



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2008-0011

IN THE MATTER OF:

PPL MONTANA, LLC.

RESPONDENT.

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18. of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 15 DAY OF January, 2009



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

In the Matter of:)
)
PPL Montana, LLC)
) **EXPEDITED CONSENT AGREEMENT**
)
Respondent.) **DOCKET NO. : CWA-08-2008-0011**

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, PPL Montana, LLC, by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about January 29, 2007, and violations of the Spill Prevention Control and Countermeasure (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. § 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3 and the failure to prepare and implement an SPCC plan, in accordance with 40 C.F.R. § 112. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates Kerr Dam Hydroelectric Power Plant located at 43069 Kerr Dam Road, Polson, Montana.

Respondent admits that on or about January 29, 2007, a contractor employed by Respondent at its Kerr Dam Hydroelectric Power Plant facility discharged approximately two (2) gallons of oil into or upon the Flathead River and/or its adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the Flathead River and/or its adjoining shoreline.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act. Such discharge was promptly cleaned up by Respondent and Respondent's contractor in accordance with the Kerr Facility SPCC Plan.

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits the SPCC Plan for its Kerr Dam Hydroelectric Power Plant facility did not comply with all of the requirements of 40 C.F.R. § 112.

Respondent agrees to correct the cited violations in the Kerr Facility SPCC Plan noted on the attached list within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a copy of its revised SPCC Plan for its Kerr Dam Hydroelectric Power Plant facility to EPA for its review and approval.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,950.00, which consists of \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$1,450.00 for violations of Section 311(j) of the Act, which shall be paid no later than thirty (30) days after the effective date of the Final Order by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF - 311" and the title and docket number of this case. If the 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
PO Box 979077
St. Louis, MO 63197-9000

If the Respondent sends payment by overnight mail, the payment should be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire transfers should be directed to:

Federal Reserve Bank of New York
ABA: 021030004
Account: 68010727

SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

The Respondent shall submit copies of the check (or, in the case of a wire transfer, copies of the confirmation) to the following persons:

Tina Artemis, Regional Hearing Clerk (SRC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

and

Jane Nakad
Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill; (2) cleaned up the spill pursuant to federal requirements; (3) taken corrective actions to prevent future spills; and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

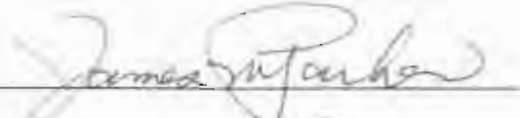
Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By:  Date: 3/27/08
for Mark A.R. Chalfant, Director
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

PPL Montana, LLC, Respondent.

By:  Date: 3/29/08
Name: James M. Parker
Title: Mgr, Env. Compliance Serv.

LIST OF SPCC VIOLATIONS
PPL Montana, LLC – Kerr Hydroelectric Power Plant

Specific violations found during review of the SPCC Plan are:

Inadequate discussion of equipment failure that could result in discharges in violation of 40 C.F.R. § 112.7(b).

No written commitment of manpower, equipment, and materials in violation of 40 C.F.R. § 112.7(d)(2).

No statement of impracticability for no containment for piping; a contingency plan per Part 109 in lieu of secondary containment and signed commitment of resources in violation of 40 CFR 112.7(d).

Plan has inadequate discussion of facility security in violation of 40 C.F.R. § 112.7(g).

Plan has inadequate discussion of facility drainage in violation of 40 C.F.R. § 112.8(b).

Inadequate discussion of appropriate containment/diversionary structures/equipment in violation of 40 C.F.R. § 112.8(b).

Inadequate secondary containment for bulk containers in violation of 40 C.F.R. § 112.8(c).

Plan has inadequate discussion of bulk storage containers in violation of 40 C.F.R. § 112.8(c).

Bypass valve is not normally sealed closed in violation of 40 C.F.R. § 112.8(c)(3)(i).

Plan has no discussion of facility transfer operations in violation of 40 C.F.R. § 112.8(d).

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **PPL MONTANA LLC., DOCKET NO.: CWA-08-2008-0011**; was filed with the Regional Hearing Clerk on January 13, 2009.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on January 13, 2009, to:

Mr. Bryce L. Shriver, President
PPL Montana LLC.
300 N. Broadway, Suite 400
Billings, MT 59101-1255

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

January 13, 2009


Tina Artemis
Paralegal/Regional Hearing Clerk

