

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

IN THE MATTER OF:

Allison Ranch Ministries Foundation, Inc.,
1730 Crescent Drive, McCall, Idaho,

Respondent.

DOCKET NO. CWA-10-2016-0127

ADMINISTRATIVE ORDER ON
CONSENT FOR REMOVAL ACTIVITIES

Proceeding Under Section 311(c) and (e) of
the Federal Water Pollution Control Act, as
amended, 33 U.S.C. § 1321(c) and (e).

I. JURISDICTION AND GENERAL PROVISIONS

1. This Consent Order is issued pursuant to the authority vested in the President of the United States by Section 311(c) and (e) of the Federal Water Pollution Control Act, 33 U.S.C. § 1321(c) and (e) ("CWA"). This authority has been delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12777, 58 FR 54757 (Oct. 22, 1991); and further delegated to the Regional Administrators by EPA Delegation Nos. 2-85 (May 11, 1994) and 2-89 (Jan. 19, 1993); and to Region 10's Director, Office of Environmental Cleanup, by Regional Redelegations R10 2-85 (May 31, 2012) and R10 2-89 (May 31, 2012).
2. This Consent Order pertains to a discharge of oil that occurred at a facility located at 1730 Crescent Drive, McCall, Valley County, Idaho ("Facility"). This Consent Order requires Respondent to conduct removal actions described herein to abate or mitigate an imminent and substantial threat to the public health or welfare of the United States that may be presented by the actual or substantial threat of a discharge of oil from the Facility into navigable waters.
3. EPA has notified the State of Idaho of this action pursuant to CWA Section 311(e)(1)(B), 33 U.S.C. § 1321(e)(1)(B). This Consent Order is also based on the Oil Pollution Act ("OPA") Section 1002, 33 U.S.C. § 2702, for reimbursement of costs.
4. Respondent consents to issuance of the Consent Order. Respondent's participation in this Consent Order shall not constitute an admission of liability. Respondent does not admit and retains the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Consent Order, the validity of EPA's Findings of Fact or Conclusions of Law.

II. PARTIES BOUND

5. This Consent Order applies to and is binding upon Respondent, successors, and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondent's responsibilities under this Consent Order.
6. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Consent Order and comply with this Consent Order. Respondent shall be responsible for any noncompliance with this Consent Order.

III. DEFINITIONS

7. Unless otherwise expressly provided herein, terms used in this Consent Order which are defined in CWA Section 311 or in OPA shall have the meaning assigned to them in CWA or OPA. Whenever terms listed below are used in this Consent Order or in the appendix attached

hereto and incorporated hereunder, the following definitions shall apply:

8. "Act of God" shall have the definition set out in Section 1001(1) of OPA, 33 U.S.C. § 2701(1).
9. "Consent Order" shall mean this Administrative Order on Consent and the Appendix attached hereto. In the event of conflict between this Consent Order and the Appendix, this Consent Order shall control.
10. "CWA" shall mean the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*
11. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.
12. "Discharge" shall have the meaning set forth in CWA Section 311(a)(2), 33 U.S.C. § 1321(a)(2), and 40 C.F.R. Part 110.1 for purposes of the work to be performed under this Consent Order, and shall have the meaning set forth in OPA Section 1001(7), 33 U.S.C. § 2701(7), for purposes of reimbursement of costs.
13. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or successor agencies of the United States.
14. "Facility" shall mean the property located at 1730 Crescent Drive, McCall, Valley County, Idaho, and depicted generally on the figure attached as Appendix 1. "Facility" shall also have the meaning set forth in CWA Section 311(a)(10), 33 U.S.C. § 1321(a)(10), and by OPA Section 1001(24), 33 U.S.C. § 2701(24).
15. "Hazardous Substance" shall mean any substance defined in CWA Section 311(a)(14), 33 U.S.C. § 1321(a)(14).
16. "IDEQ" shall mean the Idaho Department of Environmental Quality.
17. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300, including, but not limited to, any amendments thereto.
18. "Navigable waters" shall have the meaning set forth in CWA Section 502(7), 33 U.S.C. § 1362(7), and OPA Section 1001(21), 33 U.S.C. § 2701(21), and 40 C.F.R. Part 110.
19. "OPA" shall mean the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701, *et seq.*
20. "Oil" shall have the meaning set forth in CWA Section 311(a)(1), 33 U.S.C. § 1321(a)(1),

for the purposes of the work to be performed under this Consent Order, and OPA Section 1001(23), 33 U.S.C. § 2701(23), for purposes of reimbursement of costs.

