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Clean Water Act/Section 311 Enforcement: U.S. Environmental Protection Agency and CSX Transportation, Inc. Enter into Oil Spill Expedited Settlement Agreement

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The United States Environmental Protection Agency ("EPA") and CSX Transportation, Inc. ("CSX") entered into an April 12th Oil Spill Expedited Settlement Agreement ("ESA") addressing alleged violations of Section 311 of the Clean Water Act ("CWA"). See Docket No.: CWA-04-2016-5006(b).

CSX is stated to be the owner or operator of an onshore facility within the meaning of Section 311(a)(10) of the CWA.

The previously referenced onshore facility is stated to be located in Martin, South Carolina.

CSX is alleged to have on January 27, 2015 discharged approximately 4,000 gallons of oil, as defined in Section 311(a)(1) of the CWA from its facility into or upon:

. . . Lower Three Runs Creek and/or adjoining shorelines and the wetlands adjacent to or abutting Lower Three Runs Creek. The water of the wetlands flows to Lower Three Runs Creek.

Lower Three Runs Creek is stated to flow into the Savannah River and is denominated by the ESA as a "navigable water of the United States" as defined in Section 502(7) of the CWA.

EPA states that it obtained this information from the agency's On-Scene Coordinator's Pollution Report.

CSX's discharge of oil is alleged to have caused a film or sheen upon or discoloration of the surface of Lower Three Runs Creek, etc., and therefore was:

. . . in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, which implements Section 311(b)(3) and (b)(4) of the CWA. . .

The ESA assesses a civil penalty of \$5,000.

[A copy of the ESA can be downloaded here.](#)