



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9  
75 Hawthorne Street  
San Francisco, CA 94105-3901**

IN THE MATTER OF:	)	Docket No. CWA-309-2023-001
	)	
<b>STEVE WILLS TRUCKING</b>	)	
<b>AND LOGGING LLC</b>	)	
<b>Fortuna, California</b>	)	<b>COMPLAINT/CONSENT AGREEMENT</b>
	)	<b>AND FINAL ORDER</b>
	)	
Respondent.	)	<i>Class II Administrative Penalty Proceeding under</i>
	)	<i>Section 309(g) of the Clean Water Act, 33 U.S.C. §</i>
	)	<i>1319(g), and 40 C.F.R. §§ 22.13(b) and 22.18</i>
	)	

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**CONSENT AGREEMENT**

**I. AUTHORITY AND PARTIES**

1. This is a Class II civil administrative penalty proceeding under section 309(g)(1)(A) and (2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(1)(A) and (2)(B), and 40 C.F.R. Part 22 (*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*).

2. Pursuant to section 309(g) of the CWA, 33 U.S.C. § 1319(g), the Administrator of the United States Environmental Protection Agency (“EPA”) is authorized to assess administrative penalties against persons who violate section 301(a) of the CWA, 33 U.S.C. § 1311(a). The Administrator has delegated this authority to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter “Complainant.”

3. Respondent is Steve Wills Trucking and Logging LLC of Fortuna, California.

4. This Consent Agreement and Final Order (“CA/FO”), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

NOW THEREFORE, before the taking of any testimony, without adjudication of any issue of fact or law, and upon consent by EPA and Respondent, it is hereby STIPULATED, AGREED, AND ORDERED:

## **II. STATUTORY AND REGULATORY FRAMEWORK**

5. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for a person to discharge pollutants from a point source into waters of the United States, except as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342.

6. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines “person” to include an “individual” or a “corporation.”

7. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines “pollutant” to include, *inter alia*, “biological materials,” and “agricultural waste.”

8. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” to include “any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged.”

9. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

10. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “waters of the United States, including the territorial seas” and its implementing regulations.

11. Pursuant to CWA section 309(g), 33 U.S.C. § 1319(g), and 40 C.F.R. Part 19, EPA may assess a Class II civil administrative penalty of up to \$23,989 per day of violation, not to exceed \$299,857 in total, against a person for CWA section 301(a) violations that occurred after November 2, 2015, where penalties are assessed on or after January 12, 2022.

## **III. GENERAL ALLEGATIONS**

12. Steve Wills Trucking and Logging LLC (“Respondent”) is a limited liability company organized under the laws of California with a place of business located at 1576 State Highway 36, Fortuna, California. The Respondent is a “person” within the meaning of section 502(5) of the CWA, 33 U.S.C. § 1362(5).

13. Respondent is the owner and operator of tanker trucks, each of which is a “point source” within the meaning of section 502(14) of the CWA, 33 U.S.C. § 1362(14).

14. Raw milk is a “pollutant” within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

15. Clear Lake is located approximately 100 miles north of San Francisco in the Coast Ranges and experiences hot, dry summers and cool, wet winters, with most precipitation occurring from November to March. Clear Lake is home to the Clear Lake hitch — a large minnow found only in Northern California’s Clear Lake and its tributaries — designated by the

California Fish and Game Commission as a threatened species under California's state Endangered Species Act. Clear Lake is a traditionally navigable water, and is therefore, "navigable waters" and "waters of the United States" within the meaning of section 502(7) of the CWA, 33 U.S.C. § 1362(7), and its implementing regulations.

16. Grizzly Creek is a seasonal tributary to Cache Creek, which is a traditionally navigable water. Therefore, Grizzly Creek and Cache Creek are "navigable waters" and "waters of the United States" within the meaning of section 502(7) of the CWA, 33 U.S.C. § 1362(7), and implementing regulations.

17. Each of Respondent's discharges of pollutants into waters of the United States constitutes a "discharge of pollutants" within the meaning of CWA § 502(12), 33 U.S.C. § 1362(12).

18. Each of Respondent's discharges of pollutants into waters of the United States without authorization under section 402 of the CWA, 33 U.S.C. § 1342, violated section 301(a) of the CWA, 33 U.S.C. § 1311(a).

#### **IV. ALLEGED VIOLATION**

##### **COUNT 1**

19. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.

20. On January 19, 2020, a tanker truck owned and operated by Respondent was carrying raw milk on Highway 20 near Glenhaven in Lake County, California when it overturned down an embankment into Clear Lake. The tanker truck was damaged and released at least 2,825.4 gallons of raw milk.

21. A portion of the milk discharged into or upon Clear Lake and its adjoining shorelines, located in or near the City of Clearlake, in Lake County, California.

22. The Northshore Fire Protection District reportedly deployed booms in the lake to contain the spill, but much of the milk was never recovered.