21. "Paragraph" shall mean a portion of this Consent Order identified by an arabic numeral.
22. "Section" shall mean a portion of this Consent Order identified by a roman numeral.
23. "Work" shall mean all activities Respondent is required to perform under this Consent Order, except those required by Paragraph 50 (Record Retention).

IV. FINDINGS OF FACT

24. The Facility is property located on the shoreline of Payette Lake, Valley County, Idaho, and includes a residential home. The Facility is generally depicted on the figure attached as Appendix 1.
25. On June 23, 2016, a sheen of oil was observed on Payette Lake, Valley County, Idaho, along the shoreline in McCall, Idaho. Residents along the shoreline also reported strong odors. Investigation found the discharge of the oil to be the subsurface of the Facility. The oil has been observed in an interception trench dug at the Facility and on the surface water of Payette Lake directly adjacent to the Facility.
26. Payette Lake is navigable in fact and provides habitat for trout and salmon. Payette Lake is widely used for recreation, including fishing and boating, year-round.
27. Respondent is a non-profit corporation incorporated in April 2001 in Boise, Idaho.
28. Respondent is the owner and/or operator of the Facility upon which the discharge was located.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

29. Based on the Findings of Fact set forth above, EPA has determined that the Facility is an "onshore facility" as defined in CWA Sections 311(a)(10), 33 U.S.C. § 1321(a)(10), and by OPA Section 1001(24), 33 U.S.C. § 2701(24).
30. Payette Lake is a "navigable water" as defined in CWA Section 502(7), 33 U.S.C. § 1362(7), and OPA Section 1001(21), 33 U.S.C. § 2701(21), and 40 C.F.R. Part 110, and "navigable waters of the United States" as that term is used in CWA Section 311(b), 33 U.S.C. § 1321(b).
31. Respondent is an "owner or operator" of the Facility as defined by CWA Section 311(a)(6), 33 U.S.C. § 1321(a)(6), and OPA Section 1001(26), 33 U.S.C. § 2701(26). Respondent is also a "responsible party" as defined by OPA § 1001(32), 33 U.S.C. § 2701(32).

32. Respondent is a "person" as defined by CWA Section 311(a)(7), 33 U.S.C. § 1321(a)(7), and by OPA Section 1001(27), 33 U.S.C. § 2701(27).
33. The incident described in the Findings of Fact presents a "discharge" as defined in CWA Section 311(a)(2), 33 U.S.C. § 1321, and 40 C.F.R. Part 110.1 and OPA Section 1001(7), 33 U.S.C. § 2701(7).
34. The "discharge" is: (i) into or on the navigable water; (ii) on the adjoining shorelines to a navigable water; or (iii) may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.
35. The quantity of oil discharged from the Facility is a harmful quantity within the meaning of CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3), and 40 C.F.R. § 110.3(b), because the discharge may cause a violation of applicable water quality standards and/or caused a film or sheen upon or a discoloration of the surface of the water or adjoining shorelines.
36. The discharge is a violation of CWA Section 311(b), 33 U.S.C. § 1321(b), and Section 1001(7) of OPA, 33 U.S.C. § 2701(7), because a harmful quantity of oil has been discharged from the Facility: (i) into or upon the navigable waters of the United States; or, (ii) which may affect natural resources belonging to, or appertaining to, the United States.
37. The discharge has caused an imminent and substantial threat to the public health or welfare of the United States, including fish, wildlife, public and private property, shorelines, beaches, habitat, and/or other living and nonliving natural resources under the jurisdiction or control of the United States.
38. The removal actions required by this Consent Order are necessary to protect the public health and welfare of the United States of America, including fish, wildlife, public and private property, shorelines, beaches, habitat, and other living and/or nonliving natural resources under the jurisdiction or control of the United States. Further, these measures are necessary to ensure effective and immediate removal or prevention of a substantial threat of a discharge of oil into or on the navigable waters, on the adjoining shorelines to the navigable waters, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.
39. The removal actions required by this Consent Order are in accordance with the NCP and are authorized by EPA pursuant to the authority granted in CWA Section 311(c) and 311(e), 33 U.S.C. § 1321(c) and 1321(e), as delegated by the President in Executive Order 12777, Section 2(b)(1), 56 FR 54757 (Oct. 22, 1991).
40. Pursuant to Title 39, Chapter 72, of the Idaho Statutes, the State of Idaho has a policy of fostering the remediation of sites based on the risk to human health and the environment where releases or threatened releases of petroleum exist.
41. Under OPA Section 1002(b)(1), 33 U.S.C. § 2702(b)(1), and CWA Section 311(f), 33

