



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2010 JUL -1 AM 8:44

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2010-0016

IN THE MATTER OF:)	
)	
MILLERCOORS LLC.)	FINAL ORDER
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 1st DAY OF July, 2010.



 Elyana R. Sutin
 Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 JUL -1 AM 8:44

In the Matter of:)
)
 MillerCoors LLC)
)
)
 Respondent.)

FILED
EPA REGION VIII
HEARING CLERK

EXPEDITED CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region 8, and Respondent, MillerCoors LLC, by their undersigned representatives, hereby settle the civil cause of action arising out of a discharge of oil that occurred on or about March 17, 2008, and violations of the Spill Prevention Control and Countermeasure (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. § 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3 and (4) the failure to adequately prepare and implement an SPCC plan in writing, in accordance with 40 C.F.R. § 112.3. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates MillerCoors LLC located at 311 10th Street, Golden, Colorado.

Respondent admits that on or about March 17, 2008, its MillerCoors LLC facility discharged an unknown amount of oil into or upon Clear Creek and/or its adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of Clear Creek and/or its adjoining shoreline.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits that it failed to adequately prepare and implement an SPCC Plan in writing for its MillerCoors LLC facility in accordance with 40 C.F.R. § 112.3.

Respondent agrees to correct the cited violations of 40 C.F.R. § 112 on the attached list within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a revised copy of the SPCC Plan for its MillerCoors LLC facility to EPA for its review and approval.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,700.00, \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$1,200.00 for violations of Section 311(j) of the Act, which, shall be paid no later than thirty (30) days after the effective date of the Final Order by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF – 311" and the title and docket number of this case. If the 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
PO Box 979077
St. Louis, MO 63197-9000

If the Respondent sends payment by overnight mail, the payment should be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire transfers should be directed 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"

The Respondent shall submit copies of the check (or, in the case of a wire transfer, copies of the confirmation) to the following persons:

**Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129**

and

**Jane Nakad
Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129**

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill; (2) cleaned up the spill pursuant to federal requirements; (3) taken corrective measures to prevent future spills; and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

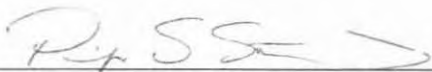
The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By : 
Philip S. Strobel, Acting Director
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Date: 5-27-10

MillerCoors LLC, Respondent

By : 

Date: 5-25-10

Name: Darrell Miller

Title: Vice President, Golden Brewery

LIST OF SPCC VIOLATIONS
Molson Coors Brewing Company

Specific violations in the SPCC Plan are:

No discharge prediction for equipment failures that could result in discharges in violation of 40 C.F.R. § 112.7(b).

Inadequate general secondary containment for all areas from which a discharge of oil could occur in violation of 40 C.F.R. § 112.7(c) as evidenced by the discharge of oil into Clear Creek.

Inadequate written procedures for required inspections and testing in violation of 40 C.F.R. § 112.7(e). No specific schedule and not site specific.

No provision that records will be maintained for three years in violation of 40 C.F.R. § 112.7(e).

No person designated as responsible for spill prevention in violation of 40 C.F.R. § 112.7(f)(2).

Inadequate security measures in violation of 40 C.F.R. § 112.7(g).

Undiked area drainage from which a discharge could occur is not to a pond or catchment basin in violation of 40 C.F.R. § 112.8(b)(3).

No discussion regarding whether an alternative diversion system is used or whether lift stations are used and two pumps are in place in violation of 40 C.F.R. § 112.8(b)(4) and (5).

Inadequate discussion of secondary containment for bulk containers in violation of 40 C.F.R. § 112.8(c)(2) in that no volumes of secondary containments are provided.

Inadequate discussion of secondary containment for mobile and portable containers in violation of 40 C.F.R. § 112.8(c)(11) in that no volumes of secondary containments are provided.

In addition to the above violations, in order to comply with the July 17, 2002 and subsequent amendments you must correct the following deficiencies:

Inadequate explanation regarding deviations as to why the rule requirement cannot be complied with and how the alternate method will provide equivalent environmental protection to the rule requirement must be in the Plan as required by 40 C.F.R. § 112.7(a)(2). You may not use one rule requirement as equivalent environmental protection for another rule requirement.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **MILLERCOORS, LLC.; DOCKET NO.: CWA-08-2010-0016**. The **CONSENT AGREEMENT/FINAL ORDER** was filed with the Regional Hearing Clerk on July 1, 2010.


Further, the undersigned certifies that a true and correct copy of the documents were delivered Brenda Morris, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on July 1, 2010:

Darrell Miller, Vice President
MillerCoors – Golden Brewery
Golden, CO 80401

E-mailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

July 1, 2010


Tina Artemis
Paralegal/Regional Hearing Clerk

