



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
SAM NUNN  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA GEORGIA 30303-8960

**JUL 08 2010**

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Hunter Durham  
DURHAM & ZORNES  
Attorney for Coomer Oil, LLC  
P.O. Box 100  
Columbia, Kentucky 42728

RE: Administrative Complaint and Compliance Order  
Docket No.: CWA-04-2010-5130(b)

Coomer Oil, LLC  
205 Hudson Street, Columbia, Kentucky 42728-1629

Dear Mr. Durham:

On May 28, 2010, the United States Environmental Protection Agency Region 4 Resource Conservation and Recovery Act Division Director filed an Administrative Complaint, Compliance Order, and Notice of Opportunity for Hearing (Complaint) in the above styled matter. However, there was a filing error on the behalf of our agency when processing this document. The oversight has now been corrected. I apologize for any inconvenience caused by this error.

Sincerely,

A handwritten signature in cursive script that reads "Caroline Y. F. Robinson".

Caroline Y. F. Robinson, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Enclosure  
cc: Region 4 Hearing Clerk

Internet Address (URL) • <http://www.epa.gov>

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MAY 28 2010

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

Hunter Durham  
DURHAM & ZORNES  
Attorney for Coomer Oil, LLC  
P.O. Box 100  
Columbia, Kentucky 42728

SUBJ: Coomer Oil, LLC  
Docket Number CWA-04-2010-5130(b)

Dear Mr. Durham:

Enclosed please find a fully executed Consent Agreement and Final Order (CA/FO) issued pursuant to Section 311(b)(6)(B)(ii) of the Clean Water Act, 33 U.S.C. §1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990.

Please note: According to paragraph 12 of this CA/FO with payment terms stated in paragraph 13, no later than 30 days of the effective date of this CA/FO, the first installment of the penalty of \$14,900.00 is due.

Thank you for your assistance in the resolution of this matter. Please feel free to contact me at (404) 562-8976, or contact Tony Jenkins at (404) 562-8603, if you have any additional questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Caroline Y. F. Robinson".

Caroline Y. F. Robinson, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Enclosure

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

2010 Jun -7 PM 4:19

IN THE MATTER OF	)	CWA SECTION 311 CLASS II
	)	CONSENT AGREEMENT AND
Coomer Oil, LLC	)	FINAL ORDER
205 Hudson Street	)	UNDER 40 C.F.R. § 22.13(b)
Columbia, Kentucky 42728-1629	)	
	)	
Respondent	)	Docket No.: CWA-04-2010-5130(b)

---

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)(ii) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(ii), 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 to the Director, RCRA Division pursuant to EPA Region 4 Clean Water Act Delegation 2-52-A ("Complainant").

**CONSENT AGREEMENT**

**Stipulations**

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

1. Respondent, Coomer Oil, LLC, is a corporation organized under the laws of the Commonwealth of Kentucky. The Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5).

2. Coomer Oil, LLC, was incorporated on March 4, 2005. The Respondent was, at all times, relevant to this Consent Agreement and Final Order, the owner and operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), of a facility which was a tanker truck which had an accident at or near the vicinity of mile marker 149 on Interstate 64 east bound, near Olive Hill, Kentucky (the "Facility") at the time of the discharge.

3. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10).

4. As a result of the accident involving a tanker truck carrying oil to a refinery, oil discharged onto the ground in the median, and then entered a highway storm drainage system that flowed into an unnamed tributary of Fleming's Fork River. Fleming's Fork River is a tributary to Tygert Creek, which is a tributary to the Ohio River. This unnamed tributary is a navigable water as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and is subject to the jurisdiction of Section 311 of the Act, 33 U.S.C. § 1321.

5. Section 311(b)(3) of the Act, 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, welfare or environment of the United States.

6. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4), prohibited discharges are defined in 40 C.F.R. § 110.3(b) to include discharges of oil that (1) violate applicable water quality standards or (2) cause a film or 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.

7. Solely for purposes of entering into this Consent Agreement and accepting execution of this Final Order, Respondent admits the jurisdictional statements contained herein.

#### Allegations

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

8. On April 25, 2008, Respondent as a result of a truck accident discharged approximately 7,400 gallons of oil, as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its facility into or upon a drainage system that then flowed into an unnamed tributary of Fleming's Fork River and adjoining shorelines.

9. The April 25, 2008, discharge of oil from its Facility caused a sheen upon or discoloration of the surface of the unnamed tributary of Fleming's Fork River and adjoining shorelines, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, in violation of Section 311 (b)(3) of the Act.

