BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	DOCKET NO. CWA-10-2025-0178
TESORO LOGISTICS OPERATIONS LLC	**CONSENT AGREEMENT**
Vancouver, Washington	
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 the 2015 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 Tesoro Logistics Operations LLC ("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 the 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 his 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 Section 311(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 "[o]il storage facilities including all equipment and appurtenances related thereto as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps and drainage systems used in the storage of oil, but excluding inline or breakout storage tanks needed for the continuous operation of a pipeline system and 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 § 502(7) defines "navigable waters" as "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7).

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 implement an SPCC Plan in accordance with the requirements of 40 C.F.R. § 112.7. 40 C.F.R. § 112.3.

General Allegations

3.13. Respondent is a "person" under CWA Section 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 Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of an oil storage, transshipment, and distribution facility located at 2211 Saint Francis Lane in Vancouver, Washington ("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. Respondent identified a deficiency in the tank farm secondary containment volume based on a review of the re-strapping report (issue date: March 17, 2022) that was conducted for Tank 93501. Respondent notified the Washington Department of Ecology ("Ecology") of this finding on July 18, 2022.

3.18. On July 21, 2022, Ecology conducted an announced oil spill prevention inspection of the Facility under the applicable state regulatory program. On August 18, 2022, Ecology sent a letter to Respondent noting the tank farm secondary containment volume deficiency identified by Respondent, and the condition to operate Tank 93501 below the (net) secondary containment capacity.

3.19. Respondent scheduled a new tank farm secondary containment survey in August of 2022. The survey and resulting containment calculations were completed in October-November 2022.

3.20. In November 2022, Ecology granted Respondent conditional approval of the Facility's updated state-based oil spill prevention plan until the secondary containment upgrade project was complete, with the condition to continue to operate Tank 93501 below the (net) secondary containment capacity. Respondent initiated the construction design project in February 2023 to modify and increase the tank farm secondary containment volume. The construction project's onsite work was initiated in August 2023 and completed in October 2023. As-built drawings were submitted to Ecology in November 2023. Respondent's January 2024 monthly correspondence to Ecology indicated that the tank farm secondary containment expansion project was completed, and no further work was planned.

3.21. The EPA was notified of the Facility's tank farm secondary containment volume deficiency and Respondent's ongoing work regarding the secondary containment deficiency after receiving a copy of Ecology's February 15, 2023 letter to Respondent extending Ecology's conditional approval of the Facility's state-based oil spill prevention plan through December 2023 pending completion of work to correct the tank farm secondary containment volume deficiency.

3.22. On October 4, 2024, authorized EPA representatives inspected the Facility to determine compliance with Section 311(j) of the CWA and the requirements of 40 C.F.R. Part 112 ("Inspection").

3.23. 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).

3.24. 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.

3.25. According to the June 2025 SPCC Plan for the Facility, the Facility is located approximately 2,000 feet north of the Columbia River. Stormwater from the Facility is drained to stormwater detention ponds and subsequently to the Columbia River. The Columbia River is a traditionally navigable water and is and was used in interstate and foreign commerce. The Columbia River flows to the Pacific Ocean which is tidal. The Columbia River is a water of the United States and navigable water within the meaning of CWA § 507(7), 33 U.S.C. § 1362(7).

3.26. Accordingly, the Facility is a non-transportation related, onshore facility that, due to its 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.

3.27. In accordance with 40 C.F.R. § 112.3, Respondent developed SPCC Plans relevant to the alleged violations. The first relevant SPCC Plan was dated March 2013 ("2013 SPCC Plan"). Respondent developed subsequent plans at various times, some of which include the January 6, 2022 ("January 2022 SPCC Plan"), October 14, 2022 ("October 2022 SPCC Plan"), December 18, 2023 ("2023 SPCC Plan"), October 4, 2024 ("2024 SPCC Plan"), May 15, 2025 ("May 15, 2025 SPCC Plan"), May 21, 2025 ("May 21, 2025 SPCC Plan"), and June 11, 2025 ("June 2025 SPCC Plan").

Violations

Violation 1 – Failure to Include Discharge Prediction

3.28. The regulations at 40 C.F.R. § 112.7(b) require that "where experience indicates a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to be a source of discharge), [a facility must] include a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure."

3.29. The SPCC Plans prior to May 15, 2025 failed to provide a prediction for discharges from the aboveground, overhead process piping between the railroad spur area and the Facility tank farm. The SPCC Plans therefore did not include information required by 40 C.F.R. § 112.7(b) such as direction, rate of flow, and total quantity of oil which could be discharged from aboveground, overhead piping.