U.S.C. § 1321(f), Respondent is liable to the United States for all removal costs incurred by the United States in connection with the discharge or the threatened discharge of oil from the Facility.

42. A "removal," as defined in CWA Section 311(a)(8), 33 U.S.C. § 1321(a)(8), and OPA Section 1001(30), 33 U.S.C. § 2701(30), is necessary at the Facility to minimize and mitigate damage to the public health or welfare.

VI. ORDER

Based upon the Findings of Fact and Conclusions of Law and Determinations set forth above, EPA hereby orders and Respondent agrees that Respondent shall comply with all requirements of this Consent Order and shall perform the following actions:

43. **Notice of Intent to Comply.** Respondent shall notify EPA and IDEQ in writing within 1 day after the Effective Date of this Consent Order of Respondent's intent to comply with this Consent Order. Failure of Respondent to provide such notification within this time period shall be a violation of this Consent Order by Respondent.

44. **Work to be Performed.** Respondent shall perform, at a minimum, the following removal actions:

- A. Remove oil-contaminated soils and sediments from the location where oil is seeping into the constructed interception/recovery trench up to the house foundation and footing, including the area under the attached deck, without undermining the house foundation and footing;
- B. Abate the discharge of oil on Payette Lake by removing oil that is entering the interception/recovery trench and monitoring and maintaining installed containment boom and sorbents on the lake; and
- C. Dispose of oil and oil-contaminated soils, sorbents, and debris.

45. **Designation of Contractor, Project Coordinator, and On-Scene Coordinator.**

A. Respondent shall perform the removal action itself or retain contractors to perform the removal action. If Respondent elects to perform the work, Respondent shall notify EPA and IDEQ of the names and qualifications of such personnel within 2 working days. If Respondent elects to retain contractors, Respondent shall notify EPA and IDEQ of the name(s) and qualification(s) of such contractor(s) within 2 working days after the effective date of this Consent Order. IDEQ, with EPA concurrence, retains the right to disapprove the selection of any, or all, of the contractors and/or subcontractors retained by Respondent, or of Respondent's choice of itself to conduct the removal action. If IDEQ, with EPA concurrence, disapproves the selection of a contractor, Respondent shall retain a different contractor or notify IDEQ and EPA that it will perform the removal action itself within 2 working days following IDEQ's disapproval of Respondent's selection and shall notify IDEQ and EPA of that contractor's name or Respondent's name and qualifications within 2 working days of IDEQ's disapproval.

B. Within 2 working days after the effective date of this Consent Order, Respondent

shall designate an individual as a Project Coordinator who shall be responsible for administration of all the Respondent's actions required by the Consent Order. Respondent shall submit the designated coordinator's name, address, telephone number, and qualifications to EPA and IDEQ. To the extent possible, the Project Coordinator shall be present at the Facility or readily available during work at the Facility. IDEQ, with EPA concurrence, retains the right to disapprove the selection of any Project Coordinator named by the Respondent. If IDEQ disapproves the selection of a Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify IDEQ and EPA of that person's name and qualifications within 2 working days following IDEQ's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from IDEQ or EPA relating to this Consent Order shall constitute receipt by Respondent.

