



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 07 2008

VIA CERTIFIED MAIL

Mr. J. Mark Hart
Haskell Slaughter Young & Rediker, LLC
1400 Park Place Tower
2001 Park Place North
Birmingham, Alabama 35203

RE: Consent Agreement and Final Order for Southern Class Trucking, Inc.
Docket Number CWA-04-2007-5188

Dear Mr. Hart:

Please find enclosed a copy of the final, file-stamped Consent Agreement and Final Order memorializing the settlement reached between the U.S. Environmental Protection Agency and Southern Class Trucking, Inc. regarding violations of the Clean Water Act, as amended by the Oil Pollution Act (OPA).

Thank you for your assistance and cooperation in this matter. If you have any questions, please call me at 404-562-9685.

Sincerely,

A handwritten signature in cursive script that reads "Colleen E. Michuda".

Colleen E. Michuda
Associate Regional Counsel

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF

Southern Class Trucking, Inc.
1997 Highway 341 S.
Yatesville, GA 31097

Respondent.

CWA SECTION 311 CLASS II
CONSENT AGREEMENT
AND FINAL ORDER

Docket No. CWA-04-2007-5188

HEARING CLERK

2008 MAR -7 AM 10:14

RECEIVED
EPA REGION IV

CONSENT AGREEMENT

Stipulations

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

1. Southern Class Trucking, Inc. ("Respondent") is a corporation organized under the laws of Georgia with a place of business located at 1997 Highway 341 S., Yatesville, Georgia. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the Clean Water Act ("Act"), 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 110.1.
2. Respondent was the owner and operator 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 a tanker truck ("the facility") that was involved in a single vehicle traffic accident at or about the intersection of Wallace Avenue and 5th Street NE in Fort Payne, DeKalb County, Alabama, on or about September 13, 2002.
3. On September 10, 2007, the United States Environmental Protection Agency, Region 4 ("Complainant") issued an Administrative Complaint pursuant to Section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), Docket No. CWA-04-2007-5188, alleging that

Respondent was in violation of Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), and proposing a civil penalty of up to \$137,500. Complainant particularly alleged and Respondent stipulates that:

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

b. Hawkins Spring Creek, which flows to the Coosa River, is a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, subject to the jurisdiction of Section 311 of the Act.

c. 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.

d. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (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.

e. On September 13, 2002, Respondent discharged approximately 5,200 gallons (124 barrels) of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), from its facility into or upon Hawkins Spring Creek and its adjoining shorelines.

f. Respondent's September 13, 2002, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Hawkins Spring Creek and a sludge or emulsion to be deposited beneath the surface of Hawkins Spring Creek, 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

4. Respondent waives the right to a hearing under Section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), to appeal any Final Order in this matter under Section 311(b)(6)(G)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(G)(ii), and consents to the issuance of a Final Order without further adjudication.

5. 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.

Penalty

6. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of twenty-six thousand, five hundred dollars (\$26,500.00).

Payment Terms

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

7. No later than 30 days after the effective date of the Final Order, Respondent shall pay the amount of \$26,500.00 by means of a cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, Respondent shall submit a cashier's or certified check, payable to the "Environmental Protection Agency," and bearing the notation "OSLTF - 311." 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, MO 63197-9000

If Respondent sends payment by a private delivery service, the payment shall be addressed to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

If paying by EFT, Respondent shall transfer \$26,500.00 to:

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."

8. If paying by check, Respondent shall note on the penalty payment check the title and docket number of this case. Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following people:

Ms. Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 4
Atlanta Federal Center
61 Forsyth St., S.W.
Atlanta, GA 30303-8960

Mr. Frank Ney, Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth St., S.W.
Atlanta, GA 30303-8960

9. 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

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

11. 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 in the Administrative Complaint.

12. 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 and to execute and legally bind Respondent to this Consent Agreement and attached Final Order.

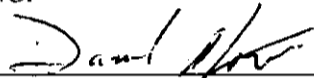
Effective Date

13. This Consent Agreement and Final Order are effective upon their filing with the Regional Hearing Clerk.

In the matter of Southern Class Trucking, Inc., Docket No. CWA-04-2007-5188:

SOUTHERN CLASS TRUCKING, INC.

Date: 2-18-2008



Mr. Daniel C. Moxon
President, Southern Class Trucking, Inc.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3/5/2008



G. Alan Farmer
Division Director
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF

Southern Class Trucking, Inc.
1997 Highway 341 S.
Yatesville, GA 31097

Respondent

**CWA SECTION 311 CLASS II
CONSENT AGREEMENT
AND FINAL ORDER**

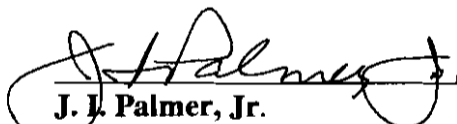
Docket No. CWA-04-2007-5188

FINAL ORDER

Pursuant to Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 1321(b)(6), and the delegated authority of the undersigned, and 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," codified at 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties are adopted as Findings in this Final Order.

The Respondent is order to comply with the terms of the Consent Agreement.

Date: MAR - 5 2008


J. I. Palmer, Jr.
Regional Administrator

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Foregoing
Consent Agreement and Final Order, in the Matter of Southern Class Trucking, Inc., Docket No.
CWA-04-2007-5188 on the parties listed below in the manner indicated:

Colleen Michuda
Office of Environmental Accountability
U.S. Environmental Protection Agency – Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

(Via EPA Internal Mail)

Mr. J. Mark Hart
Haskell Slaughter Young & Rediker, LLC
1400 Park Place Tower
2001 Park Place North
Birmingham, Alabama 35203

(Via Certified Mail,
Return Receipt Requested)

Frank Ney, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency – Region 4
61 Forsyth Street, S.W.
Atlanta GA 30303-8960

(Via EPA Internal Mail)

Dated this 7 day of march, 2008.



Ms. Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303