BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	DOCKET NO. CWA-10-2025-0114
STELLA – JONES CORPORATION	**CONSENT AGREEMENT**
Sheridan, Oregon	
Respondent.	Proceedings 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), the 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 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 $23,647 per day for each day during which the violation continues, up to a maximum penalty of $295,564. *See also* 90 Fed. Reg. 1375 (January 8, 2025) ("2025 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, the EPA issues, and Stella – Jones Corporation ("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 redelegated 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 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)(l)(C), 33 U.S.C. § 1321(j)(l)(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 . . .."

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

3.4. Pursuant to these delegated statutory authorities and pursuant to its authorities under the CWA, 33 U.S.C. § 1251 *et seq.*, to implement CWA Section 31l(j) 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.

3.5. 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.

3.6. The regulations define "onshore facility" 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.

3.7. 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.

3.8. The regulations define "person" to include any individual, firm, corporation, association, or partnership. 40 C.F.R. § 112.2.

3.9. "Non-transportation-related," as applied to an on-shore facility is defined to include industrial, commercial, agricultural or public facilities which use and store oil, but excluding 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.

3.10. The regulations define "oil" 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.

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

3.12. 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

3.13. Respondent is a corporation conducting business in the State of Oregon and a "person" under CWA Sections 311(a)(7), 33 U.S.C. §§ 1321(a)(7), and 40 C.F.R. § 112.2.

3.14. 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 CWA Section 311(a)(6), 33 U.S.C. § 1321(a)(6), of the facility located at 22125 Rock Creek Road in Sheridan, Oregon ("Facility").

3.15. 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.

3.16. The Facility is "non-transportation-related" within the meaning of 40 C.F.R. § 112.2.

3.17. On April 2, 2024, authorized EPA representatives inspected the Facility to

determine compliance with CWA Section 311(j), 33 U.S.C. § 1321(j), and the requirements of 40 C.F.R. Part 112 ("Inspection").

3.18. 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).

3.19. 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.

3.20. At the time of the Inspection, Respondent provided to the EPA a copy of the SPCC plan effective at the time of the Inspection. The SPCC plan was dated February 16, 2024 ("SPCC Plan").

3.21. According to the SPCC Plan, the Facility drains to ditches that convey flow to Rock Creek, which is connected to the South Yamhill River. Rock Creek and the South Yamhill River are "navigable waters" pursuant to CWA Section 502(7), 33 U.S.C. § 1362(7). 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.

Violations

Violation 1 – Incomplete SPCC Plan

3.22. 40 C.F.R § 112.7(a)(3) requires an SPCC Plan to describe the physical layout of the facility, including a diagram that identifies: the location and contents of all regulated fixed oil storage containers; storage areas where mobile or portable containers are located; completely buried tanks otherwise exempt from the SPCC requirements, marked as "exempt;" transfer stations; and connecting pipes, including intra-facility gathering lines that are otherwise exempt

from the SPCC requirements.

3.23. Furthermore, 40 C.F.R § 112.7(a)(3) requires that the SPCC Plan provide a contact list and phone numbers for all appropriate federal, state, and local agencies who must be contacted in case of a discharge as described in 40 C.F.R. § 112.1(b).

3.24. The SPCC Plan failed to identify the contents of the oil storage containers at the Facility and failed to describe the location of the connecting pipes at the Facility. Additionally, the SPCC Plan failed to provide an updated contact list and phone numbers for all appropriate federal, state, and local agencies who must be contacted in case of a discharge as described in 40 C.F.R. § 112.1(b). Therefore, Respondent violated 40 C.F.R. § 112.7(a)(3).

Violation 2 – Failure to Include Reporting Procedures

3.25. 40 C.F.R. § 112.7(a)(4) requires an SPCC Plan to include information and procedures to enable a person reporting a discharge as described in 40 C.F.R. § 112.1(b) to relate information on the exact address or location and phone number of the facility; the date and time of the discharge, the type of material discharged; estimates of the total quantity discharged; estimates of the quantity discharged as described in 40 C.F.R § 112.1(b); the source of the discharge; a description of all affected media; the cause of the discharge; any damages or injuries caused by the discharge; actions being used to stop, remove, and mitigate the effects of the discharge; whether an evacuation may be needed; and, the names of individuals and/or organizations who have also been contacted.

3.26. The SPCC Plan failed to include procedures to enable the reporting person to describe the source of the discharge; the cause of the discharge; damages or injuries caused by the discharge; actions being used to stop, remove and mitigate the effects of the discharge, and whether an evacuation may be needed. Therefore, Respondent violated 40 C.F.R. § 112.7(a)(4).

Violation 3 – Inadequate Description of Secondary Containment

3.27. 40 C.F.R. § 112.7(c) requires the SPCC Plan to describe the appropriate

containment and/or diversionary structures or equipment to prevent a discharge.

3.28. The SPCC Plan failed to adequately describe secondary containment for multiple areas of the Facility. Therefore, Respondent violated 40 C.F.R. § 112.7(c).

