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SPCC Enforcement/Clean Water Act: U.S. Environmental Protection Agency and Sioux City, Iowa Facility Enter Into Consent Agreement Addressing Alleged Violations

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The United States Environmental Protection Agency ("EPA") and Darling Ingredients, Inc. (d/b/a Dar Pro) ("DI") entered into an April 6th Consent Agreement and Final Order ("CA") addressing alleged violations of Section 311 of the Clean Water Act. See Docket No. CWA-07-2016-0004.

DI is stated to be an Iowa corporation that operates an "onshore facility" within the meaning of Section 311 of the Clean Water Act in Sioux City, Iowa.

The facility is further stated to constitute within the meaning of Section 311 of the Clean Water Act:

- a non-transportation-related facility
- directly adjacent to the Missouri River (which is navigable water of the United States)
- a discharge from the facility would reasonably be expected to impact the Missouri River

The CA states that a May 16th inspection of the facility documented noncompliance with the federal Clean Water Act Spill Prevention Control and Countermeasure ("SPCC") requirements. The inspection is alleged to have determined that the facility had greater than 1 million gallons of oil storage capacity and that a worst case discharge would reasonably be expected to impact "wetlands" stated to be an identified sensitive environment (as defined by 40 C.F.R. § 112.2).

The facility's alleged storage capacity of greater than 1 million gallons subjects it to the Federal Response Plan ("FRP") regulations set forth at 40 C.F.R. §§ 112.20 and 112.21.

DI submitted on October 15, 2013 a response to EPA's inspection report contesting the federal agency's description of SPCC and FRP violations at the facility. Negotiations between EPA and DI are stated to have resulted in the CA. Further, DI is stated to have:

... provided documentation of 2015 modifications and the rating of the oil storage capacity at the Facility to below 1 million gallons.

Nevertheless, the CA provides that prior to the date of the 2015 rating of the oil storage capacity of the facility it operated with an oil storage capacity of greater than 1 million gallons of "oil" as defined by C.F.R. §112.2. It further alleges that prior to this period in time the facility could reasonably be expected to cause "substantial harm" to the environment if a discharge of oil occurred into or on navigable or joining

shoreline and therefore was subject to Section 311(j)(5) of the Clean Water Act and the FRP program regulations previously referenced.

The CA sets out violations of both the SPCC and FRP regulations.

DI neither admits nor denies the factual allegations and legal conclusions in the CA.

The CA assesses a total civil penalty of \$99,000.00

[Click here to download a copy of the CA.](#)