



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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

4WD-ERRB

**APR 25 2007**

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

Mr. Jimmy L. Erwin, General Manager  
American Marina Enterprises  
4800 Ebbtide Lane  
Port Richey, FL 34688-6410

**SUBJ: Consent Agreement and Final Order:  
Docket No. CWA-04-2006-5029**

Dear Mr. Erwin:

Enclosed is a copy of the Consent Agreement and Final Order (CAFO) for the above referenced matter. This CAFO became effective on the date of filing with the Regional Hearing Clerk as required by 40 C.F.R. §§ 22.6 and 22.31, and as indicated on the Certificate of Service.

The United States Environmental Protection Agency (EPA) hereby notifies you that the Expedited Settlement Agreement has been executed by both parties and is binding on EPA and you. Upon receipt of your assessed penalty of \$500.00, EPA will take no further action against you for the violations cited in the Settlement Agreement. Your copy of the executed agreement enclosed.

You must submit your payment within seven (7) days of your receipt of this letter by either electronic funds transfer, certified or cashiers check made payable to "Environmental Protection Agency." The check and a letter accompanying the check shall reference the name of the responsible party (Oil Spill Liability Trust Fund -311, American Marina Enterprises) and the EPA docket number CWA-04-2006-5029, and shall be sent depending upon your preferred method of payment identified in Enclosure A

A copy of the check shall simultaneously be sent to at the time Respondent shall send separate copy of each check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

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

Mel Rechtman at:  
U. S. Environmental Protection Agency - Region 4  
ROECB  
Waste Management Division  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

If you have any questions, please contact Mel Rechtman at (404)562-8745.

Sincerely,

A handwritten signature in black ink, appearing to read "N. M. Kumar", with a long horizontal flourish extending to the right.

Narindar Kumar, Chief  
RCRA/OPA Enforcement & Compliance Branch  
RCRA Division

Enclosure:  
Expedited Settlement Agreement  
Enclosure A -Payment Information  
cc: USCG

10/25/06

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
61 FORSYTH STREET, ATLANTA, GEORGIA 30303  
EXPEDITED SPILL SETTLEMENT AGREEMENT

DOCKET NO. CWA-04-2006-5029

On: May 9, 2006 Time: 15:10  
At: 48000 Ebbtide Lane, Port Richey, Pasco County, Florida, American Marina Enterprises, Inc. (Respondent) discharged approximately 450 gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached FINDINGS and ALLEGED VIOLATIONS FORM (Form), which is hereby incorporated by reference.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for the violations of Section 311(b)(3) of the Act described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in that statute and further described by 40 CFR § 110.3. The Respondent admits being subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the form. Respondent does not contest the Findings in the Form, and waives any objections it may have to EPA's jurisdiction.

This Expedited Settlement is binding on the parties signing below, and effective upon EPA's filing of the document with the Regional Hearing Clerk. If the Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt and submit payment of the assessed penalty, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle civil violations described in the Form for a penalty of \$500.00. Respondent consents to the assessment of this penalty.

APPROVED BY RESPONDENT:

This Expedited Settlement is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to federal requirements at a cost of \$ 800,000, and it has taken corrective actions that will prevent future spills. The Respondent also by signature of this Settlement Agreement agrees to payment of the penalty assessed. Upon written execution of this Agreement Respondent shall submit payment within 7 days by certified check or electronic funds transfer for \$500.00 payable to the "US Environmental Protection Agency CWA-311". Instructions on how to make this payment will be included in the written notice that will be issued when the Expedited Settlement Agreement becomes effective.

Name (print): Jimmy L Erwin  
Title (print): General Manager  
Signature: [Signature]

APPROVED BY EPA:

[Signature] Date APR 16 2007  
J. I. Palmer, Jr.  
Regional Administrator

IT IS SO ORDERED:

[Signature] Date 4/18/07  
Susan B. Schub  
Regional Judicial Officer

RECEIVED  
EPA REGION IV

2007 APR 25 AM 9:00

HEARING CLERK

RECEIVED  
EPA REGION IV  
2007 APR 20 AM 7:19  
HEARING CLERK

P.B. re-file

**ALLEGED CIVIL VIOLATIONS - DOCKET NO. CWA-04-2006-5029**

American Marina Enterprises, Inc., Respondent, is a corporation organized under the laws of Florida with a place of business located at 4800 Ebbtide Lane, Port Richey, Florida 34668. The Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act, 33 U.S.C. §1321(a)(7).

Respondent is the owner of an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. §1321(a)(10), which is located at or near 4800 Ebbtide Lane, Port Richey, Pasco County, Florida ('facility').

Section 311(b)(3) of the Act 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.

For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 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, (3) cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

On May 9, 2006, Respondent discharged an estimated 450 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 the Pithlachascotee River which discharges into the Gulf of Mexico and adjoining shorelines.

The Pithlachascotee River which discharges into the Gulf of Mexico is a "navigable water of the United States" subject to the jurisdiction of 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.

Respondent's May 9, 2006 discharge of oil from its facility caused a sheen upon or discoloration of the surface of the adjoining shoreline of the Pithlachascotee River which discharges into the Gulf of Mexico or caused a sludge or emulsion to be deposited beneath the surface, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. §110.3, which implements Section 311(b)(3) and (b)(4) of the Act.

Respondent's May 9, 2006 discharge of oil from its facility into or upon the Pithlachascotee River which discharges into the Gulf of Mexico and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. §110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 C.F.R. 19.4, the Respondent is liable for civil penalties of up to \$11,000 per violation, up

## PAYMENT INFORMATION

### Wire Transfers

SWIFT Address MELNUS3P - (SWIFT address is only needed on international transfers)

Mellon Bank  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh PA 15235

Contact - Patricia McKaveney at 412-234-5805

### CHECK PAYMENTS

#### US checks by regular US postal service mail

U.S. Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, PA 15251

Contact - Patricia McKaveney at 412-234-5805

#### For FedEx and other non-US Postal Service express mail the correct address is:

Mellon Client Service Center  
ATTN: Shift Supervisor  
Lockbox 371099M Account 9109125  
500 Ross Street  
Pittsburgh, PA 15262-0001

Docket No. CWA-04-2006-5029

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of American Marina Enterprises, Docket No. CWA-04-2006-5029 (filed with the Regional Hearing Clerk on 4-25, 2007) was served on 4-25, 2007 in the manner specified to each of the persons set forth below:

George Stampler, Manager  
Kentucky Petroleum, Inc.  
P.O. Box 197  
Dorton, KY 41520

Via Certified Mail,  
Return Requested

Victor Weeks, Risk Management Plan Coordinator  
EPCRA Enforcement Section  
U.S. EPA, Region 4  
61 Forsyth St.  
Atlanta, GA 30303

Via EPA's Internal Mail

Mel Rechtman  
RCRA OPA Enforcement & Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Via EPA's Internal Mail

Date: 4-25-07



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

PAYMENT DUE DATE: \_\_\_\_\_

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Mel Rechtman on APR 24 2007  
(Name) (Date)

in the ROECB at 404/562-8745  
(Office) (Phone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: American Marina Enterprises

The Total Dollar Amount of the \_\_\_\_\_  
Receivable: \$500 \_\_\_\_\_ (If installments, attach  
schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA-04-2006-5029  
The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: Waste

To Be Completed By Cincinnati Finance Center

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date: 00/00/2000

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |                              |
|--|------------------------------|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)  |
|  | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order Should be to

- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD)    |