23. As alleged in the preceding Paragraphs, on January 19, 2020, Respondent and/or persons acting on Respondent's behalf, discharged or caused to be discharged a pollutant without authorization under section 402 of the CWA, 33 U.S.C. § 1342, in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

##### **COUNT 2**

24. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.

25. On April 12, 2020, a tanker truck owned and operated by Respondent was carrying raw milk on Highway 20 near Clearlake Oaks in Lake County, California when it overturned down an embankment into Clear Lake. The tanker truck was damaged and released at least 3,425.4 gallons of raw milk.

26. A portion of the milk discharged into or upon Clear Lake and its adjoining shorelines, located in or near the City of Clearlake, in Lake County, California.

27. The Northshore Fire Protection District reportedly deployed booms in the lake to contain the spill, but much of the milk was never recovered.

28. As alleged in the preceding Paragraphs, on April 12, 2020, Respondent and/or persons acting on Respondent's behalf, discharged or caused to be discharged a pollutant without authorization under section 402 of the CWA, 33 U.S.C. § 1342, in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

### **COUNT 3**

29. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.

30. On December 11, 2021, a tanker truck owned and operated by Respondent was carrying raw milk on Highway 20 east of Lance Road in Lake County, California when it overturned down an embankment into Grizzly Creek. The tanker truck was damaged and released at least 2,997 gallons of raw milk.

31. A portion of the milk discharged into or upon Grizzly Creek and its adjoining shorelines, located in or near the City of Clearlake Oaks, in Lake County, California.

32. Steven Will, President of Steve Wills Trucking and Logging LLC, reportedly deployed a boom downstream in the creek to contain the spill, but much of the milk was never recovered.

33. As alleged in the preceding Paragraphs, on December 11, 2021, Respondent and/or persons acting on Respondent's behalf, discharged or caused to be discharged a pollutant without authorization under section 402 of the CWA, 33 U.S.C. § 1342, in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

### **V. ADMINISTRATIVE PENALTY**

34. In consideration of the penalty factors of CWA section 309(g), 33 U.S.C. § 1319(g), Respondent shall pay to the United States a civil administrative penalty in the amount of **Seventy-One Thousand Nine Hundred Sixty-Seven (\$71,967.00)** within thirty (30) calendar days of the Effective Date, as defined in Section X below, of this CA/FO.

35. Respondent shall pay the penalty by check (mail or overnight delivery), wire transfer, automated clearing house, or online payment. Payment instructions are available at



<https://www.epa.gov/financial/makepayment>. If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at (513) 487-2091.

a. Check Payment:

- i. Checks sent by regular U.S. Postal Service mail shall be made payable to “Treasurer, United States of America” and mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
PO Box 979077  
St. Louis, MO 63197-9000

- ii. Checks sent by express mail (non-U.S. Postal Service entities that do not deliver to P.O. Boxes) shall be made payable to “Treasurer, United States of America” and mailed to:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
USEPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

- b. Automated Clearinghouse Payment: Payment by Automated Clearinghouse (ACH) via Vendor Express shall be made through the U.S. Treasury as follows:

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking

- c. Fedwire: Payment by wire transfer to EPA shall be made through the Federal Reserve Bank of New York as follows:

Federal Reserve Bank of New York  
ABA: 021030004  
Account: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045  
(Field Tag 4200 of the Fedwire message should read: D 68010727  
Environmental Protection Agency)

- d. On-line Payment: Go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open “EPA Miscellaneous Payments – Cincinnati Finance Center” form and complete the required fields.

36. Concurrent with the payment, Respondent shall send a true and correct copy of the payment and accompanying transmittal information to the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, California 94105  
[r9HearingClerk@epa.gov](mailto:r9HearingClerk@epa.gov)

Adam Howell  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, California 94105  
[howell.adam@epa.gov](mailto:howell.adam@epa.gov)

37. Respondent shall not, and shall not allow any other person to, deduct any penalties and interest paid under this CA/FO from federal, state, or local taxes.

38. Pursuant to CWA section 309(g)(9), 33 U.S.C. § 1319(g)(9), if Respondent fails to pay the assessed penalty on time, EPA may request the U.S. Department of Justice to bring a civil action to recover the overdue amount, plus interest at currently prevailing rates from the effective date of this CA/FO. In such an action, the validity, amount, or appropriateness of the assessed penalty shall not be subject to review. In addition to any assessed penalty and interest, Respondent shall pay attorney fees, costs for collection proceedings, and a quarterly nonpayment penalty, which shall equal 20% of the aggregate amount of Respondent’s penalties and nonpayment penalties that are unpaid as of the beginning of such quarter, for each quarter during which such failure to pay persists. EPA may also take other debt collection actions as authorized by law, including but not limited to the Debt Collection Act, 31 U.S.C. § 3711.

