

**PUBLIC NOTICE**  
**U. S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4**  
**ENFORCEMENT and COMPLIANCE ASSURANCE DIVISION**  
**WATER ENFORCEMENT BRANCH**  
**ATLANTA FEDERAL CENTER**  
**61 FORSYTH STREET, S.W.**  
**ATLANTA, GEORGIA 30303**

**DATE: March 12, 2020**

**Docket No.: CWA-04-2019-9963(b)**

**Notice of Proposed Issuance of Consent Agreement and Final Order**

The U.S. Environmental Protection Agency (EPA), Region 4, proposes to issue a Consent Agreement and Final Order (CAFO), Docket No. CWA-04-2019-9963(b), that assesses an administrative penalty of \$14,500 to Mr. Stanley Scheidler (Respondent), under the authority of Section 309(g)(2)(A) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(2)(A). In addition, Mr. Scheidler has proposed a Supplemental Environmental Project which entails the restoration and cattle exclusion from a tributary of Quicks Run that will significantly reduce the sediment and nutrient runoff from the farm to the Ohio River.

EPA alleges the Respondent has made unauthorized discharges of dredged and/or fill material into waters of the United States in violation of Section 301 of the Clean Water Act, 33 U.S.C. Section 1311. The Respondent's unauthorized activity impacted approximately 1,000 linear feet of a tributary to Quicks Run. Quicks Run is a tributary of the Ohio River. The Ohio River is a navigable water of the United States. The unauthorized activity is located near latitude 38.613474° N and longitude - 83.475534° W, near the town of Vanceburg, Lewis County, Kentucky.

Any person wishing to comment on any aspect of the proposed CAFO Docket No. CWA-04-2019-9963(b) must submit such comments in writing to the Regional Hearing Clerk at U.S. EPA, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia, 30303. Comments must be submitted within 30 days of the date of this notice. Please include the Public Notice Number and the Docket Number with any submitted comments.

More information about this enforcement action can be found on the EPA Region 4 Website at:  
[http://www.epa.gov/region4/water/wpeb/npdes\\_states.html](http://www.epa.gov/region4/water/wpeb/npdes_states.html).

Because this matters involves a CWA Section 309(g) proceeding that is proposed to be simultaneously commenced and settled under 40 C.F.R. § 22.13(b), this matter will not be resolved or settled until ten days after the close of the public comment period in accordance with 40 C.F.R. § 22.45 (b) and (c).

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, which apply to this matter, or comment upon the proposed penalty assessment, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the public record for this action is located in the EPA Regional Office at 61 Forsyth Street, S.W., Atlanta, Georgia, and the file will be open for public inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF:

DR. STANLEY SCHEIDLER

VANCEBURG, KENTUCKY

RESPONDENT

)  
)  
)  
) ADMINISTRATIVE  
) CONSENT AGREEMENT AND  
) FINAL PENALTY ORDER  
)  
)  
) Docket No.: CWA-04-2019-9963(b)

**CONSENT AGREEMENT**

**I. Statutory Authority**

1. This is a civil penalty proceeding under Section 309(g)(2)(A) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(2)(A), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, published at 64 Fed. Reg. 40176 (July 23, 1999), codified at 40 Code of Federal Regulations (C.F.R.) Part 22 (Part 22).

2. The authority to take action under Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), is vested in the Administrator of the United States Environmental Protection Agency (EPA). The Administrator has delegated this authority to the Regional Administrator of the EPA, Region 4, who in turn has delegated this authority to and through the Director of the Enforcement and Compliance Assurance Division of the EPA, Region 4, to the Chief of the Water Enforcement Branch of the EPA, Region 4 (Complainant).

**II. Statutory and Regulatory Background**

3. Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), states “[w]henver, on the basis of any information available - the Administrator finds that any person has violated [section 301 of the CWA, 33 U.S.C. § 1311], . . . the Administrator . . . may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under [33 U.S.C. § 1319(g)(2)].”

4. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), states “[e]xcept as in compliance with . . . [Section 404 of the CWA, 33 U.S.C. § 1314], the discharge of any [dredged or fill material] by any person shall be unlawful.” Section 404 of the CWA, 33 U.S.C. § 1344, authorizes the Secretary of the Army, acting through the Chief of Engineers, U.S. Army Corps of Engineers (COE), to issue permits for the discharge of dredged or fill material into navigable waters.

5. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines a “person” to include any “individual [and] corporation.”

6. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines a “discharge of pollutants” as “[a]ny addition of any pollutant to navigable waters from any point source....”

7. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” as “[a]ny discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit [or] discrete fissure . . . from which pollutants are or may be discharged.”

8. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “[t]he waters of the United States, including the territorial seas.”

9. Federal regulations at 40 C.F.R. § 232.2 define the term “waters of the United States” to include “wetlands,” including those that are adjacent to interstate waters.

10. Federal regulations at 40 C.F.R. § 232.2 and 33 C.F.R. § 328.3(b) define “wetlands” as “[t]hose areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”

### **III. Factual and Jurisdictional Allegations**

11. Dr. Stanley Scheidler (Respondent) was the owner of the Site at all times relevant to this Consent Agreement and Final Order.

12. Dr. Stanley Scheidler is a person within the definition set forth by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

13. The term “Discharge Area” means the jurisdictional waters that have been impacted through the discharge of dredged and/or fill material as a result of the unauthorized activities that are the subject of this enforcement action. More specifically, the Discharge Area is approximately 1,000 linear feet of a tributary impacted by Respondent.

14. The 1,000 linear feet of the tributary in the Discharge Area is a water of the United States subject to the jurisdiction of the CWA because it is an unnamed perennial tributary of Quicks Run, a tributary of the Ohio River, which is a navigable water of the United States.

15. The term “Site” means the parcel or parcels of land on which the Discharge Area is located. The Site is located near Vanceburg, Lewis County, Kentucky, at approximately latitude 38.613474° N and longitude -83.475534° W (*See Exhibits A and B, attached hereto*).

16. Commencing in approximately the years 2008 or 2009, and continuing through the year 2014, Respondent discharged dredged and/or fill material into jurisdictional waters on the Site using earth moving machinery during activities associated with the construction of a



recreational pond. To date, the unauthorized dredge and/or fill material remains in waters of the United States.

17. The parties have signed two Tolling Agreements, effective November 5, 2018, and April 5, 2019, resulting in a combined tolling of the limitations period of twelve (12) months.

18. The discharged dredged and/or fill material, including earthen material, deposited at the Discharge Area are “pollutants” as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

19. The earth moving machinery employed by Respondent to deposit the dredged and/or fill material at the Discharge Area is a “point source” as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

20. Respondent’s placement of the dredged and/or fill material at the Discharge Area constitutes a “discharge of pollutants” as defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

21. At no time during the discharge of dredged and/or fill material at the Discharge Area did Respondent possess a permit under Section 404 of the CWA, 33 U.S.C. § 1344, authorizing the activities he performed.

22. Each discharge by Respondent of pollutants into navigable waters without the required permit issued by Section 404 of the CWA, 33 U.S.C. § 1344, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

23. Each day the material discharged by Respondent remains in waters of the United States without the required permit by Section 404 of the CWA, 33 U.S.C. § 1344, constitutes a day of violation of Section 301 of the CWA, 33 U.S.C. § 1311.

#### **IV. Stipulations and Findings**

24. Complainant and Respondent have conferred for the purpose of settlement under 40 C.F.R. Part 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without gathering any evidence or testimony, making of any argument, or adjudicating any issue in this matter, and in accordance with 40 C.F.R. Part 22.13(b), this Administrative Consent Agreement and Final Penalty Order (CAFO) will simultaneously commence and conclude this matter.

25. For the purposes of this CAFO, Respondent admits the jurisdictional allegations and neither admits nor denies the factual allegations set out above.

26. Respondent hereby waives his right to contest the allegations set out above and his right to appeal the Final Order accompanying this Consent Agreement.

27. For the purpose of this proceeding, Respondent:

A. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

B. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

C. waives any rights he may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with this CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and

D. waives any right he may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO.

28. Respondent consents to the assessment of and agrees to pay the administrative penalty and the other conditions set forth in this CAFO.

29. By signing this CAFO, Respondent certifies that the information he has supplied concerning this matter was at the time of submission, and continues to be, truthful, accurate, and complete for each such submission, response and statement. Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

30. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

31. Complainant and Respondent agrees to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CWA.



## **V. Payment**

32. Under Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 19, and considering the nature of the violations, the proposed Supplemental Environmental Project (SEP) set forth in Section VI, and other relevant factors, the EPA has determined that **fourteen thousand dollars and five hundred dollars (\$14,500)** is an appropriate civil penalty to settle this action. Respondent shall submit this payment within thirty (30) calendar days after the Effective Date of this CAFO.