C. EPA has designated Greg Weigel as its On-Scene Coordinator (OSC). IDEQ has designated Mark Van Kleek as its Project Manager (PM). Respondent shall direct all submissions and notifications required by this Consent Order to the OSC and PM at:

Greg Weigel
U.S. Environmental Protection Agency, Region 10
950 West Bannock, Suite 900
Boise, Idaho 83702
208-378-5573
Weigel.greg@epa.gov

Mark Van Kleek
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706
208-373-0550
Mark.vankleek@deq.idaho.gov

D. EPA, IDEQ, and Respondent shall have the right to change their designated OSC, PM, or Project Coordinators, respectively. EPA and IDEQ shall notify Respondent, and Respondent shall notify EPA and IDEQ promptly, before such a change is made. Notification may initially be made orally but shall be followed promptly by written notice.

46. **Work Plan Implementation.**

A. Within 5 days after the effective date of this Consent Order, Respondent shall submit to EPA and IDEQ for approval a draft Work Plan for performing the removal action set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the action required by this Consent Order.

B. IDEQ may, with EPA concurrence, approve, disapprove, require revisions to, or modify the draft Work Plan. If IDEQ requires revisions, Respondent shall submit a revised draft Work Plan within 5 days of receipt of IDEQ's notification of the required revisions. Respondent

shall implement the Work Plan as finally approved in writing by IDEQ, with EPA concurrence, in accordance with the schedule approved by IDEQ and concurred upon by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be deemed to be incorporated into this Consent Order and fully enforceable under this Consent Order. Respondent shall notify IDEQ and EPA at least 48 hours prior to performing any on-site work pursuant to the IDEQ/EPA-approved Work Plan. Respondent shall not commence or undertake any removal actions at the Facility without prior IDEQ approval and EPA concurrence.

47. **Reporting Requirements.**

A. Respondent must submit a written progress report to the OSC and PM concerning actions undertaken pursuant to this Consent Order every 7 days after the Effective Date of this Consent Order, unless otherwise directed in writing by the OSC or PM. These reports must describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

B. Within 14 working days after completion of the removal actions required under this Consent Order, Respondent shall submit for IDEQ review, and EPA review and approval, a final report summarizing the actions taken to comply with this Consent Order. The final report shall include at a minimum, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that under Section 309(c)(4) of the CWA, 33 U.S.C. § 1319(c)(4), there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

48. Respondent may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Consent Order, provided such claim is allowed by CWA Section 308(b)(2), 33 U.S.C. § 1318(b)(2). EPA shall only disclose information covered by a business confidentiality claim to the extent permitted and by means of the procedures set forth at 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondent. Respondent must not assert confidentiality claims with respect to any data or documents related to site conditions, sampling, or monitoring.

49. **Access to Property and Information.** Respondent must provide access to the Facility, to off-site areas where access is necessary to implement this Consent Order, and to all documents

related to conditions at the Facility and work conducted under the Consent Order. Respondent must provide this access to EPA and its contractors and authorized representatives.

50. **Record Retention.** Respondent shall preserve all documents and information relating to work performed under this Consent Order, or relating to the oil found on or discharged from the Facility, for six years following completion of the removal actions required by this Consent Order. At the end of this six-year period and 60 days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the six-year period upon the written request of EPA.

51. **Off-Facility Shipments.**

A. Respondent shall, prior to any off-Facility shipment of oil, oil-contaminated soil, or oil-contaminated water, provide written notification of such shipment to the appropriate State environmental official and to EPA. The notification shall include:

- (i) the name and location of the facility to which the oil, soil, or water, will be shipped;
- (ii) the type and quantity of the oil, soil, or water to be shipped;
- (iii) the expected schedule for the shipment of the oil, soil, or water; and
- (iv) the transporter and method of transportation of the shipment of oil, soil, or water. Respondent shall also notify EPA and the appropriate State environmental official of major changes in the shipment plan, such as a decision to ship the oil, soil, or water to another facility.

