



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

November 26, 2007

Mr. Bryan Reynolds
Sullivan, Mountjoy, Stainback & Miller, PSC
110 St. Ann Building
P.O. Box 727
Owensboro, Kentucky 42303-0727

Re: Consent Agreement and Final Order for
Docket No. CWA-04-2008-5190(b)

Dear Mr. Reynolds:

Enclosed please find a copy of the final, signed Consent Agreement and Final Order resolving alleged Clean Water Act violations against Journey Operating, LLC. Applicable penalties are due within thirty (30) days of the filing date stamped on the CAFOs. Also enclosed is an information sheet from the Securities and Exchange Commission for you to pass onto your client.

If you have any questions, please contact me at 404-562-9589.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Kornylak", with a long horizontal stroke extending to the right.

Vera S. Kornylak
Associate Regional Counsel

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

2007 NOV 26 PM 4:41

HEARING CLERK

RECEIVED
EPA REGION IV

IN THE MATTER OF:

Journey Operating, LLC
14090 Southwest Freeway
Suite 30
Sugarland, Texas 77478

Respondent.

CWA SECTION 311 CLASS
CONSENT AGREEMENT
AND FINAL ORDER
UNDER 40 C.F.R. § 22.13(b)

Docket No. CWA-04-2008-5190(b)

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 C.F.R. § 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division ("Complainant").

CONSENT AGREEMENT

Stipulations

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

1. Journey Operating, LLC ("Respondent") is a limited liability corporation organized under the laws of Texas with a place of business located at Yeadiss, Kentucky. 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 C.F.R. § 110.1.

2. Respondent was the owner and operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 110.1, of an oil production and distribution facility (“the facility”), including the 210-barrel oil storage tank serving well KL-615, located west of Yeadiss in Leslie County, Kentucky.

3. The facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10).

4. Double Rock Branch, which flows into Wolf Creek, is a navigable water subject to the jurisdiction of Section 311 of the Act as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

5. Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil 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 the environment of the United States.

6. 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 C.F.R. § 110.3 to include discharges of oil that (1) violate applicable water quality standards or (2) 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.

Allegations

Complainant alleges, and Respondent neither admits nor denies, that:

7. On November 11, 2006, Respondent discharged oil from a tank containing approximately 4,242 gallons of oil, as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1. The discharge occurred from the facility and into or upon Double Rock Branch and/or its adjoining shorelines.

8. Respondent's November 11, 2006, discharge of oil from its facility caused a film or sheen upon or discoloration of the surface of Double Rock Branch and its adjoining shorelines, and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, in violation of Section 311(b)(3) of the Act.

Waiver of Rights

9. Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), 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.

10. For purposes of this Consent Agreement and Final Order, Respondent admits the jurisdictional statements set out in the stipulations above pursuant to Section 311 of the CWA, 33 U.S.C. § 1321.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this Consent Agreement or the Final Order.

Penalty

12. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$8,665.

Payment Terms

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

13. No later than 30 days after the effective date of the Final Order, Respondent shall pay the amount of \$8,665 by means of a cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF-311." If 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
P.O. Box 979077
St. Louis, MO 63197-9000

If paying by EFT, Respondent shall transfer \$8,665 to: www.pay.gov. Enter SFO 1.1 in the "search public forms" field Open form and enter information requested.

14. If paying by check, Respondent shall note on the penalty payment check the title and docket number of this case. Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following people:

Ms. Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta GA 30303-8960

Mr. Doug C. McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta GA 30303-8960

15. Respondent's failure 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, attorneys' 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

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

17. The undersigned representative of Respondent hereby certifies that she is fully authorized to enter into the terms and conditions of this Consent Agreement and attached Final Order and to execute and legally bind Respondent to this Consent Agreement and attached Final Order.

18. 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 penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations alleged herein and facts stipulated to and/or alleged

herein. Except as otherwise set forth herein, compliance with this Consent Agreement shall resolve the allegations of violations contained herein.

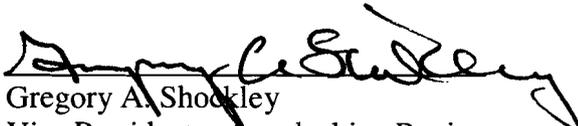
Effective Date

19. This Consent Agreement and Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

In the matter of Journey Operating, LLC, Docket No. CWA-04-2008-5190(b).

JOURNEY OPERATING, LLC

Date: 11.21.07


Gregory A. Shockley
Vice President – Appalachian Region

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 11/26/07


Kelly Sisario
Acting Chief, RCRA and OPA Enforcement and
Compliance Branch
RCRA Division

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the Matter of Journey Operating, LLC, Docket No. CWA-04-2008-5190(b), on the parties listed below in the manner indicated:

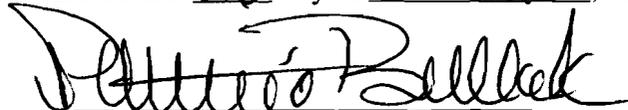
Vera Kornylak (Via EPA Internal Mail)
Office of Environmental Accountability
U.S. Environmental Protection Agency - Region 4
61 Forsyth Street
Atlanta, GA 30303

Doug C. McCurry, Chief (Via EPA Internal Mail)
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta GA 30303-8960

Bryan Reynolds (Via Certified Mail)
Sullivan, Mountjoy, Stainback, & Miller, PSC
110 St. Ann Building
P.O. Box 727
Owensboro, Kentucky 42303-0727

Gregory A. Shockley (Via Certified Mail)
Vice President – Appalachian Region
Journey Operating, LLC
P.O. Drawer 1796
Clarksburg, WV 26302-1796

Dated this 26 day of November, 2007.



Ms. Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 4
61 Forsyth Street
Atlanta, GA 30303

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 C.F.R. 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.

Journey Operating, the Respondent is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2008-5190(b).

Date: 11/26/07



Honorable Susan Schub
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 4

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by Elizabeth Sawyer on 11/26/07
(Name) (Date)

in the R4 Waste Management Division - DPA RCRA/ Branch # 2-8599
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT
Coast Guard Collects - OPA

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing

Other Receivable

This is an original debt.

This is a modification.

PAYER: Journey Operating LLC
(Name of person and/or Company/Municipality making the payment)

For Oversight Billing, the anniversary date, or the date specified in the order, or the date as directed by the program office to initiate billing: _____
(Date)

The Total Dollar Amount of the Receivable: \$ 8665.00
(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA-04-2008-5190(b)

The Site Specific Superfund Account Number: _____

The Designated Regional /Headquarters Program Officer: JC Goodwin, R4

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: Peggy Whitney of the Financial Management Section at (404) 567-8238.

DISTRIBUTIONS:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice/EM 1647
P.O. BOX 7611, Benjamin Franklin Station
Washington, DC 20044
2. Originating Office (EAD)
3. Designated Program Office

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be sent to:

1. Originating Office
2. Regional Hearing Clerk
3. Designated Program Office
4. Regional Counsel (EAD)