



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

MAR 18 2009

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2009 MAR 19 AM 9:58
REGIONAL HEARINGS
CLERK

Mr. Donald A. Smith, P.E.
Environmental Compliance Manager
Gulf Oil Limited Partnership
275 Washington Street, Suite 300
Newton, MA 02458

RE: Consent Agreement and Final Order
In the Matter of Gulf Oil Limited Partnership
Docket No. CWA-02-2008-3401

Dear Mr. Smith:

Enclosed please find the executed Consent Agreement and Final Order ("CAFO") negotiated with Gulf Oil Limited Partnership to settle the above-referenced enforcement action. Per paragraph eight (8) of the CAFO, payment of the civil penalty of \$85,000 is due within thirty (30) days of service. If you have any questions, please have your attorney contact me at (212) 637-3203.

Sincerely,

Christopher Saporita

cc: Debra S. Rosen

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2008 MAR 19 AM 9:59
REGIONAL HEARING
CLERK

IN THE MATTER OF

Gulf Oil Limited Partnership
275 Washington Street, Suite 300
Newton, Massachusetts 02458

Respondent

Proceeding pursuant to Section 309(g) of
the Clean Water Act, 33 U.S.C. §1319(g).

CONSENT AGREEMENT
AND
FINAL ORDER

Docket No. CWA-02-2008-3401

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint referenced herein on April 21, 2008, against Respondent, Gulf Oil Limited Partnership; and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO" or "Agreement") without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

I. Preliminary Statement

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §1319(g).
2. The Complaint alleges that Respondent discharged untreated sewage into the Rahway River without a permit, from its Gulf Oil LP Linden Terminal bulk storage facility (the facility), located at 2600 Marshes Dock Road, Linden, New Jersey 07065, in violation of Sections 301 and 402 of the Act, 33 U.S.C. §1311 and §1342, respectively, and proposed to assess a civil penalty of one hundred twenty thousand dollars (\$120,000).
3. Respondent filed an Answer and requested a hearing pursuant to 40 C.F.R. Part 22.
4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this Complaint. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this Agreement.

5. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

II. Terms of Settlement

6. Pursuant to Section 309(g) of the Act, 33 U.S.C. §1319(g), the nature of the violations, and other relevant factors, EPA has determined that eighty-five thousand dollars (\$85,000) is an appropriate civil penalty to settle this action.
7. Respondent consents to the issuance of this Consent Agreement and Final Order, and consents, for the purposes of settlement, to the payment of the civil penalty cited in the foregoing paragraph.
8. Not more than thirty (30) days after the date of issuance of the executed CAFO signed by the Regional Administrator of EPA Region 2, Respondent shall submit a cashier's or certified check, payable to the "Treasurer of the United States of America," for eighty-five thousand dollars (\$85,000). The 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 check shall be mailed to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall also send copies of this payment to each of the following:

Christopher Saporita, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 16th floor
New York, New York 10007

and

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007

9. Payment must be received at the above address on or before 45 calendar days after the

date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date").

10. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
11. If the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

In addition, pursuant to Section 309(g)(9) of the Clean Water Act, 33 U.S.C. §1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter. Respondent also may be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.

12. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or state taxes.
13. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
14. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. §1319(g), for the violations alleged in the Complaint. Compliance with this agreement shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
15. Each undersigned representative of the parties to this agreement certifies that she or he is fully authorized by the party represented, to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.
16. The provisions of this Consent Agreement and Final Order shall be binding upon the Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
17. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this agreement.

18. Respondent consents to service upon it by delivery of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

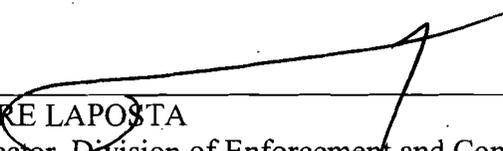
BY: 
SIGNATURE

02/00/09
DATE

Donald A. Smith
NAME (Please print)

Environmental Compliance Mgr.
TITLE (Please print)

COMPLAINANT:


DORE LAPOSTA
Director, Division of Enforcement and Compliance Assistance
United States Environmental Protection Agency-Region 2
290 Broadway
New York, New York 10007

MARCH 16, 2009
DATE

IV. Final Order

The Director, Division of Enforcement and Compliance Assistance of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.



GEORGE PAVLOU
Acting Regional Administrator
United States Environmental Protection Agency-Region 2
290 Broadway
New York, New York 10007

3/18/09

DATE

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF

Gulf Oil Limited Partnership
275 Washington Street, Suite 300
Newton, Massachusetts 02458

Respondent

Proceeding Pursuant to §309(g) of the
Clean Water Act, 33 U.S.C. §1319(g).

CONSENT AGREEMENT
AND
FINAL ORDER

Docket No. CWA-02-2008-3401

CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed, by certified mail, return-receipt-requested, a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Gulf Oil Limited Partnership
275 Washington Street, Suite 300
Newton, Massachusetts 02458

I further certify that, on the date noted below, I caused to be mailed, by EPA internal mail (pouch), the original and a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 17th floor
New York, New York 10007-1866

I further certify that, on the date noted below, I caused to be mailed, by EPA internal mail (pouch), a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Honorable Susan L. Biro
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350
Washington, DC 20005

MAR 18 2009

Date

Ana Madera

Signature

Ana Madera

Print Name

Branch Secretary

Title