



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

Gulf Oil Limited Partnership
Attn: Lyn Lustig, Esq.
100 Crossing Blvd.
Framington, MA 01702

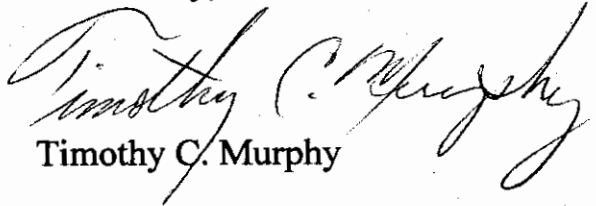
January 4, 2013

Subject: Gulf Oil, Docket No., CWA 02-2011-3810

Dear Ms. ~~Lyn~~ Lustig:

Enclosed herewith is the Consent Agreement/Final Order (CAFO) for the subject case. Payment of the penalty will be due thirty (30) days after receipt. Please contact me at (212) 637-3236 if you have any questions with respect to this document. Thank you.

Yours truly,


Timothy C. Murphy

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
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REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

**Gulf Oil
Limited Partnership**

100 Crossing Blvd.
Framingham, MA 01702

Respondent.

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

Docket No. CWA-02-2011-3810

2013 JAN - 8 P 2:48
REGIONAL HEARING
CLERK

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II

CONSENT AGREEMENT

Stipulations

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

1. Section 311(j)(1)(C) of the Clean Water Act (the "Act"), 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from onshore . . . facilities, and to contain such discharges"

2. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.

3. EPA subsequently promulgated the SPCC regulations pursuant to these delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, which established certain procedures, methods and requirements incumbent upon each

owner and operator of a non-transportation-related onshore facility 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 EPA has determined in 40 CFR § 110.3 may be harmful to the public health or welfare or the environment of the United States ("harmful quantity").

4. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

5. Respondent is a limited partnership with a place of business located at 100 Crossing Blvd, Framingham, MA 01702. Respondent is a person 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 CFR § 112.2.

6. Respondent is the owner and operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 CFR § 112.2 of an onshore oil storage facility, located at 2600 Marshes Dock Rd, Linden, New Jersey ("the Facility"), located near the Rahway River and Arthur Kill.

7. Respondent is engaged in drilling, transferring, distributing, or using oil, or consuming oil products located at the Facility.

8. The Facility is a "non-transportation-related facility" within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

9. The Facility is an "onshore facility" within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and 40 CFR § 112.2.

10. 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 (as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 CFR §§ 110.1 and 112.2) or its adjoining shorelines in a harmful quantity ("an SPCC-regulated facility"). Rahway River and Arthur Kill are navigable waters of the United States within the meaning of 40 CFR § 112.2 and Section 502(7) of the Act, 33 U.S.C. § 1362(7).

11. Pursuant to Section 311(j)(1)(C) of the Act, 40 CFR § 112.1 and E.O. 12777, Respondent, as the owner and operator of an SPCC-regulated facility, is subject to the SPCC regulations.

12. On September 30, 2011, the Director of the Emergency and Remedial Response Division ("ERRD") of EPA Region 2 ("Complainant") issued an Administrative Complaint pursuant to Section 311(b)(6)(B)(ii) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(ii), Docket No. CWA-02-2011-3810, alleging that the Respondent was in violation of the SPCC regulations and proposing a civil penalty of \$158,400. Complainant particularly alleged that:

- A) The Respondent's failure to include logs of drills/exercises and training sessions with the response plan for its Facility, as required by 40 CFR § 112.20(h)(8), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.
- B) The Respondent's failure to develop and implement a facility response training program, as required by 40 CFR § 112.21(b), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

- C) The Respondent's failure to develop a program of facility response drills/exercises, including evaluation procedures, as required by 40 CFR §112.21(c), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.
- D) The Respondent's failure to provide a means to deploy 1,000 feet of containment boom within a one hour period as required by Appendix E Section 3.0 of 40 CFR Part 122, as required by 40 CFR §112.20(h)(3), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4 (Table 1), the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

Waiver of Rights

13. The Respondent waives the right to appeal any Final Order in this matter pursuant to Section 311(b)(6)(G)(ii) of the Act, 33 U.S.C. §1321(b)(6)(G)(ii), and without admitting or denying the factual allegations contained in the Complaint and herein and consents to the terms of this Consent Agreement and the issuance of a Final Order without further adjudication.

Jurisdiction

14. For the purpose of this proceeding, Respondent a) admits the jurisdictional allegations of the Complaint as applied to the facility; and b) neither admits nor denies the specific factual allegations contained in the Complaint and Stipulations contained herein.

Penalty

15. Respondent consents, for the purposes of settlement, to the assessment of a civil penalty of \$80,000 (eighty thousand dollars).

Payment Terms

Respondent shall pay, by cashiers or certified check, a civil penalty in the amount of eighty thousand dollars (\$80,000), payable to the "Treasurer of the United States of America".

The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. The checks shall be mailed to:

U.S. Environmental Protection Agency
PO Box 979077
St Louis MO 63197-9000

16. The Respondent shall send copies of each check to the following recipients:

Timothy C. Murphy, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 2
290 Broadway - 16th Floor
New York, New York 10007

and

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 2
290 Broadway - 16th Floor
New York, New York 10007

Payment must be received at the above address on or before 45 calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date").

17. Failure by the Respondent 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 total amount of 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.

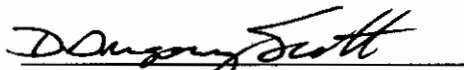
General Provisions

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

19. 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 total penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the Administrative Complaint.

Gulf Oil L.P.

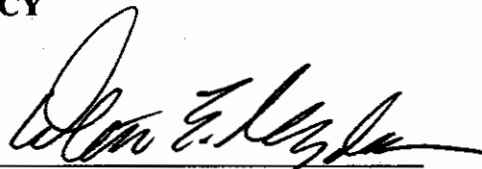
Date: 10/23/12



Raymond F. Leather
Vice President of Environmental Affairs
Senior VP. Terminal Operations
D. Gregory Scott

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 12/7/2012



Walter E. Mugdan, Director
Emergency and
Remedial Response Division

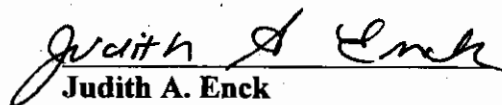
FINAL ORDER

Pursuant to Section 311(b)(6) of the 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 CFR Part 22, the forgoing 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 ordered to comply with the terms of the Consent Agreement.

Date:

12/13/12



Judith A. Enck
Regional Administrator

ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

**Gulf Oil
Limited Partnership**

100 Crossing Blvd.
Framingham, MA 01702

Respondent.

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

Docket No. CWA-02-2011-3810

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket-number, in the following manner to the respective addresses below:

Original and One Copy By Hand:

U.S. Environmental Protection Agency - Region II
290 Broadway, 17th Floor, Office of Regional Hearing Clerk
New York, N.Y. 10007-1866

Copy by Certified Mail, Return Receipt Requested:

Gulf Oil L.P.
Attn: Mr. Raymond F. Leather
100 Crossing Blvd
Framingham, MA 01702

Date: 1/8/13

Ana Modera
(Signature)