B. All off-Facility shipments of oil, oil-contaminated soil, and oil-contaminated water shall be transported, stored, and disposed of in accordance with all applicable U.S. Department of Transportation regulations, the NCP, and all other applicable Federal, State, and local laws and regulations.

52. **Compliance with Other Laws.** Respondent shall perform all actions required pursuant to this Consent Order in accordance with all applicable Federal, state, and local laws and regulations. Where any portion of the work requires a Federal or state permit or approval, Respondent shall submit timely applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Consent Order is not, and shall not be construed to be, a permit issued pursuant to any Federal or state law or regulation.

53. **Emergency Response and Notification of Discharges.**

A. If any incident, or change in Facility conditions, during the actions conducted pursuant to this Consent Order causes or may cause a substantial threat of a discharge or an additional discharge of oil or hazardous substances from the Facility or a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife,

other natural resources, and the public and private beaches and shorelines of the United States), Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Consent Order, in order to prevent, abate or minimize such discharge or substantial threat of a discharge. Respondent shall also immediately notify the OSC and PM of the incident or Facility conditions. If Respondent fails to respond, EPA may respond to the discharge or threatened discharge and seek recovery of its costs of response work. Respondent shall take such action in consultation with the OSC and/or the PM, unless it is not possible for Respondent to contact the OSC or the PM prior to the time the action becomes necessary.

B. In addition, in the event of any discharge of oil or a hazardous substance, Respondent shall immediately notify the National Response Center at 800-424-8802. Respondent shall submit a written report to EPA and IDEQ within 7 days after each discharge, setting forth the events that occurred and the measures taken or to be taken to mitigate and prevent the recurrence of such a discharge. This reporting requirement is in addition to, not in lieu of, reporting under Section 311(b)(5) of CWA, 33 U.S.C. § 1321(b)(5), and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 11001 *et. seq.*, if applicable, or under any other Federal, State, or local laws.

VII. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

54. The OSC is authorized to oversee the proper and complete implementation of this Consent Order, including the authority to:

- A. Remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;
- B. Direct or monitor all Federal, State, and private actions to remove a discharge;
- C. Remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available; and
- D. Determine when the removal is complete.

Absence of the OSC from the facility shall not be cause for stoppage of work unless specifically directed by the OSC.

VIII. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE

55. Violation of any provision of this Consent Order may subject Respondent to civil penalties of up to \$37,500 per day of violation, or an amount up to three times the cost incurred by the United States, as provided in CWA Section 311(b)(7)(B), 33 U.S.C. § 1321(b)(7)(B), as adjusted by the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. § 19.4.

IX. RESERVATION OF RIGHTS

56. Except as specifically provided in this Consent Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health or welfare of the United States, or to prevent, abate, or minimize an actual or substantial threat of a discharge of oil, hazardous substances, pollutants or contaminants, or

hazardous or solid waste on, at, from or outside of the Facility. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Consent Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CWA or any other applicable law. The United States reserves the right to bring an action against Respondent under any applicable authority, including but not limited to, CWA Section 311(f), 33 U.S.C. § 1321(f), and/or OPA Sections 1002 and 1015, 33 U.S.C. §§ 2702 and 2715, for penalties, injunctive relief, and/or recovery of any costs incurred by the United States related to this Consent Order and not reimbursed by Respondent. Response costs shall include, but are not limited to, past costs, direct costs, indirect costs, costs of monitoring, and accrued interest as provided in CWA Section 311(f), 33 U.S.C. § 1321(f), and OPA Section 1005, 33 U.S.C. § 2705.

57. Notwithstanding any other provision of this Consent Order, at any time during the response action, EPA reserves the right to perform its own studies, complete the removal action, and seek reimbursement from Respondent for its costs, or seek any other appropriate relief. Nothing in this Consent Order shall limit the authorities of the OSC as outlined in the NCP.

