



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

SEP 02 2011

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Garry S. Rice, Esq.
Deputy General Counsel
Office of the General Counsel
Duke Energy Corporation
550 South Tryon Street
Mail Code DEC45A
Charlotte, NC 28202

Re: Duke Energy Carolinas, LLC
Consent Agreement and Final Order (CAFO)
Docket No. CWA-04-2011-5135(b)

Dear Mr. Rice:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Duke Energy Carolinas, LLC on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-8530.

Sincerely,

A handwritten signature in black ink, appearing to read "Roberto X. Busó".

Roberto X. Busó
Assistant Regional Counsel
Office of Environmental Accountability

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)

Duke Energy Carolinas, LLC)
3195 Pine Hill Road)
Belews Creek, North Carolina 27009)

Respondent)

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

Docket No. CWA-04-2011-5135(b)

11 SEP -2 AM 9:06

USEPA REGION 4
OFFICE OF ENVIRONMENTAL
ADJUSTMENT

Hearings Clerk (M)

I. 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 by Section 311(b)(6)(B)(i) of the Clean Water Act ("CWA"), 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").

II. CONSENT AGREEMENT

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to execute this Consent Agreement and Final Order (CA/FO), and Respondent hereby agrees to comply with the terms of this CA/FO. For purposes of this CA/FO and settlement of this action only, Respondent admits to the jurisdictional statements contained herein.

III. STIPULATIONS

3. The Respondent, Duke Energy Carolinas, LLC, is a limited liability company organized under the laws of North Carolina. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. The Respondent is the "owner and operator" within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6) of an electricity generation facility located at 3195 Pine Hill Road, Belews Creek, North Carolina (the facility).

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

6. Belews Lake is a navigable water, as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and is therefore subject to the jurisdiction of Section 311 of the CWA, 42 U.S.C. § 1321.

7. Mobil DTE 732 turbine oil constitutes “oil” within the meaning of Section 311(a)(1) of the CWA, 42 U.S.C. § 1321(a)(1).

8. Section 311(b)(3) of the CWA, 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 as may be harmful.

9. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321 (b)(4), the criteria for determining the quantities of oil that may be harmful and thereby prohibited under Section 311(b)(3), 33 U.S.C. § 1321 (b)(3), are codified at 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.

IV. ALLEGATIONS

10. The Complainant alleges, and the Respondent neither admits nor denies, that:

a. Between September 21 and 25, 2009, the Respondent discharged approximately 435 gallons of Mobil DTE 732 turbine oil from the facility’s Unit 2 main turbine oil tank.

b. The discharge described above caused a sheen of oil, within the meaning of 40 C.F.R. § 110.3, to be present on the surface of Belews Lake and its adjoining shorelines.

c. Accordingly, the Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

V. WAIVER OF RIGHTS

11. Solely for the purpose of this CA/FO, the Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 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 CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

VI. TERMS OF AGREEMENT

12. The Complainant proposes, and the Respondent consents to pay a civil penalty of Twelve Thousand, Six Hundred Thirty Dollars (\$12,630.00).

13. By executing this CA/FO, the Respondent certifies that all violations alleged herein have been corrected.

VII. PAYMENT TERMS

14. Based on the foregoing, the parties, in their own capacity or by their attorney or authorized representatives, hereby agree that:

a. No later than 30 days after the effective date of the CA/FO, the Respondent shall pay the amount of Twelve Thousand, Six Hundred Thirty Dollars (\$12,630.00) by means of a corporate cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, the Respondent shall submit a corporate cashier's or certified check, payable to the "Environmental Protection Agency," and bearing the notation "OSLTF - 311" and the Respondent shall also note the facility name and docket number of this case.

b. If the Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

c. If the Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx or UPS, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
314-418-1028

d. If the Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

e. If paying on-line, access at www.pay.gov. Enter "sfo 1.1" in the search field and then open the form and complete required fields.

15. The Respondent shall submit copies of the check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

Regional Hearing Clerk
U.S. EPA- Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and to:

Doug McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA- Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

16. Penalties paid pursuant to this CA/FO are not deductible for federal purposes pursuant to 26 U.S.C. § 162(f).

17. The Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject the 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.

VIII. GENERAL PROVISIONS

18. The Final Order shall be binding upon the Respondent and the Respondent's officers, directors, agents, and successors or assigns.

19. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 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 the Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein. Except as otherwise set forth herein, compliance with this Consent Agreement shall resolve the allegations of violations contained herein.

20. The undersigned representative of the Respondent hereby certifies that he/she is fully authorized to enter into and execute this Consent Agreement and to legally bind the Respondent to the terms and conditions of this CA/FO.

21. A copy of any documents the Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter, and who is authorized to receive service for the EPA in the proceeding:

Roberto X. Busó,
Assistant Regional Counsel
Office of Environmental Accountability
U.S. EPA - Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-8530
Buso.Roberto@epa.gov

22. A copy of any documents the Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter, and who is to receive service for the Respondent in this proceeding:

Garry S. Rice Esq.
Deputy General Counsel
Office of the General Counsel
Duke Energy Corporation
550 South Tryon Street
Mail Code DEC45A
Charlotte, North Carolina 28202
Office: 704-382-8111
Fax: 980-373-8534
Email: Garry.Rice@duke-energy.com

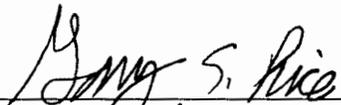
IX. EFFECTIVE DATE

23. This Consent Agreement and Final Order shall be effective on the date it is filed with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

DUKE ENERGY CAROLINAS, LLC

Date: 8-26-11


Name: Garry S. Rice
Title: Deputy General Counsel

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/30/11


Frank S. Ney, Acting Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	CWA SECTION 311 CLASS I
)	CONSENT AGREEMENT AND
Duke Energy Carolinas, LLC)	
3195 Pine Hill Road)	
Belews Creek, North Carolina 27009)	FINAL ORDER
)	UNDER 40 C.F.R. § 22.13(b)
)	
)	
Respondent)	Docket No. CWA-04-2010-5135(b)
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 1st day of Sept., 2011.

BY: Susan B. Schub
Susan Schub
Regional Judicial Officer

In the Matter of Duke Energy Carolinas, LLC.

Docket No.: CWA-04-2011-5135(b)

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 Duke Energy Carolinas, LLC, Docket No. CWA-04-2011-5135(b), on the parties listed below in the manner indicated:

Garry S. Rice Esq.
Deputy General Counsel
Office of the General Counsel
Duke Energy Corporation
550 South Tryon Street
Mail Code DEC45A
Charlotte, North Carolina 28202

Via Certified Mail - Return Receipt Requested

Roberto X. Busó, Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-8530

Via EPA's Internal Mail

Quantindra Smith
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-8564

Via EPA's Internal Mail

Dated this 2nd day of September, 2011



Belinda Johnson, Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-9511