## **VI. APPLICABILITY**

39. This CA/FO shall apply to and be binding on Respondent, Respondent’s officers, directors, partners, agents, employees, contractors, successors, and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent’s obligations under this CA/FO.

## **VII. RESPONDENT'S ADMISSIONS AND WAIVERS**

40. In accordance with 40 C.F.R. § 22.18(b), solely for the purpose of this proceeding, Respondent: (a) admits the jurisdictional allegations of the complaint; (b) neither admits nor denies the specific factual allegations contained in this Consent Agreement; (c) consents to all conditions specified in this CA/FO and to the assessment of the civil administrative penalty set forth in Section V above; (d) waives any right to contest the allegations set forth in this CA/FO; and (e) waives its right to appeal this proposed Final Order.

## **VIII. RESERVATION OF RIGHTS**

41. In accordance with 40 C.F.R. § 22.18(c), full payment of the penalty set forth in this CA/FO only resolves Respondent's CWA civil penalty liabilities for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive relief or other equitable relief or criminal sanction for any violations of law.

42. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations, and shall in no way relieve or affect Respondent's obligations under any applicable federal, state, or local laws, regulations, or permits.

## **IX. ATTORNEY FEES AND COSTS**

43. Unless otherwise specified, each party shall bear its own attorney fees and costs.

## **X. EFFECTIVE DATE AND TERMINATION**

44. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall take effect on the date that the Final Order, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk (the "Effective Date"), and shall terminate when Respondent has complied with this CA/FO in full.

## **XI. PUBLIC NOTICE**

45. Pursuant to CWA section 309(g)(4), 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45(b), this Consent Agreement is subject to public notice and comment prior to issuance of the proposed Final Order. Complainant reserves the right to withhold or withdraw consent to this Consent Agreement if public comments disclose relevant and material information that was not considered by Complainant in entering into this Consent Agreement. Respondent may withdraw from this Consent Agreement only upon receipt of written notice from EPA that it no longer supports entry of this Consent Agreement.

46. Pursuant to section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), EPA has consulted with the State of California regarding this penalty action.

For Complainant the U.S. Environmental Protection Agency, Region 9

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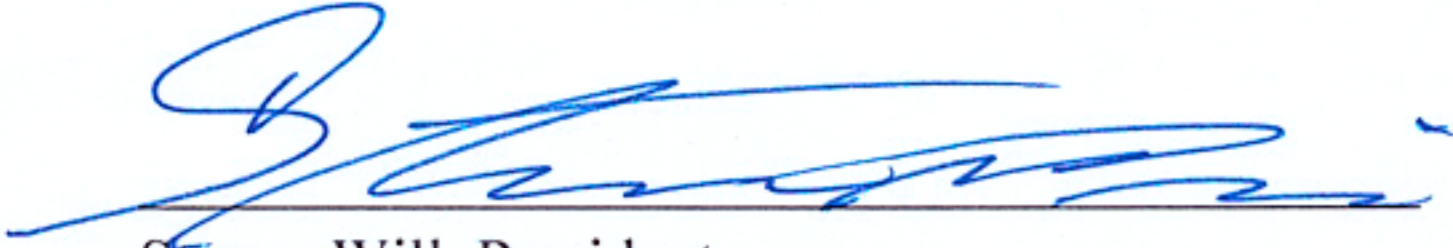
Amy Miller-Bowen  
Director  
Enforcement and Compliance Assurance Division

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Date

Of counsel:  
Suzanne Pyatt  
Attorney-Advisor  
Office of Regional Counsel

For Respondent Steve Wills Trucking and Logging LLC



Steven Will, President

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Date

FINAL ORDER

It is Hereby Ordered that this Consent Agreement and Final Order (U.S. EPA Docket No. CWA-309-2023-001) be entered and that Respondent shall pay a civil penalty in the amount of seventy-one thousand nine hundred sixty-seven dollars (\$71,967) in accordance with the terms of this Consent Agreement and Final Order.

Dated:

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Steven L. Jawgiel  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I certify that the original of the foregoing Complaint/Consent Agreement and Final Order in the matter of STEVE WILLS TRUCKING AND LOGGING LLC (CWA-309-2023-001) has been filed with the Regional Hearing Clerk, and a copy was served on both Respondent and Counsel for Complainant by email, as indicated below:

COMPLAINANT:

Suzanne Pyatt  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, California 94105  
Email: [pyatt.suzanne@epa.gov](mailto:pyatt.suzanne@epa.gov)

RESPONDENT:

Steven E. Will, President  
Steve Wills Trucking and Logging LLC  
1576 State Highway 36  
Fortuna, California 95540  
Email: [swillstruck@aol.com](mailto:swillstruck@aol.com)

Dated: \_\_\_\_\_

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Ponly Tu  
Regional Hearing Clerk  
U.S. EPA Region 9