58. Notwithstanding any other provision of this Consent Order, EPA and the United States reserve all rights against Respondent with respect to liability, including criminal liability, for violations of federal or state law arising from any past, present, or future discharges or substantial threat of discharge of oil or any hazardous substance at or from the Facility.

59. Nothing in this Consent Order shall preclude EPA from taking any additional enforcement actions, including modification of this Consent Order or issuance of additional orders, and/or additional response actions as EPA may deem necessary, or from requiring Respondent in the future to perform additional activities pursuant to CWA, OPA, the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), or any other applicable law.

60. If a court issues an order that invalidates any provision of this Consent Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Consent Order, Respondent shall remain bound to comply with all provisions of this Consent Order not invalidated by such court's order.

X. OTHER CLAIMS

61. By issuance of this Consent Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. Neither EPA nor the United States shall be deemed a party to any contract entered into by the Respondent's directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Consent Order.

62. Nothing in this Consent Order shall constitute a satisfaction of or discharge from any claim or cause of action against the Respondent or any person, for any liability such person may have under CWA, OPA, other statutes, or the common law, including but not limited to any

claims of the United States for penalties, costs, damages, and interest.

XI. MODIFICATIONS

63. Modifications to any plan or schedule required by this Consent Order may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within two days, provided, however, that the effective date of the modification shall be the date of the OSC's oral direction. Modifications to any portion of the Consent Order, other than plans or schedules, may only be made in writing under signature of EPA signatory below.

64. No informal advice, guidance, suggestion, or comment by EPA or IDEQ regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve Respondent of obligation to obtain such formal approval as may be required by this Consent Order, and to comply with all requirements of this Consent Order unless it is formally modified.

XII. NOTICE OF COMPLETION

65. When EPA determines, after EPA's review of Respondent's Final Report and in consultation with IDEQ, that all removal actions have been fully performed in accordance with this Consent Order, with the exception of any continuing obligations required by this Consent Order, EPA will (i) notify Respondent in writing or (ii) provide a list of the deficiencies and require that Respondent modify the Work Plan to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Consent Order.

XIII. ADDITIONAL REMOVAL ACTIONS

66. If EPA determines that additional removal actions not included in an approved plan are necessary to protect the public health or welfare of the United States, EPA will notify Respondent of that determination.

XIV. ACT OF GOD

67. Respondent agrees to perform all requirements under this Consent Order within the time limits established, unless the performance is delayed by an Act of God. For purposes of this Consent Order, an Act of God is defined as an "unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care and foresight." Thus, bad weather, such as seasonal hurricanes or earthquakes in areas where earthquakes are common, probably will not constitute an Act of God defense. The following are not recognized as an Act of God: financial inability to complete work or increased cost of performance.

68. Respondent shall notify EPA orally within 24 hours after Respondent becomes aware of

any event that Respondent contends constitutes an Act of God and in writing within 5 days after the event. Such notice shall: identify the event causing delay or anticipated delay; estimate the anticipated length of delay, including necessary demobilization and remobilization state the measures taken or to be taken to minimize the delay; and estimate the timetable for implementation of the measures. Respondent shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this Section shall be grounds for EPA to deny Respondent an extension of time for performance. Respondent shall have the burden of demonstrating that the event is an Act of God, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid or mitigate the effects of the delay.

69. If EPA determines that a delay in performance of a requirements under this Consent Order is or was attributable to an Act of God, the time period for performance of that requirements shall be extended as deemed necessary by EPA. Such an extension shall not alter Respondent's obligation to perform or complete other tasks required by the Consent Order which are not directly affected by the Act of God.

XV. EFFECTIVE DATE

70. The Effective Date of this Consent Order shall be 2 days after the Consent Order is signed by EPA.

XVI. SIGNATORIES

71. Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order, and to bind such signatory, to this document.

