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REGION 6

REGIONAL HEARING CLERK  
EPA REGION VI

IN THE MATTER OF

**Hilcorp Energy Company**  
**Terrebonne Bay**  
**Area Shore**  
**Terrebonne Parish, LA**  
Respondent.

**CWA SECTION 311 CLASS I**  
**CONSENT AGREEMENT**  
**AND FINAL ORDER**  
**UNDER 40 CFR § 22.13(b)**

Docket No. CWA-06-2014-4811

**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 ("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 CFR §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6, who has in turn delegated them to the Director of the Superfund Division of EPA, Region 6, who has, by his concurrence, re-delegated the authority to act as Complainant to the Associate Director Prevention and Response Branch in Region 6, Delegation No. R6-2-51, dated February 13, 2008 ("Complainant").

**CONSENT AGREEMENT**

**SPCC Stipulations**

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

2. Section 311(j)(1)(C) of 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 . . . ."

3. 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.

4. EPA promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 *et seq.*, which established certain procedures, methods and other requirements 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").

5. 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.

6. Respondent is a Corporation conducting business in the State of Oklahoma with a place of business located at 1201 Louisiana St. Ste 1400 Houston, TX 77002. 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.

7. Respondent is the owner 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 production facility, the Terrebonne Bay Area Shorebase, which is located in Terrebonne Parish, Louisiana (“the facility”). Drainage from the facility flows, to Cocodrie Bayou to the Cocodrie Bay.

8. The facility has an aggregate above-ground storage capacity of greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons.

9. The Cocodrie Bay is a navigable waters of the United States as defined in Section 502(7) of the Act, 33 U.S.C. §1362(7), 40 CFR §110.1 and 40 CFR §112.2.

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

11. 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.

12. 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.

13. 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 (“an SPCC-regulated facility”).

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

15. The facility began operating prior to August 16, 2002. According to information

provided, the facility began operating in the early 1950s.

### SPCC Allegations

16. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing, and implement that plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

17. On November 6, 2013, EPA inspected the facility and found that Respondent had failed to fully implement its SPCC plan for the facility. Respondent failed to fully implement such an SPCC plan for the facility as follows:

- a. Facility failed to review and evaluate the plan completion at least once every 5 years. Specifically, the plan did not include documentation of when the review took place thus not in accordance with 40 CFR § 112.5(b).
- b. Facility failed to include in plan discharge prevention measures, including procedure for routine handling of products. Specifically, there are no transfer procedures located in the plan and therefore not in accordance with 40 CFR § 112.7(a)(3)(ii).
- c. Facility failed to include in plan discharge or drainage controls such as secondary containment around containers and other structures, equipment and procedures for the control of a discharge. Specifically, the plan does not accurately describe the facility's drainage layout and procedure in accordance with 40 CFR § 112.7(a)(3)(iii).
- d. Facility failed to include in plan and implement containment and/or diversionary structures or equipment to prevent a discharge. Specifically, the plan does not include a discussion on the required containment for the two transfer areas and did not ensure that gaps in the joints of the whiskey slab were repaired and therefore not in accordance with 40 CFR § 112.7(c).
- e. Facility failed to conduct inspections and tests in accordance with written procedure that you or certifying engineer developed for the facility. Written procedures and a record of the inspections and tests, signed by the appropriate supervisor or inspector with the SPCC Plan for a period of three years. Records of inspections and test kept under usual and

customary business practices. Specifically, the facility did not conduct monthly written inspections as required in their SPCC plan and therefore not in accordance with 40 CFR § 112.7(e).

- f. Facility failed to provide a discussion in plan describing security and control access to the oil handling process and storage areas. Specifically, the plan does not discuss the security measures that the facility has in place and therefore not in accordance with 40 CFR § 112.7(g).
- g. Facility failed to provide a discussion in plan for Brittle Fracture evaluation of field-constructed aboveground containers in accordance with 40 CFR § 112.7(i).
- h. Facility failed to adequately discuss in plan the conformance with applicable more stringent State rules, regulations, and guidelines and other effective discharge prevention and containment procedures in accordance with 40 CFR § 112.7(j).
- i. Facility failed to include in plan drainage from diked storage areas by valves to prevent a discharge into the drainage system or facility effluent treatment system, except where facility systems are designed to control such discharge. The facility failed to accurately describe the facility's drainage operation. Specifically, the facility did not describe in plan that the facilities actually drains the sump via vacuum track when the sump is observed to be full and therefore not in accordance with 40 CFR § 112.8(b)(1).
- j. Facility failed to discuss in plan inspection for each aboveground container for integrity on a regular schedule and whenever materials repairs are made. The facility must determine in accordance with industry standards, the appropriate qualifications for personnel performance test and inspections, the frequency and type of testing and inspections which take into account container size configuration and design. Specifically, the facility failed to discuss the standard used or type of tests that should be conducted and therefore not in accordance with 40 CFR § 112.8(c)(6).
- k. Facility failed to address in plan each container installation in accordance with good engineering practice to avoid discharges. Specifically, the plan did not discuss the procedure for checking the liquid level of tanks and therefore not in accordance with 40 CFR § 112.8(c)(8).
- l. Facility failed to discuss in plan a detail description of prompt handling of visible discharges which result in a loss of oil from the container and other

pertinent parts (seams, gaskets piping, pumps, valves, rivets, and bolts), as well as incorporating a discussion in plan on oil removal from dike areas in accordance with 40 CFR § 112.8(c)(10).