#### Waiver of Rights

10. Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), to appeal any Final Order in this matter under Section 311(b)(6)(G)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(G)(ii), and consents to the issuance of a Final Order without further adjudication.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this Consent Agreement or the Final Order.

**Penalty**

12. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of Fourteen Thousand Nine Hundred (\$14,900.00) dollars, plus interest, in accordance with the "Payment Terms" set forth below.

**Payment Terms**

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

13. The Respondent shall pay the amount of \$ 14,900.00 in eighteen (18) payments of \$845.42, which includes interest at 3 percent. The first payment of \$845.42 is due no later than 30 days after the effective date of the Final Order. The seventeen remaining payments of \$845.42 each will be due no later than 30 days of the previous payment.

14. Respondent shall remit each payment by means of a corporate cashier's or certified check, by electronic funds transfer (EFT), or on-line payment. If paying by check, the Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF - 311."

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  
PO 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

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 form and complete required fields.

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

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."

15. If paying by check, the Respondent shall note on the penalty payment check the title and docket number of this case. The Respondent shall submit a copy of the check (or, in the case of an EFT transfer or on-line payment, copies of the EFT or on-line confirmation) to the following people:

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

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

16. 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

17. Complainant reserves the right, pursuant to 40 C.F.R. § 22.45(c) (4) (iii), to withdraw from this Consent Agreement and proposed Final Order within 15 days of receipt of a Commenter's petition requesting, pursuant to 40 C.F.R. § 22.45(c) (4) (ii), that the Regional Administrator set aside the Consent Agreement and proposed Final Order on the basis that material evidence was not considered.

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

19. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 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 Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

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

21. 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:

Meggan Huggins, Assistant Regional Counsel  
U.S. EPA – Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
(404) 562-9521

22. 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:

Hunter Durham  
DURHAM & ZORNES  
Attorney for Coomer Oil, LLC  
P.O. Box 100  
Columbia, Kentucky 42728  
(270) 384-4411

**Effective Date**

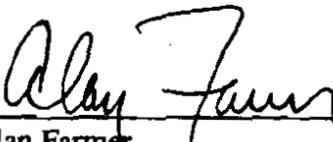
23. This Consent Agreement and attached Final Order are effective upon the filing of the Final Order with the Regional Hearing Clerk.

**CONSENTED AND AGREED TO:**

COOMER OIL, LLC

Date: 3-2-2010   
Name: Joe Collins  
Title: General Manager, Coomer Oil, LLC

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 5/17/10   
G. Alan Farmer  
Director  
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS II
	)	CONSENT AGREEMENT AND
Coomer Oil, LLC	)	FINAL ORDER
205 Hudson Street	)	
Columbia, Kentucky 42728-1629	)	UNDER 40 C.F.R. § 22.13(b)
	)	
Respondent	)	Docket No.: CWA-04-2010-5130(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 27<sup>th</sup> day of May, 2010.

BY: A. Stanley Meiburg  
A. Stanley Meiburg  
Acting Regional Administrator

In the Matter of Coomer Oil, LLC  
Docket Number: CWA-04-2010-5130(b)

**CERTIFICATE OF SERVICE**

I hereby certify that I have, this day, filed the foregoing Consent Agreement and the attached Final Order (CAFO), in the Matter of Coomer Oil, LLC, Docket Number: CWA-04-2010-5130(b), and that on this day, I served a true and correct copy of the CAFO on the parties listed below in the manner indicated:

**Via Certified Mail - Return Receipt Requested**

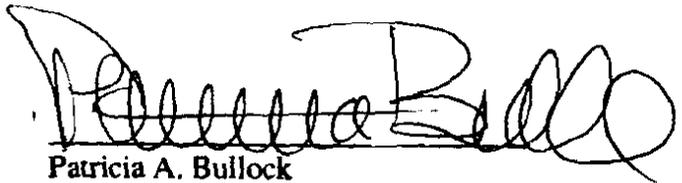
Hunter Durham  
DURHAM & ZORNES  
Attorney for Coomer Oil, LLC  
P.O. Box 100  
Columbia, Kentucky 42728  
(270) 384-4411

**Via EPA's internal mail**

Meggan Huggins  
Associate Regional Counsel  
U.S. EPA - Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

Quantindra Smith  
Environmental Protection Specialist  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Dated this 8 day of July, 2010.



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303  
(404) 562-9511