

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)
)
United American Energy, LLC)
c/o Registered Agent: CSC-Lawyers)
Incorporating Service Co.)
421 West Main Street)
Frankfort, KY 40601)
)
)
.._____ Respondent.)

CWA SECTION 311 CLASS I
CONSENT AGREEMENT AND
FINAL ORDER
UNDER 40 C.F.R. § 22.13(b)

Docket No.: CWA-04-2009-5138(b)

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This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 311(b)(6)(B)(i) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division ("Complainant").

CONSENT AGREEMENT

Stipulations

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

1. At all times relevant to the alleged violation covered by this Consent Agreement, the Respondent was United American Energy, LLC. Subsequent to the time of the alleged violation, UAE Investco 1 (Estill), LLC, a wholly-owned subsidiary of Respondent, became the owner of the Chris Tipton Lease, and along with the Respondent, does business in the Commonwealth of

Kentucky. UAE Investco 1 (Estill), LLC and Respondent are both limited liability companies formed under the laws of the State of Delaware. Both the Respondent and UAE Investco 1 (Estill), LLC are persons within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 110.1.

2. The Respondent was the owner within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 110.1 of the J. Paul and Floyd Rogers Lease, 2902 Pitts Road, a Facility for the production of crude oil located in Estill County, Kentucky near Ravenna, Kentucky, at the time of the alleged discharge at issue herein.

3. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10).

4. On May 21, 2008, there was a release of approximately 3.5 barrels of crude oil from the Facility. The release resulted from Respondent's installation of new underground gravity lines to replace the old lines that existed at the time Respondent purchased the mineral/oil lease from the prior owner. It is Respondent's belief that the line was inadvertently laid close to or against a sharp rock and became weakened during backfilling operations.

5. Rogers Fork, a tributary of Cow Creek, which is a tributary to the Kentucky River, is a navigable water as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1 and is subject to the jurisdiction of Section 311 of the Act.

6. Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

7. For purposes of Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), and pursuant to the authority provided by Section 311(b)(4), of the Act, 33 U.S.C. § 1321(b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that (1) violate applicable water quality standards or (2) cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

8. For the purposes of this Consent Agreement, Respondent admits to EPA's jurisdiction over the matters set out above, but neither admits nor denies the factual allegations or other legal conclusions set forth in this Agreement. Neither this Consent Agreement nor any part thereof, nor any entry into or performance under this Order, shall constitute or be construed as an admission or acknowledgment of liability in this proceeding or any subsequent legal action. This paragraph shall not in any way negate Respondent's admission of EPA's jurisdiction over the matters set out above to the full extent required under 40 C.F.R. Part 22.

9. Respondent admits the jurisdictional statements contained herein for the settlement of this matter only.

Allegations

Complainant alleges, and Respondent neither admits nor denies, that:

10. On May 21, 2008, Respondent discharged approximately 3.5 barrels of crude oil, as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its Facility into or upon Rogers Fork and adjoining shorelines.

11. Respondent's May 21, 2008, discharge of oil from its Facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of Rogers Fork and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R § 110.3, in violation of Section 311(b)(3) of the Act.

Waiver of Rights

12. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

13. Respondent waives any right it 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 Consent Agreement or the Final Order.

14. Nothing in this Consent Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Consent Agreement. Except as otherwise provided herein, Complainant and Respondent each expressly reserves any and all rights, defenses, claims, demands, and causes of action which it may have with respect to any matter, transaction, or occurrence relating in any way to the facts alleged in the Consent Agreement against any person not a party hereto.

Penalty

15. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$1,250.00

Payment Terms

Based on the forgoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

16. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of \$1,250.00 by means of a cashier's or certified check, or by on-line payment or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF – 311." If the Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000

If the Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx or UPS, 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
314-418-1028

Respondent may also elect the On Line Payment Option, available through the Department of Treasury. This payment option can be accessed at www.pay.gov. Enter sfo 1.1 in the search field and then open the form and complete the required fields.

Respondent may also elect to wire transfer the payment. If so, the Respondent is to direct the wire transfer 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, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

17. If paying by check, the Respondent shall note on the penalty payment check the title and docket number of this case. The Respondent shall submit a copy of the check or, in the case of an online payment, a copy of the online confirmation or, in the case of a wire transfer, a copy of the wire transfer confirmation to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA- Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

Doug McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA- Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

18. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to

Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

General Provisions

19. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

20. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

21. The undersigned representative of Respondent hereby certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and attached Final Order (CA/FO) and to execute and legally bind Respondent to this CA/FO.

22. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Michael T. Newton, Attorney
Office of Regional Counsel
U.S. EPA – Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9567

23. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is to receive service for the Respondent in this proceeding:

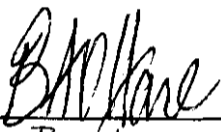
Steve N. Siegel, Esq.
Attorney at Law
Murdock Goldenberg Schneider & Groh, LPA
35 East Seventh Street, Suite 600
Cincinnati, Ohio 45202
513-345-3080

Effective Date


24. This Consent Agreement and attached Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

CONSENTED AND AGREED TO

UNITED AMERICAN ENERGY, LLC

Date: 5/26/09 
Name: Barbara O'Hare
Title: Managing Director

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 5/27/09 
Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	CWA SECTION 311 CLASS I
)	CONSENT AGREEMENT AND
United American Energy, LLC)	FINAL ORDER
c/o Registered Agent: CSC-Lawyers)	UNDER 40 C.F.R. § 22.13(b)
Incorporating Service Co.)	
421 West Main Street)	
Frankfort, KY 40601)	
)	
_____ Respondent.)	Docket No.: CWA-04-2009-5138(b)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with 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. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 28th day of May, 2009.

BY: Susan B. Schub
Susan Schub
Regional Judicial Officer

In the Matter of United American Energy, LLC
Docket Number: CWA-04-2009-5138(b)

CERTIFICATE OF SERVICE

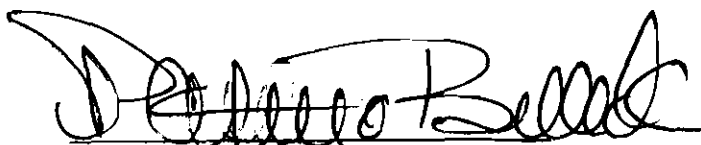
I hereby certify that on MAY 29 2009, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of United American Energy, LLC, Docket Number: CWA-04-2009-5138(b), and that on MAY 29 2009, I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Via Certified Mail - Return Receipt Requested

Steve N. Siegel, Esq.
Attorney at Law
Murdock Goldenberg Schneider & Groh, LPA
35 East Seventh Street, Suite 600
Cincinnati, Ohio 45202

Via EPA's internal mail

Michael T. Newton
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511