



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 06 2012

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Kevan Stanley  
President  
IND-Oil, Inc.  
P.O. Box 843  
Waynesboro, Mississippi 39367

Re: IND-Oil, Inc. Consent Agreement and Final Order (CA/FO)  
Docket Number: CWA-04-2012-5133(b)

Dear Mr. Stanley:

A copy of the executed Consent Agreement and Final Order (CA/FO) filed with the Regional Hearing Clerk (RHC) in the above-referenced matter is enclosed. The CA/FO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts IND-Oil, Inc. on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-8530.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Busó".

Roberto X. Busó  
Assistant Regional Counsel  
Office of Environmental Accountability

Enclosures

cc: James I. Palmer, Jr.  
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC  
1200 Jefferson Avenue, Suite 205  
Oxford, Mississippi 38655

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
IND-Oil, Inc.	)	FINAL ORDER
713 ½ Court Street	)	UNDER 40 C.F.R. § 22.13(b)
Waynesboro, Mississippi 39367	)	
	)	
Respondent	)	Docket No. CWA-04-2012-5133

**RECEIVED  
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HEARING CLERK**

**I. LEGAL AUTHORITY**

1. 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 (“CWA”), 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 the 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”).

**II. CONSENT AGREEMENT**

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (“CAFO”), and Respondent hereby agrees to comply with the terms of this CAFO. For purposes of this CAFO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

### III. STIPULATIONS

3. Respondent, IND-Oil, Inc., is a corporation organized under the laws of the State of Mississippi. Respondent is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. Respondent is the “owner” and “operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a petroleum product storage facility located at 713 ½ Court Street, Waynesboro, Mississippi (the “Facility”). The Facility includes storage tanks with a total capacity of approximately 200,000 gallons of “oil” (lube oils, diesel fuel, and other oil products), as that term is defined in Section 311(a)(1) of the CWA, 42 U.S.C. § 1321(a)(1).

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

6. Pursuant to 40 C.F.R. § 112.1, the Spill Prevention Control and Countermeasures (“SPCC”) regulations contained in 40 C.F.R. Part 112 apply to each owner and operator of a non-transportation-related onshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as may be harmful, as described in 40 C.F.R. § 110.3 (“harmful quantity”).

7. A drainage ditch is located within the property boundary of the Facility. This ditch flows into an unnamed tributary of Jones Branch, which then flows into Jones Branch. Jones Branch is a tributary of the Chickasawhay River. This drainage ditch is a navigable water as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2 and is therefore subject to the jurisdiction of Section 311 of the CWA, 33 U.S.C. § 1321.

8. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil or oil products located at the Facility.

9. The Facility has an aggregate above ground storage capacity greater than 1,320 gallons of oil in containers, each with a capacity of at least 55 gallons and therefore, does not qualify for the exemption under 40 C.F.R. § 112.1(d)(2).

10. The Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2, as described in 40 C.F.R. Part 112, Appendix A.

11. The Facility is therefore a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity and is, as such, an SPCC-regulated facility.

12. Pursuant to 40 C.F.R. § 112.3, the owner or operator of an SPCC-regulated facility must prepare in writing and implement an SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.

13. Respondent shut-down its business operations and removed all oil from the facility effective August 15, 2011.

#### **IV. ALLEGATIONS**

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

14. On January 21, 2009, an inspection was conducted by the EPA at Respondent's Facility to determine compliance with SPCC regulations. The EPA found the following violations of the SPCC regulations at the time of the inspection:

- a. Respondent failed to prepare a written SPCC Plan for the Facility, as required by 40 C.F.R. § 112.3(a).
- b. Respondent failed to restrain the drainage from the diked storage areas, as required by 40 C.F.R. § 112.8(b)(1), (b)(2), and (c)(3)(i).
- c. Respondent failed to inspect drainage from diked areas or retained rainwater for the presence of oil and failed to maintain records of drainage events, as required by 40 C.F.R. § 112.8(b)(2), and (c)(3)(ii), (iii) and (iv).