3.30. Respondent's failure to include a discharge prediction for the overhead process piping in its SPCC Plans was a violation of 40 C.F.R. § 112.7(b). Respondent's SPCC Plan was updated on May 15, 2025 to include the discharge prediction required under 40 C.F.R. § 112.7(b).

Violation 2 – Failure to Provide General Secondary Containment

3.31. The regulations at 40 C.F.R. § 112.7(c) require the owner or operator to provide

appropriate containment and/or diversionary structures or equipment to prevent a discharge. The entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs.

3.32. The SPCC Plans prior to May 15, 2025 did not address general secondary containment systems for the aboveground, overhead process piping between the railcar spur unloading area to the tank farm.

3.33. Respondent's failure to address general secondary containment for the overhead process piping in its SPCC Plan was a violation of 40 C.F.R. § 112.7(c). Respondent's SPCC Plan was updated on May 15, 2025 to address secondary containment as required by 40 C.F.R. § 112.7(c).

Violation 3 – Failure to Provide Sufficient Sized Secondary Containment

3.34. The regulations at 40 C.F.R. § 112.8(c)(2) require the owner or operator to "[c]onstruct all bulk storage tank installations (except mobile refuelers and other non-transportation-related tank trucks) so that [the facility] provide[s] a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. [The facility] must ensure that diked areas are sufficiently impervious to contain discharged oil."

3.35. 40 C.F.R. § 112.2 defines storage capacity as "the shell capacity of the container."

3.36. The largest storage container in the tank farm, Tank 93501, has a shell capacity of 92,538 barrels.

3.37. The 2013 SPCC Plan relied on "effective operational height" for Tank 93501 to calculate secondary containment in lieu of Tank 93501's shell capacity as required by 40 C.F.R. §§ 112.2 and 112.8(c). The 2013 SPCC Plan based secondary containment determinations on an effective operational height of 85,731 barrels.

3.38. A spill containment study was conducted in 2016 ("2016 Spill Containment Study") and used Tank 93501's effective operational height and the associated volume of 85,731 barrels to calculate the tank farm secondary containment capacity instead of using Tank 93501's shell capacity to calculate secondary containment. The October 2022 SPCC Plan included the 2016 Spill Containment Study as Attachment 1. Section 5.1 of the October 2022 SPCC Plan noted that as shown in Attachment 1, the tank farm dike did not have sufficient secondary containment for the shell capacity of the largest tank (i.e., Tank 93501) plus an allowance for rainfall and as such, Tank 93501 "is operated to maintain less than 85,371 bbls, which the Tank Farm dike has capacity to hold plus allowance for rainfall as shown in Attachment 1." Section 5.1 of the October 2022 SPCC Plan also indicated the tank farm dike will be resurveyed in 2022 to evaluate containment capacity.

3.39. A subsequent containment survey completed by Respondent in November 2022 showed the tank farm containment had a net containment volume of 89,090 barrels.

3.40. Accordingly, the existing diked tank farm secondary containment was not sufficient to contain Tank 93501's shell capacity of 92,538 barrels when considering a design precipitation storm event and other piping and tanks' displacement.

3.41. Respondent's failure to provide sufficient sized secondary containment for the entire capacity of the largest single container in the Facility's tank farm was a violation of 40 C.F.R. § 112.8(c)(2). Respondent's insufficient sized secondary containment was corrected in October 2023 upon completion of the tank farm secondary containment construction project. A final as-built survey was completed in November 2023.

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 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 $99,000 ("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 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, to the "Oil Spill Liability Trust Fund", 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. When making a payment, Respondent shall:

4.5.1. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-10-2025-0178 and note "Oil Spill Liability Trust Fund – 311" on the form of payment.

4.5.2. 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

Steven Potokar
Compliance Officer, Surface Water Enforcement Section
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
Potokar.Steven@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, 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.

4.6. 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.

4.6.1. 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.

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

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

4.7. 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:

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

4.7.2. 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.

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

4.7.4. 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.

4.8. 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.

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

4.10. 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:

4.10.1. 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.

4.10.2. 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;

4.10.3. Respondent shall email its completed Form W-9 to the 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

4.10.4. 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.

4.11. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.12. 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.

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

4.14. 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.

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

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

DATED:

FOR RESPONDENT:

_____

_____
Regina Zolnor
Vice President
Tesoro Logistics Operations LLC

FOR COMPLAINANT:

_____
Edward J. Kowalski
Director
Enforcement and Compliance Assurance Division
EPA Region 10