

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF:)	
)	
Nichelson Oil, Inc.)	Docket No. CWA-08-2004-0004
4402 15 th Avenue, NW)	
Fargo, Cass County, ND)	CONSENT AGREEMENT
)	
Respondent.)	

Complainant, United States Environmental Protection Agency Region 8 (EPA), and Respondent, Nichelson Oil, Inc., hereby consent and agree as follows.

1. On, November 17, 2003, Complainant issued to Respondent an Administrative Complaint alleging certain violations of section 311(j) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1321(j), as amended by the Oil Pollution Act of 1990.

2. This Consent Agreement shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

3. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives right to a hearing, any defenses they might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consent to the terms of this Consent Agreement.

4. Respondent, by executing this Consent Agreement, hereby certifies to EPA that

they are now in compliance with each of the relevant provisions of section 311(j) of the Act, 33 U.S.C. §1321(j).

5. Respondent consents to the payment of a civil penalty in the amount of fourteen thousand dollars (\$14,000.00).

6. Within thirty days (30) of receipt of the Final Order issued by the Regional Judicial Officer, Respondent shall pay the agreed upon civil penalty in the amount of fourteen thousand dollars (\$14,000.00) by remitting a cashier's or certified check **payable to "Oil Spill Liability Trust Fund,"** with the docket number and Respondent's name written on the check, to:

Jane Nakad (8ENF-T)
Technical Enforcement Program (8ENF-T)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

A copy of the transmittal of payment shall be sent simultaneously to the following address:

Tina Artemis	(and)	Brenda L. Morris
Regional Hearing Clerk		Enforcement Attorney
U.S. EPA, Region 8 (8RC)		U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300		999 18th Street, Suite 300
Denver, Co 80202-2466		Denver, Co 80202-2466

7. The penalty specified in Paragraph 5, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

8. Respondent further agrees and consents that if Respondent fails to pay the penalty amount within 30 days of receipt of the Final Order, interest on the penalty amount shall accrue

at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after receipt of the Final Order.

9. This Consent Agreement constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

10. Each undersigned representative of the parties to this Consent Agreement certifies that he/she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

11. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8
Office of Enforcement, Compliance
and Environmental Justice, Complainant.**

Date: 3/2/04

By: SIGNED
Elisabeth Evans
Director
Technical Enforcement Program

Date: 3/4/04

By: David J. Janik
Michael T. Risner, Director
David Janik, Supervisor
Legal Enforcement Program

Date: 2-23-04

By: SIGNED
Brenda L. Morris, Attorney
Legal Enforcement Program

NICHELSON OIL, INC., Respondent.

Date: 2-10-04

By: SIGNED, VP-OWNER
Vance R. Nicholson
(Print name of signatory)

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **NICHELSON OIL, INC., DOCKET NO.: CWA-08-2004-0004** was filed with the Regional Hearing Clerk on March 8, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda L. Morris, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on March 8, 2004, to:

Vance Nicholson
Nichelson Oil, Inc.
1902 7th Avenue
Fargo, ND 58102-3206

hand-carried to:

Judge Alfred C. Smith
Regional Judicial Office
U.S. Environmental Protection Agency Region 8
999 18th Street, Suite 300 (8RC)
Denver, CO 80202-2466

and

Commander
Finance Center (OGR)
U.S. Coast Guard
1430 A Kristina Way
Chesapeake, VA 23326

March 8, 2004

SIGNED

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON MARCH 8, 2004.**