- d. Respondent failed to provide appropriate secondary containment to prevent a discharge, as required by 40 C.F.R. § 112.7(c), and failed to design appropriate drainage controls from undiked areas, as required by 40 C.F.R. § 112.8(b)(3).
- e. Respondent failed to provide sufficiently impervious secondary containment so as to contain any discharged oil, as required by 40 C.F.R. § 112.8(c)(2) and (c)(11).
- f. Respondent failed to test and inspect aboveground containers regularly and maintain records of such inspections, as required by 40 C.F.R. §§ 112.7(e) and 112.8(c)(6).
- g. Respondent failed to adequately observe the facility's effluent treatment system to detect possible system upsets that could cause a discharge, as required by 40 C.F.R. § 112.8(c)(9).
- h. Respondent failed to promptly remove accumulations of oil in the diked areas and promptly correct visible leaks of oil, as required by 40 C.F.R. § 112.8(c)(10).
- i. Respondent failed to cap or blank-flange all terminal connections at transfer points, as required by 40 C.F.R. § 112.8(d)(2).
- j. Respondent failed to regularly inspect and maintain records of aboveground valve, piping, and similar equipment inspections, as required by 40 C.F.R. §§ 112.7(e) and 112.8(d)(4).
- k. Respondent failed to warn vehicles entering the facility to ensure that no vehicle endangers aboveground piping and other oil transfer operations, as required by 40 C.F.R. § 112.8(d)(5).

15. The EPA therefore alleges that Respondent violated the regulatory requirements cited in Paragraphs 14.a. through 14.k. above, and is therefore in violation of 40 C.F.R. § 112.3.

#### **V. WAIVER OF RIGHTS**

16. Solely for the purpose of this CAFO, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i),

and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

## **VI. PENALTY**

17. Respondent consents to the payment of a civil penalty of One Thousand Five Hundred Dollars (\$1,500).

18. By executing this CAFO, Respondent certifies that all violations alleged herein have been corrected.

## **VII. PAYMENT TERMS**

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

19. No later than thirty (30) days after the effective date of the Final Order, Respondent shall pay the penalty by means of a corporate cashier's or certified check, by electronic funds transfer ("EFT"), or on-line. If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency." The check shall bear the notation "OSLTF – 311," along with the title and docket number of this case.

If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

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

If 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

If Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York:

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"

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](http://www.pay.gov). Enter "sfo 1.1" in the search field and then open the form and complete the required fields.

20. Respondent shall submit copies of the check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line 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

and to:

Larry Lamberth, Chief  
South 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

21. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

22. 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 CWA, 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.

#### **VIII. GENERAL PROVISIONS**

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

24. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 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 CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein. Except as otherwise set forth herein, compliance with this CAFO shall resolve the allegations of violations contained herein.



25. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

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

Roberto Busó  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-8530  
[buso.roberto@epa.gov](mailto:buso.roberto@epa.gov)

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

James I. Palmer, Jr.  
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC  
1200 Jefferson Avenue, Suite 205  
Oxford, Mississippi 38655  
901-680-7350  
[Jimmy.Palmer@butlersnow.com](mailto:Jimmy.Palmer@butlersnow.com)

28 (R/S)

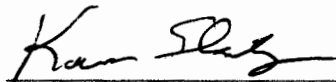
**IX. EFFECTIVE DATE**

~~X~~. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

**CONSENTED AND AGREED TO:**

By: IND-OIL, INC.

Date: 8-22-12



\_\_\_\_\_  
Kevan Stanley  
President

By: U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/4/12



\_\_\_\_\_  
César A. Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

X 9 (R/S)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
IND-Oil, Inc.	)	FINAL ORDER
713 ½ Court Street	)	UNDER 40 C.F.R. § 22.13(b)
Waynesboro, Mississippi 39367	)	
	)	
Respondent	)	Docket No. CWA-04-2012-5133(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 6 day of September, 2012.

BY: Susan B. Schub  
Susan Schub  
Regional Judicial Officer

## 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 IND-Oil, Inc., Docket No. CWA-04-2012-5133(b), on the parties listed below in the manner indicated:

Roberto Busó (Via EPA's internal mail)  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency Region 4  
Atlanta, Georgia 30303

Quantindra Smith (Via EPA's internal mail)  
RCRA & OPA Enforcement and Compliance Branch  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

James I. Palmer, Jr. (Via Certified Mail)  
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC  
1200 Jefferson Avenue, Suite 205  
Oxford, Mississippi 38655

Kevan Stanley (Via Certified Mail)  
President  
IND-Oil, Inc.  
P.O. Box 843  
Waynesboro, Mississippi 39367

Dated this 6 day of September, 2012.



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