



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

Wells & Singer Law Office, LLC  
Attn: Jonas Singer, Esq.  
105 Farnsworth Avenue  
P.O. Box 226  
Bordentown, New Jersey 08505

November 21, 2008

U.S. ENVIRONMENTAL  
PROTECTION AGENCY REGION 2  
2008 NOV 20 PM 3:18  
REGIONAL HEARING  
CLERK

Subject: In the matter of Mansfield Oil Company, Docket No. CWA 02-2007-3811

Dear Mr. Singer:

Enclosed herewith is the Consent Agreement/Final Order (CAFO) for the subject case. Please contact me at (212) 637-3236 if you have any questions with respect to this document. Thank you.

Yours truly,

A handwritten signature in black ink that reads "Timothy C. Murphy".

Timothy C. Murphy  
Assistant Regional Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

IN THE MATTER OF

Mansfield Oil Co.  
PO Box 187  
Columbus, NJ 08022,

Respondent.

**CWA SECTION 311 CLASS I  
CONSENT AGREEMENT**

Docket No. CWA-02-2007-3811

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REGION 2  
2008 NOV 20 PM 3:43  
REGIONAL HEARING  
CLERK

**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 C.F.R. § 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 corporation organized under the laws of the State of New Jersey with a place of business located at 24622 Main Street, Columbus, New Jersey 08837. 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 a bulk oil storage facility, located at 17 Mill Lane, Columbus, New Jersey 08022, the Respondent's premises ("the Facility").

7. 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.

8. Craft's Creek is a navigable water of the United States within the meaning of 40 C.F.R. § 112.2 [and Section 502(7) of the Act, 33 U.S.C. § 1362.(7)].

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

10. 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.

11. 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.

12. 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").

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

14. On August 28, 2007, 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-02-2007-3811 alleging that the Respondent was in violation of the SPCC regulations and proposing a civil penalty of \$23,000. Complainant particularly alleged that:

- A) The Respondent's failure to implement its SPCC plan for its facility as required by 40 C.F.R. §112.3(a), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 C.F.R. §19.4, the Respondent is liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$157,500.

**Waiver of Rights**

15. 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 consents to the issuance of a Final Order without further adjudication.

**Jurisdiction**

16. 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 Findings of Fact contained herein.

**Penalty**

17. Respondent consents to the assessment of a civil penalty of \$11,000 eleven thousand dollars (\$11,000) in accordance with the following payment schedule:

- |            |   |                  |
|------------|---|------------------|
| 1. \$1,000 | - | January 1, 2009  |
| 2. \$1,000 | - | February 1, 2009 |
| 3. \$1,000 | - | March 1, 2009    |
| 4. \$1,000 | - | April 1, 2009    |
| 5. \$1,000 | - | May 1, 2009      |
| 6. \$1,000 | - | June 1, 2009     |
| 7. \$1,000 | - | July 1, 2009     |

- 8. \$1,000 - August 1, 2009
- 9. \$1,000 - September 1, 2009
- 10. \$1,000 - October 1, 2009
- 11. \$1,000 - November 1, 2009

**Payment Terms**

Each 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

18. The Respondent shall also send copies of the payment to the each of the following:

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

**and**

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

Payment must be received at the above address by the dates set forth in the payment schedule (the dates by which payments must be received shall hereafter be referred to as the “due dates”).

19. Failure by the Respondent to pay the penalty installments assessed by the Final Order in full by their due dates 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**

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

21. 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.

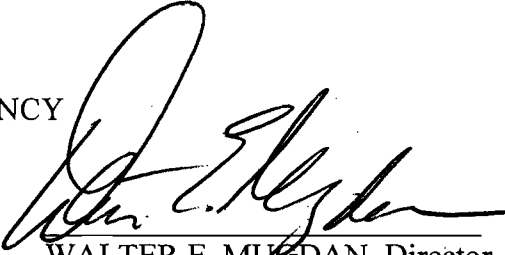
**Mansfield Oil Company**

Date: 10/29/08

  
Emory A. Craft  
President, Mansfield Oil Co.

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: 11/14/08

  
WALTER E. MUGDAN, Director  
Emergency and  
Remedial Response Division

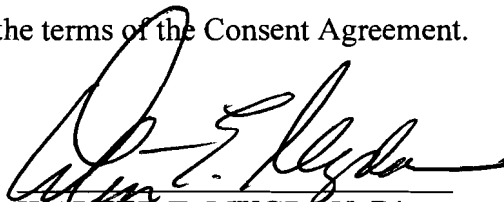


**FINAL ORDER**

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: 11/14/08

  
**WALTER E. MUGDAN, Director**  
**Emergency and**  
**Remedial Response Division**

**ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

Mansfield Oil Co.  
PO Box 187  
Columbus, NJ 08022,  
Respondent.

Proceeding Pursuant to ' 311(b)(6) of the Clean  
Water Act, 33 U.S.C. '1321(b)(6) for SPCC  
Violations

CONSENT AGREEMENT  
AND  
FINAL ORDER

DOCKET NO.  
CWA-02-2007-3811

**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, 17<sup>th</sup> Floor, Office of Regional Hearing Clerk  
New York, N.Y. 10007-1866

Copy by Certified Mail, Return Receipt Requested:

Mr. Emory A. Craft  
Mansfield Oil Company  
PO Box 187  
Columbus, NJ 08022

Date: 11-18-2008

Ana Madera  
(Signature)

Ana Madera  
(Print Name)