33. Respondent shall make the payment specified in the preceding paragraph by cashier's check, certified check, by Electronic Funds Transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Site name (Dr. Stanley Scheidler, Vanceburg, Kentucky) and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

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

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: Craig Steffen, (513) 487-2091  
REX (Remittance Express): 1-866-234-5681

34. At the time of payment, Respondent shall send a separate copy of the check, if using that payment option, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and

Mr. Joel Strange  
Water Protection Branch  
Surface Water and Groundwater Section  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

35. The penalty amount specified above shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of federal taxes.

36. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may request the Attorney General to bring a civil action in an appropriate district court to recover: (a) the amount assessed; (b) interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); (c) the United States' attorneys' fees and enforcement expenses; and (d) a 20 percent quarterly nonpayment penalty pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

37. In addition to the terms of the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

A. refer the debt to a credit reporting agency or a collection agency, pursuant to 40 C.F.R. §§ 13.13, 13.14;

B. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, pursuant to 40 C.F.R. Part 13, Subparts C and H;

C. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, pursuant to 40 C.F.R. § 13.17; and/or

D. refer the debt to the Department of Justice after having taken aggressive collection action, pursuant to 40 C.F.R. § 13.33.

#### **VI. Supplemental Environmental Project**

38. Respondent has proposed a SEP which entails the restoration of approximately 3,027 linear feet of an unnamed tributary of Quicks Run. The restoration will include bank stabilization, buffer enhancement, and cattle exclusion that will significantly reduce the sediment and nutrient runoff from the Site to the Ohio River. The proposed SEP is hereto as Exhibit C and incorporated by reference.

With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

A. that all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is \$68,100;

B. that, as of the date of executing this Decree, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

C. that the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree;

D. that Respondent has not received and will not receive credit for the SEP in any other enforcement action;



E. that Respondent will not receive reimbursement for any portion of the SEP from another person or entity; and

F. that for federal income tax purposes, Respondent agrees that he will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

39. Respondent shall undertake and complete the SEP described in Exhibit C within one (1) year of the Effective Date of this CAFO. In the event that the SEP cannot be completed within this timeframe, Respondent may request an extension from the EPA. Any extension request must be made in writing to the EPA and the decision whether to grant such request shall be in the sole discretion of the EPA.

40. Any public statement, oral or written, in print, film, or other media, made by Respondent referring to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action by the U.S. Environmental Protection Agency to enforce federal laws."

41. Respondent agrees that in order to receive credit for the SEP, he must fully and timely complete the SEP in accordance with Exhibit C. If Respondent does not fully and timely complete the SEP in accordance with Exhibit C within the timeframe provided in Paragraph 38 (provided an extension is not granted), Respondent shall be required to pay the following stipulated penalties, if assessed by the EPA:

Penalty Per Calendar Day	Period of Noncompliance
\$100	1st through 15th day
\$250	16th through 30th day
\$500	31st day and beyond

42. Respondent's first annual monitoring report shall serve as his final SEP completion report (SEP Completion Report). The SEP Completion Report shall be certified by Respondent and submitted to the EPA by December 30 of the calendar year following the Effective Date of this CAFO. The SEP Completion Report shall contain the following information and any additional information required by Exhibit C:

A. a detailed description of the SEP as implemented including photographs of the newly constructed water control features;

B. a description of any implementation problems encountered and the solutions thereto;

C. itemized costs, documented by copies of invoices, purchase orders, receipts, canceled checks, or wire transfer records that specifically identify and itemize the

individual costs associated with the SEP;

D. a certification that the SEP has been fully completed;

E. a description of the environmental and public health benefits resulting from the implementation of the SEP and an explanation of how such benefits were measured or estimated;

F. a statement that no tax returns filed or to be filed by Respondent will contain deductions or depreciations for any expense associated with the SEP; and

G. the following statement, signed by Respondent, under penalty of law, attesting that the information contained in the SEP Completion Report is true, accurate, and not misleading:

*I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.*

43. The EPA will notify Respondent in writing of receipt of the SEP Completion Report and, after review of the SEP Completion Report, notify Respondent of the following determinations:

A. the SEP Completion Report is acceptable, and the EPA has determined that Respondent has timely and fully completed the SEP in accordance with the Consent Agreement; or

B. the SEP Completion Report is deficient. The EPA will provide a written description of the deficiencies in the Report and will inform Respondent that the EPA is unable to determine if Respondent has timely and fully completed the SEP in accordance with the CAFO. Respondent will have thirty (30) calendar days from receipt of the EPA's written description to correct any deficiencies and send a revised SEP Completion Report to the EPA.

44. If a revised SEP Completion Report is necessary, the EPA will review the revised SEP Completion Report within thirty (30) calendar days of receipt and notify Respondent of the determination that the EPA has made as described in Paragraphs 42(a) or (b). If the EPA determines that the revised SEP Completion Report is not acceptable and, therefore, Respondent has not timely and fully completed the SEP, Respondent shall be required to pay the penalty set forth in Paragraph 40 until Respondent completes the SEP and obtains the EPA's approval of a new SEP Completion Report. The EPA shall review any such new SEP Completion Report under this Paragraph within thirty (30) calendar days of receipt.



