

2016 SEP 27 PM 2: 26

REGION 6

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF

**Coffeyville Resources Crude
Transportation, LLC
Osage Station
Osage County, OK**

Respondent.

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

Docket No. CWA-06-2016-4815

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 of the Emergency Management 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 USC § 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 or offshore vessels and from onshore or offshore 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 and offshore 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 or off-shore 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 USC § 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 firm conducting business in the State of Oklahoma, with a place of

business located at 411 N.E. Washington Boulevard, Bartlesville, OK 74006, and 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 USC § 1321(a)(6), and 40 CFR § 112.2 of a bulk storage facility, the Osage Station, located in Osage County, Oklahoma ("the facility"). The approximate coordinates of the facility are 36.36590° N and -96.22259° W. Drainage from the facility travels to a tributary, then to Eagle Creek; thence to Skiatook Lake.

8. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons. Facility capacity is approximately 840,000 gallons.

9. Skiatook Lake is a navigable water of the United States within the meaning of 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 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").

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

13. The facility began operating before August 16, 2002.

SPCC Allegations

14. 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.

15. On August 26, 2015 EPA inspected the facility and found that Respondent had failed to develop and implement an SPCC plan for the facility as follows:

- a. Respondent failed to discuss in plan a complete description of the physical layout of the facility and include an accurate diagram in accordance with 40 CFR § 112.7(a)(3).
- b. Respondent failed to adequately discuss in plan for each fixed container, the type of oil and storage capacity in accordance with 40 CFR § 112.7(a)(3)(ii).
- c. Respondent failed to implement in field discharge or drainage controls, such as secondary containment around containers, and other structures, equipment, and procedures for the control of a discharge in accordance with 40 CFR § 112.7(a)(3)(iii).
- d. Respondent failed to discuss in plan countermeasures for discharge discovery, response, and cleanup for both facility and contractor resources in accordance with 40 CFR § 112.7(a)(3)(iv).
- e. Respondent's plan failed provide an adequate contact list and phone numbers for cleanup and response contractors who must be contacted in the case of a discharge in accordance with 40 CFR § 112.7(a)(3)(vi).
- f. Respondent failed to discuss in the plan appropriate containment and or diversionary structures or equipment to prevent a discharge. The entire containment system are constructed to prevent escape of discharge from the containment system in accordance with 40 CFR § 112.7(c).
- g. Respondent failed to discuss in plan record of inspections or test which are signed by supervisor or inspector and kept with plan for at least 3 years in accordance with 40 CFR § 112.7(e).

- h. Respondent failed to discuss in plan and implement in the field brittle fracture evaluation of field constructed aboveground containers is conducted after tank repair, alteration, reconstruction, or change in service that might affect the risk of a discharge or after a discharge failure due to brittle fracture in accordance with 40 CFR § 112.7(i).
- i. Respondent failed to discuss in plan and implement in the field inspections or monitoring program to detect equipment failure and/or a discharge is established and documented for qualified oil-filled operational equipment and the facility failed to have a contingency plan and written commitment of man of manpower in accordance with 40 CFR § 112.7(k).
- j. Respondent failed to discuss in plan the construction of all bulk storage tank installations with secondary containment to hold capacity of largest container and sufficient freeboard for precipitation in accordance with 40 CFR § 112.8(c)(2).
- k. Respondent failed to implement at facility diked areas that sufficiently impervious to contain discharged oil in accordance with 40 CFR § 112.8(c)(2).
- l. Respondent failed to test or inspect aboveground containers for integrity on a regular schedule and whenever material repairs are made, and to maintain records of all inspections and test in accordance with 40 CFR § 112.8(c)(6).
- m. Respondent failed to discuss in plan buried piping exposed for any reason is inspected for deterioration; corrosion damage is examined; and corrective action is taken in accordance with 40 CFR § 112.8(d)(1).
- n. Respondent failed to inspect aboveground valves, piping and appurtenances are inspected regularly to assess their general condition in accordance with 40 CFR § 112.8(d)(4).
- o. Respondent failed to discuss in plan and implement in the field integrity and leak testing conducted on buried piping at time of installation, modification, construction, relocation or replacement in accordance with 40 CFR § 112.8(d)(4).
- p. Respondent failed to discuss in plan and implement in field vehicles warned so that no vehicle endangers aboveground piping and other oil transfers in accordance with 40 CFR § 112.8(d)(5).

16. Respondent's failure to fully implement its SPCC plan for the facility violated 40 CFR § 112.3, and impacted its ability to prevent an oil spill.

Waiver of Rights

17. 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

18. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$17,857.00.

Payment Terms

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

19. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of \$17,857.00 by means of a cashier's or certified check, or by electronic funds transfer (EFT). The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment to:

OPA Enforcement Coordinator
U. S. Environmental Protection Agency
Region 6 (6SF-PC)
1445 Ross Avenue

Dallas, Texas 75202-2733

- If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number CWA-06-2016-4815. 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
1005 Convention Plaza, Mail Station SL-MO-C2GL
St. Louis, MO 63101

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

Lorena Vaughn
Regional Hearing Clerk (6RC)
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

20. 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 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 USC §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

21. The Final Order shall be binding upon Respondent and Respondent's officers,

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directors, agents, servants, employees, and successors or assigns.

22. 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.

Coffeyville Resources Crude Transportation, LLC

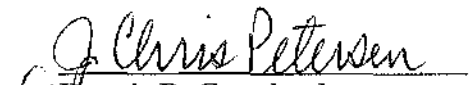
Date: 8/15/16



J. Reed Copeland, Vice President, Crude Oil Logistics

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/27/16



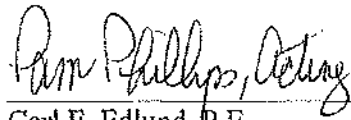
**for Ronnie D. Crossland
Associate Director
Emergency Management Branch
Superfund Division**

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: 9/27/16



Carl E. 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 9-27, 2016, 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:

Copy by certified mail,
return receipt requested:
7012 3460 0002 4092 9485

NAME: Mr. J. Reed Copeland
ADDRESS: P. O. Box 3516
Bartlesville, Oklahoma 74006

Frankie Markham

Frankie Markham
OPA Enforcement Administrative Assistant