



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

**JUL 17 2012**

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Joan B. Sasine  
Bryan Cave LLP  
1201 West Peachtree Street NW  
Atlanta, Georgia 30309

Re: Consent Agreement and Final Orders  
Tellus Operating Group, LLC  
Docket Nos. CWA-04-2012-5129(b) and CWA-04-2012-5130(b)

Dear Ms. Sasine:

Enclosed are copies of the fully executed Consent Agreement and Final Orders (CA/FOs) as filed with the Regional Hearing Clerk (RHC) in the above referenced matters. The CA/FOs were effective upon filing with the RHC and the payments of the civil penalties are to be paid within thirty (30) calendar days of the effective date of these CA/FOs.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Tellus on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Marirose J. Pratt, Assistant Regional Counsel, at (404) 562-9023.

Sincerely,

A handwritten signature in black ink, appearing to read "César Zapata", followed by the word "for" written in a smaller, cursive script.

César Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF )  
 )  
Tellus Operating Group, LLC )  
602 Crescent Place, Suite 100 )  
Ridgeland, Mississippi 39157 )  
 )  
Respondent )

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CWA SECTION 311 CLASS I  
CONSENT AGREEMENT AND  
FINAL ORDER  
UNDER 40 C.F.R. § 22.13(b)  
  
Docket No. CWA-04-2012-5129(b)

RECEIVED  
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HEARINGS CLERK

**LEGAL AUTHORITY**

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 (“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”).

**CONSENT AGREEMENT**

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 the execution of this Consent Agreement and Final Order (CAFO), and Respondent hereby agrees to comply with the terms of this CAFO. For purposes of this CAFO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

### Stipulations

1. Respondent, Tellus Operating Group, LLC, is a limited liability company organized under the laws of Mississippi and registered to do business in the State of Mississippi. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

2. The Respondent is the “operator” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a 42,000-gallon above ground storage tank located in Lamar County, Mississippi (“the facility”), which is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

3. 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 that have been determined may be harmful to the public health or welfare or environment of the United States.

4. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321 (b)(4), the determination of quantities of oil that may be harmful and thereby prohibited under Section 311(b)(3), 33 U.S.C. § 1321 (b)(3), is defined 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.

### **Allegations**

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

5. On or about June 2, 2010, Respondent discharged approximately 78 barrels of oil as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), from its facility into or upon an intermittent tributary of Middle Fork Creek and/or its adjoining shorelines.

6. The intermittent tributary of Middle Fork Creek 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.

7. Respondent's June 2, 2010, discharge of oil from its facility caused a sheen upon or discoloration of the surface of the intermittent tributary of Middle Fork Creek and/or its adjoining shoreline and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3. Accordingly, Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

### **Waiver of Rights**

8. Solely for the purpose of this Consent Agreement, 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.

### **Penalty**

9. Respondent consents to the payment of a civil penalty of Twelve Thousand Dollars (\$12,000).

### Payment Terms

10. No later than thirty (30) days after the effective date of the Final Order, Respondent shall pay the penalty by means of a corporate cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency." The check shall bear the notation "OSLTF - 311," along with the title and docket number of this case.

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

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

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

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"

Respondent may also elect the On Line Payment Option, available through the Department of Treasury. This payment option can be accessed at [www.pay.gov](http://www.pay.gov). Enter "sfo 1.1" in the search field and then open the form and complete required fields.

11. 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:

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

and to:

Larry Lamberth, Chief  
South Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

12. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

13. 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, 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**

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

15. 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 CAFO resolves only 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 CAFO shall resolve the allegations of violations contained herein.

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

17. Other than the issues that Respondent has agreed not to contest solely for this Consent Agreement and this incident, Respondent does not waive, and specifically reserves, its right to contest EPA's assertion of jurisdiction or determination as to any issue concerning the facility or Middle Fork Creek and its tributaries, including but not limited to any rights or defenses related to jurisdiction under or a determination of navigable waters under 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.

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

Marirose J. Pratt  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-9023  
[pratt.marirose@epa.gov](mailto:pratt.marirose@epa.gov)

19. A copy of any documents that 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:

Joan B. Sasine  
Partner  
Bryan Cave LLP  
1201 West Peachtree Street NW  
Atlanta, Georgia 30309  
404-572-6647  
[joan.sasine@bryancave.com](mailto:joan.sasine@bryancave.com)

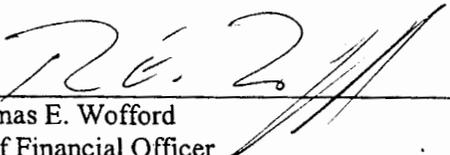
**Effective Date**

20. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

**CONSENTED AND AGREED TO:**

TELLUS OPERATING GROUP, LLC

Date: \_\_\_\_\_

  
\_\_\_\_\_  
Thomas E. Wofford  
Chief Financial Officer

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 07/06/12

 for  
\_\_\_\_\_  
César A. Zapata, 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
Tellus Operating Group, LLC	)	FINAL ORDER
602 Crescent Place, Suite 100	)	UNDER 40 C.F.R. § 22.13(b)
Ridgeland, Mississippi 39157	)	
	)	
Respondent	)	Docket No. CWA-04-2012-5129(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 9<sup>th</sup> day of July, 2012.

BY:   
\_\_\_\_\_  
Gwendolyn Keyes Fleming  
Regional Administrator  


## CERTIFICATE OF SERVICE

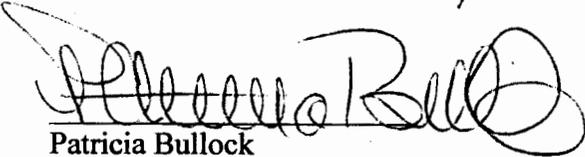
I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Tellus Operating Group, LLC, Docket No. CWA-04-2012-5129(b), on the parties listed below in the manner indicated:

Marirose J. Pratt (Via EPA's internal mail)  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

Quantindra Smith (Via EPA's internal mail)  
RCRA & OPA Enforcement and Compliance Branch  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

Joan B. Sasine (Via Certified Mail)  
Partner  
Bryan Cave LLP  
One Atlantic Center, Fourteenth Floor  
1201 West Peachtree Street, NW  
Atlanta, Georgia 30309

Dated this 17 day of July, 2012.

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