



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" 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

2012 JUL 17 AM 8:32

RECEIVED
EPA REGION IV

HEARING CLERK

IN THE MATTER OF)
)
Tellus Operating Group, LLC)
602 Crescent Place, Suite 100)
Ridgeland, Mississippi 39157)
)
Respondent)
)
Docket No. CWA-04-2012-5130(b)

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 oil production operations, with numerous above ground storage tanks and associated ancillary equipment located in Baxterville, Lamar County, Mississippi (collectively “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. Pursuant to 40 C.F.R. § 112.1, the Spill Prevention Control and Countermeasures (SPCC) regulations contained in 40 C.F.R. Part 112 apply to each owner and operator of a non-transportation-related onshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products , which, 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 may be harmful, as described in 40 C.F.R. § 110.3 (“harmful quantity”).

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

5. The facility has an aggregate above ground storage capacity greater than 1,320 gallons of oil in containers, each with a capacity of at least 55 gallons and therefore, does not qualify for the exemption under 40 C.F.R. § 112.1(d)(2).

6. The facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2, as described in 40 C.F.R. Part 112, Appendix A.

7. The facility is therefore a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge a harmful quantity of oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity and is, as such, an SPCC-regulated facility.

8. Pursuant to 40 C.F.R. § 112.3, the owner or operator of an SPCC-regulated facility must prepare in writing and implement an SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.

Allegations

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

9. Many of the facility's storage tanks are located less than one-quarter mile from a surface water body. Examples include Clear Creek, Middle Fork Creek, and Big Creek. The surface water bodies mentioned in this paragraph are navigable waters as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2 and are therefore subject to the jurisdiction of Section 311 of the CWA.

10. On or about July 31, 2008, an inspection was conducted by EPA at the Respondent's facility to determine compliance with SPCC regulations. The EPA found the following violations of the SPCC regulations:

- a. Respondent failed to prepare a written SPCC Plan ("Plan") for the facility as required by 40 C.F.R. § 112.3 in accordance with the guidelines for Plan preparation at 40 C.F.R. § 112.7 and other applicable sections in 40 C.F.R. Part 112.

- b. The Plan neither followed the sequence specified in the SPCC regulations nor included a section properly cross referencing the requirements in the plan, as required by 40 C.F.R. § 112.7.
- c. The Plan did not discuss methods of disposal for recovered materials in accordance with applicable legal requirements, as required by 40 C.F.R. § 112.7(a)(3)(v).
- d. The Plan did not discuss drainage procedures for diked areas, as required by 40 C.F.R. § 112.9(b)(1).
- e. The Plan did not discuss or indicate how containers used for the storage of oil are compatible with the material being stored, as required by 40 C.F.R. § 112.9(c)(1).
- f. The Plan did not discuss engineering or updating new and old tank battery installations in accordance with good engineering practices to prevent discharges, as required by 40 C.F.R. § 112.9(c)(4).
- g. The Plan did not discuss inspection procedures for saltwater (oil field brine) disposal facilities, as required by 40 C.F.R. § 112.9(d)(2).

11. The EPA therefore alleges that Respondent violated the regulatory requirements cited in paragraphs 10.a. through 10.g. above.

Waiver of Rights

12. 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), and 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.

Terms of Agreement

13. Respondent consents to the payment of a civil penalty of Twenty-One Thousand Two Hundred Dollars (\$21,200).

14. By signing this Consent Agreement, Respondent certifies that all violations alleged in this Consent Agreement have been corrected.

Payment Terms

15. 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. Enter “sfo 1.1” in the search field and then open the form and complete required fields.

16. 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

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

18. 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 CWA, 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

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

20. 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.

21. 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 Clear Creek, Middle Fork Creek, Big Creek and their 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.

22. 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.

23. 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

24. 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

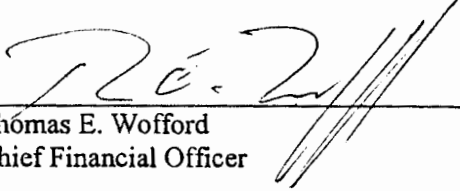
Effective Date

25. 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-04-2012-5130(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 11th 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-04-2012-5130(b), on the parties listed below in the manner indicated:

Marirose J. Pratt
Assistant Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

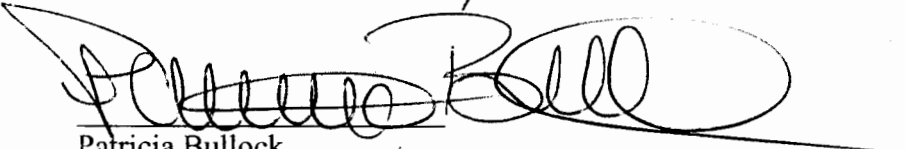
Quantindra Smith
RCRA & OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

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

(Via Certified Mail)

Dated this 12 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