Craig Steffen (513-487-2091)

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

- e. All payments made by check in any currency drawn on banks with no USA branches shall follow the instructions set forth in Subsection b., above, and shall be addressed for delivery to:

Cincinnati Finance

US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency." In case of an international transfer of funds, the Respondent shall use SWIFT address FRNYUS33.

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX /Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

REX: 1-866-234-5681

- h. If paying through the Department of the Treasury's On-Line Payment system, please access www.pay.gov, and enter sfo 1.1 in the search field. Open the form and complete the required fields and make payments. Note that the type of payment is "civil penalty," the docket number CWA-03-2019-0001 should be included in the "Court Order # or Bill #" field, and "3" should be included as the Region number.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

- j. At the time of each payment, Respondent shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029;

and

Daniel L. Isales (3RC60)
U.S. EPA, Region III
Environmental Science Center
701 Mapes Road
Fort Meade, MD 20755-5350

76. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with the conditions in this CAFO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

77. The costs of the EPA's administrative handling of overdue debts not paid within the timeframes set forth in Paragraph 73 will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the Final Due Date and an additional \$15.00 for each subsequent thirty (30) day period the penalties remain unpaid.

78. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalties which remain delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

79. Failure by the Respondent to pay the penalties assessed by the Final Order in full by the Final Due Date may subject Respondent to a civil action to collect the assessed penalties, plus interest. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

80. For the violation alleged in Counts I and II, EPA considered a number of factors including, but not limited to, the statutory factors set forth in Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), *i.e.*, the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Interim Clean Water Act Settlement*

Penalty Policy (March 1995), which reflect the statutory penalty criteria and factors set forth at Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3). EPA has also considered the *Adjustments of Civil Penalties for Inflation and Implementing the Debt Collection Improvement Act of 1996* (DCIA), as set forth in 40 C.F.R. Part 19, and the December 6, 2013 memorandum by EPA Assistant Administrator Cynthia Giles entitled, *Amendments to U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation (Effective December 6, 2013)* (2013 Giles Memorandum).

81. For the violation alleged in Counts III and IV, EPA considered a number of factors including, but not limited to, the following statutory factors set forth in Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), *i.e.*, the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the economic impact of the penalty on the violator, and any other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Civil Penalty Policy for Section 311 (b)(3) and Section 311 (j) of the Clean Water Act* (August 1998), which reflect the statutory penalty criteria and factors set forth at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8). EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2013 Giles Memorandum.

Effective Date

82. EPA will provide public notice and an opportunity to comment on the claim set forth in Counts I and II of this CAFO in accordance with 40 C.F.R. § 22.45. In accordance with Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5), the Final Order will become final thirty (30) days after its issuance and the CAFO will become effective on that same date. Those submitting comments to the CAFO, if any, shall have the rights afforded to them by 40 C.F.R. § 22.45(c)(4).

FOR SUPER SALVAGE, INC.

Date

Signature

Name [print or type]

Title [print or type]

Super Salvage, Inc.

EPA Docket No. CWA-03-2019-0001

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Date

Daniel L. Isales
Senior Assistant Regional Counsel
U.S. EPA - Region III

Accordingly, I hereby recommend that the Regional Administrator or his designee, the Regional Judicial Officer, issue the Final Order attached hereto pertaining to Docket No. CWA-03-2019-0001.

Date

Catherine Libertz, Director
Water Protection Division
U.S. EPA - Region III

Date

Karen Melvin, Director
Hazardous Site Cleanup Division
U.S. EPA - Region III

Date

Samantha P. Beers, Director
Office of Enforcement, Compliance and
Environmental Justice
U.S. EPA - Region III