Violation 4 – Failure to Document Inspections and Tests

3.29. 40 C.F.R. § 112.7(e) requires the SPCC Plan to provide written procedures for conducting inspections and tests and records of those inspections and tests must be signed by the appropriate supervisor or inspector and retained with the SPCC Plan for a period of three years.

3.30. The inspection records retained with the SPCC Plan failed to adequately document issues related to tanks, piping, containment, and appurtenances. Additionally, no corrective action records were retained despite the SPCC Plan requiring those records to be retained for six years. Therefore, Respondent violated 40 C.F.R. § 112.7(e).

Violation 5 – Failure to Provide Appropriate Training

3.31. 40 C.F.R. § 112.7(f)(1) requires, at a minimum, training oil-handling personnel in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and the contents of the facility SPCC Plan.

3.32. At the time of the Inspection, Facility training records indicated that multiple personnel had either overdue training or incomplete training. Therefore, Respondent violated 40 C.F.R. § 112.7(f)(1).

Violation 6 – Failure to Conduct Discharge Prevention Briefings

3.33. 40 C.F.R. § 112.7(f)(3) requires facilities to schedule 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.

3.34. At the time of the Inspection, the Facility had not been conducting discharge prevention briefings on an annual basis. Therefore, Respondent violated 40 C.F.R. § 112.7(f)(3).

Violation 7 – Container Materials Incompatible with Stored Material

3.35. 40 C.F.R. § 112.8(c)(1) requires that containers' materials and construction be compatible with material stored and conditions of storage such as pressure and temperature.

3.36. At the time of the Inspection, Tank D was observed to be leaking likely caused by the Facility's failure to provide storage conditions compatible with the material stored. Therefore, Respondent violated 40 C.F.R. § 112.8(c)(1).

Violation 8 – Inadequate Integrity Testing Program

3.37. Pursuant to 40 C.F.R. § 112.8(c)(6), facilities must regularly test and inspect each aboveground container for integrity on a regular schedule and whenever repairs are made. In accordance with industry standards, the appropriate qualifications for personnel performing tests and inspections must be determined and identified in an SPCC Plan. In addition, the frequency and type of testing and inspections must take into account the size, configuration, and design of the containers. Facilities must also maintain records of all inspections and tests of aboveground container integrity testing.

3.38. At the time of the Inspection, the SPCC Plan failed to identify the tank inspection schedule. Additionally, no records of internal inspections of tanks existed despite external inspections indicating the need for those internal tank inspections. Lastly, no double-wall interstice inspections were documented. Therefore, Respondent violated 40 C.F.R. § 112.8(c)(6).

Violation 9 – Failure to Document Regular Testing of Liquid Level Sensing Devices

3.39. 40 C.F.R. § 112.8(c)(8) requires the regular testing of liquid level sensing devices to ensure proper operation.

3.40. At the time of the Inspection, the SPCC Plan failed to discuss whether liquid level sensing devices are tested to ensure that they are operating properly. Therefore, Respondent violated 40 C.F.R. § 112.8(c)(8).

Violation 10 – Failure to Promptly Correct Visible Discharges

3.41. 40 C.F.R. § 112.8(c)(10) requires the prompt correction of visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts.

3.42. At the time of the Inspection, oil and heavy staining and splashing was observed in multiple areas of the Facility. Additionally, evidence of previous leaks was visible on various tanks. Therefore, Respondent violated 40 C.F.R. § 112.8(c)(10).

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), the EPA asserts that it 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, the EPA has determined that an appropriate penalty to settle this action is $98,000 ("Assessed Penalty").

4.4. Respondent consents to the assessment of the Assessed Penalty set forth in Paragraph 4.3 and agrees to pay the total Assessed Penalty within thirty (30) days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

4.5. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA

website: https://www.epa.gov/financial/makepayment. For additional instructions see: https://www.epa.gov/financial/additional-instructions-making-payments-epa.

4.6. When making a payment, Respondent shall:

4.6.1. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-10-2025-0114,

4.6.2. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of payment electronically to the following person(s):

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
R10_RHC@epa.gov

Emily Siangkam
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
siangkam.emily@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

4.7. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1321(b)(6)(H), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails

to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.

4.7.1. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1321(b)(6)(H). The rate of interest is the IRS standard underpayment rate.

4.7.2. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.

4.7.3. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

4.8. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

4.8.1. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

4.8.2. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

4.8.3. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

4.8.4. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1321(b)(6)(H). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.9. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

4.10. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

4.11. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with the law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and

26 C.F.R. § 301.6723-1. In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

4.11.1. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf.

4.11.2. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

4.11.3. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and the EPA recommends encrypting IRS Form W-9 email correspondence; and

4.11.4. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

4.12. The undersigned representative of Respondent certifies that they are authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.13. 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.

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

4.15. 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. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Consent Agreement.

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

4.17. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

FOR RESPONDENT:

_____

ANDREW MORGAN
Vice President, Utility Pole Operations (Western Species)
Stella – Jones Corporation

FOR COMPLAINANT:

_____

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