- m. Facility failed to discuss in plan cap or blank-flange the terminal connection at the transfer point and mark it as to the origin when piping is not in service/standby in accordance with 40 CFR § 112.8(d)(2).
- n. Facility failed to discuss in plan details on compliance for regular inspections of all aboveground valves, piping and appurtenances. Specifically, the plan failed to include discussion on inspection of the general conditions of flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces and therefore not in accordance with 40 CFR § 112.8(d)(4).

#### **Spill Stipulations**

18. Section 311(b)(3) of the Act prohibits the discharge of oil or a hazardous substance 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.

19. 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 CFR §110.3 to include discharges of oil that violate applicable water quality standards or 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.

#### **Spill Allegations**

20. On October 31, 2013, Respondent discharged approximately 99 barrels of diesel as

defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 CFR §110.1, from its facility into or upon Little Cocodrie Bayou to Terrebonne Bay thence; the Gulf of Mexico and its adjoining shorelines.

21. Respondent's October 31, 2013, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Cocodrie Bayou and the Gulf of Mexico, and therefore, was in a quantity that has been determined may be harmful under 40 CFR §110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.

22. Respondent's October 31, 2013, discharge of oil from its facility into or upon Cocodrie Bayou and the Gulf of Mexico and adjoining shorelines in a quantity that has been determined may be harmful under 40 CFR §110.3, violated Section 311(b)(3) of the Act.

#### **Waiver of Rights**

23. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. Respondent waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act, 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 Act, 33 U.S.C. §1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

#### **Penalty**

24. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$29,860.00**.

#### **Payment Terms**

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

25. The Respondent shall submit this Consent Agreement and Final Order, with original signature to:

OPA Enforcement Coordinator  
U. S. Environmental Protection Agency  
Region 6 (6SF-PC)  
1445 Ross Avenue  
Dallas, Texas 75202-2733.

26. The Respondent shall pay to the United States a civil penalty in the amount of **\$29,860.00**, to settle the violations as alleged in the CAFO, in accordance with 40 C.F.R. 22.18

(c). Payment must be made within thirty (30) days after the effective date of this CAFO, by means of a cashier's or certified check, or by electronic funds transfer (EFT).

- **Penalty Payment:** If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "**OSTLF-311**" and docket number **CWA-06-2014-4811**. If you use the U.S. Postal Service, address the payment to:

**U.S. Environmental Protection Agency, Fines & Penalties  
P.O. Box 979077, St. Louis, MO 63197-9000**

- If you use a private delivery service, address the payment to:

U.S. Bank  
Government Lockbox 979077 US EPA Fines & Penalties  
1005 Convention Plaza, Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
314-418-1028

- The Respondent shall submit copies of the check to the OPA Enforcement Coordinator, at the address above as well as:

Lorena Vaughn  
Regional Hearing Clerk (6RC)  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue



Dallas, TX 75202-2733

27. Failure by the Respondent to pay any portion of the penalty assessed by the Final Order in 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.

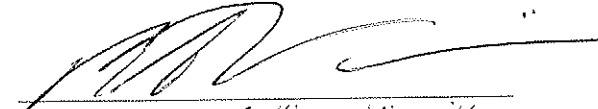
#### **General Provisions**

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

29. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §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.

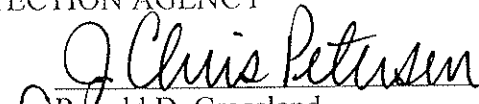
Hilcorp Energy Company

Date: 7-21-14

  
~~Cory Johnson~~ Matthew Vicenik  
Vice President Environmental Manager

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 7/29/14

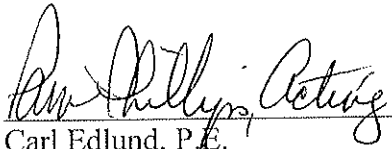
  
for Ronald D. Crossland  
Associate Director  
Prevention & Response Branch  
Superfund Division

**FINAL ORDER**

Pursuant to Section 311(b)(6) of the Act, 33 USC §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 and Allegations by the Complainant are adopted as Findings in this Final Order.

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

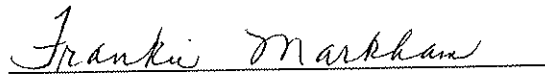
Date: 8/11/14

  
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Carl Edlund, P.E.  
Director  
Superfund Division

**CERTIFICATE OF SERVICE**

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on 8-4, 2014, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

NAME: Cory Johnson  
ADDRESS: P. O. Box 61229  
Houston, Texas 77208-1229

  
Frankie Markham  
OPA Enforcement Administrative Assistant