BY: Kenrick E. Thomas
Kenrick E. Thomas, Registered Agent
Allison Ranch Ministries Foundation, Inc.

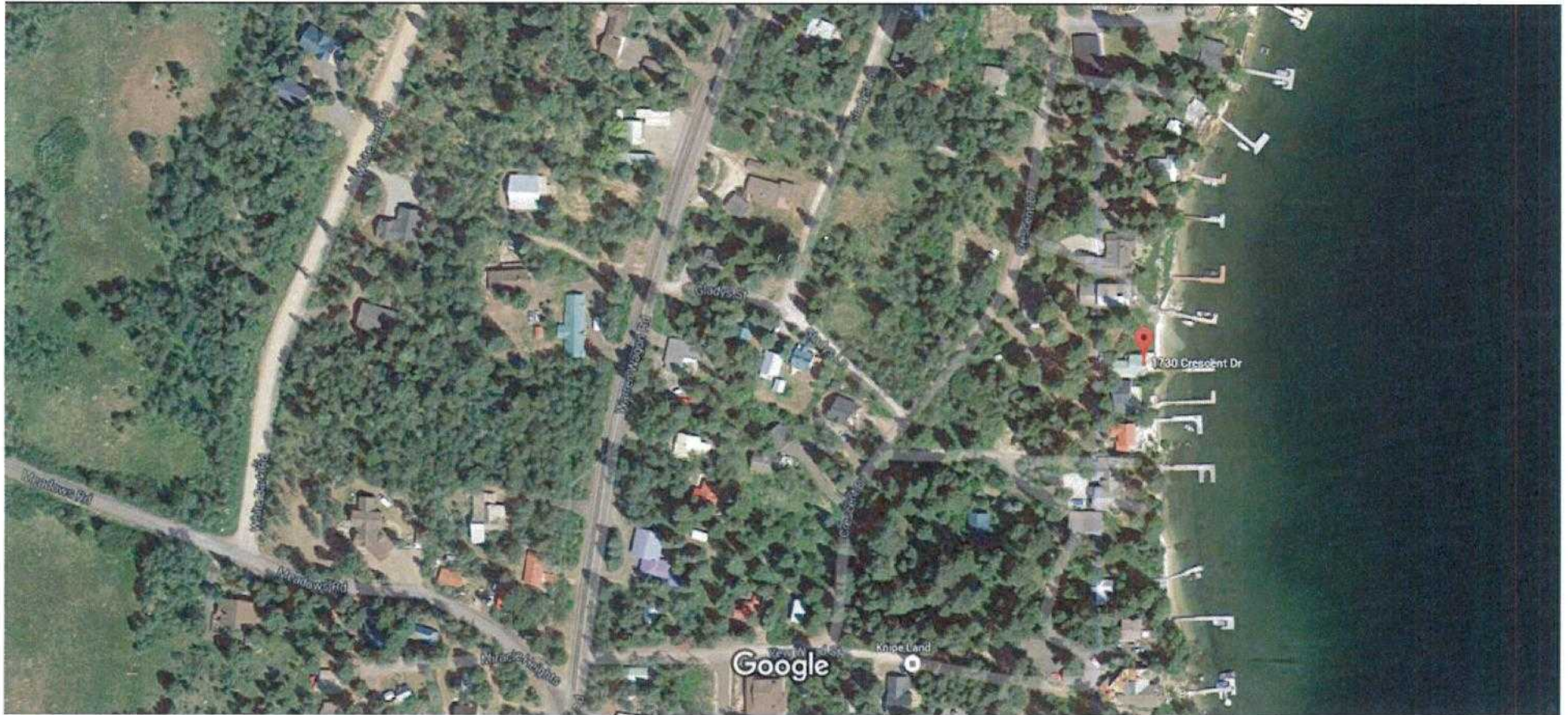
DATE: 7-12-2016

IT IS SO ORDERED.

BY: Sheryl Bilbrey
Sheryl Bilbrey, Director
Office of Environmental Cleanup
U.S. EPA Region 10

DATE: 7/14/16

APPENDIX 1



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