45. If Respondent fails to timely submit the SEP Completion Report to the EPA, as required by Paragraph 42, or to submit a revised SEP Completion Report if required by Paragraphs 44, Respondent shall pay to the United States a stipulated penalty of One Hundred Dollars (\$100) a day until the SEP Completion Report is submitted to the EPA.

46. Respondent shall submit all other reports required by Exhibit C, including a second annual monitoring report, to the EPA in accordance with the timeframes set forth in Exhibit C, and the EPA will notify Respondent electronically of receipt of such reports. If Respondent fails to submit any such reports to the EPA in accordance with the timeframes set forth in Exhibit C, Respondent shall be required to pay stipulated penalties of One Hundred Dollars (\$100) per day until the EPA receives each report.

47. Respondent shall pay any stipulated penalties required under this Section within thirty (30) calendar days after receipt of a written demand for such penalties from the EPA. The method of payment shall be in accordance with Section V (Payment of Civil Penalty).

48. The determination as to whether Respondent has timely and fully completed the SEP and timely and fully submitted the SEP Completion Report shall be in the sole discretion of the EPA, but such determination shall not be unreasonably delayed or withheld.

49. The EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

50. The EPA may, in the unreviewable exercise of its discretion, give Respondent an extension of time to submit the SEP Completion Report and any other reports required by Exhibit C.

## **VI. General Provisions**

51. Full payment of the civil penalty, as provided in Section V above, shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. As stated in 40 C.F.R. § 22.18(c), full compliance with this CAFO, as provided in Section V above, shall only resolve Respondent's liability for federal civil penalties for the violations specifically alleged above.

52. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CWA and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

53. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.



54. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

55. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

56. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

57. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.

58. This CAFO applies to and is binding upon Respondent and his agents, trustees, servants, authorized representatives, successors, and assigns.

59. Any change in the legal status of Respondent, or change in ownership, partnership, corporate or legal status relating to the Site, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

60. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO.

61. In accordance with 40 C.F.R. Part 22.5, the individuals below are authorized to receive service relating to this proceeding.

For Complainant:

Mr. Nathan Stopper  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9581

For Respondent:

Dr. Stanley Scheidler  
5679 Kyles Lane  
Liberty Township, Ohio 45044

62. The parties acknowledge and agree that this CAFO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a consent agreement and proposed final order based on comments received during the public comment period.

63. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), Complainant represents that the State of Georgia was provided a prior opportunity to with Complainant regarding this matter.

64. This CAFO in no way affects the rights of the Complainant as against any person or entity not a party to this CAFO.

65. Effective upon signature of this CAFO by Respondent, Respondent agrees that the time period commencing on the date of his signature and ending on the date the EPA receives from Respondent the payment required by this CAFO shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in this CAFO and that, in any action brought by the EPA related to the matters addressed, Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If the EPA gives notice to Respondent that it will not make this CAFO effective, the statute of limitations shall begin to run again commencing ninety (90) calendar days after the date such notice is sent by the EPA.

66. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of this CAFO shall remain in force and shall not be affected thereby.

## **VII. Release by Respondent**

67. Respondent hereby covenants not to sue and agrees not to assert any claims or causes of action against the United States, including any department, agency or instrumentality of the United States, with respect to the matters addressed and resolved in this CAFO, including but not limited to, any claim that any of the matters or actions described in this CAFO have resulted in a taking of Respondent's property without compensation.

**VIII. Effective Date**

68. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

For RESPONDENT:

  
\_\_\_\_\_  
Dr. Stanley Scheidler

Date: 3/3/20

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

\_\_\_\_\_  
Mary Jo Bragan, Chief  
Water Protection Branch  
Enforcement and Compliance Assistance Division  
U.S. EPA Region 4

Date: \_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF:	)	
	)	ADMINISTRATIVE
DR. STANLEY SCHEIDLER	)	CONSENT AGREEMENT AND
	)	FINAL PENALTY ORDER
VANCEBURG, KENTUCKY	)	
	)	
RESPONDENT	)	Docket No.: CWA-04-2019-9963(b)
_____	)	

**FINAL ORDER**

In accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, 40 C.F.R. Part 22, and authorities delegated to me, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Under Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY:

\_\_\_\_\_  
Tanya Floyd  
Regional Judicial Officer

Date: \_\_\_\_\_