

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	CWA SECTION 311 CLASS II
)	CONSENT AGREEMENT AND
United American Energy, LLC)	FINAL ORDER
Cow Creek Road)	UNDER 40 C.F.R. § 22.13(b)
Ravenna, Kentucky 40472)	
)	
Respondent.)	Docket No.: CWA-04-2009-5127
_____)	

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HEARINGS CLERK

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 them to the Director of the RCRA Division of EPA, Region 4 ("Complainant").

CONSENT AGREEMENT

Stipulations

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

1. Respondent, United American Energy, LLC, is a limited liability company formed under the laws of the State of Delaware doing business in 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), and 40 C.F.R. § 110.1.

2. The Respondent was the owner within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 110.1 of the S. M. Maple Lease, Cow Creek Road, a facility for the production of crude oil located in Estill County, Kentucky near Ravenna, Kentucky, at the time of the alleged discharge at issue herein.

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. Rogers Fork, which is a tributary to Cow Creek, which is a tributary to the Kentucky River, 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.

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 or 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), 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 cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

7. Respondent admits the jurisdictional statements contained herein.

Allegations

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

8. On or about November 15, 2006, Respondent discharged an unknown quantity 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 Rogers Fork and adjoining shorelines.

9. Respondent's November 15, 2006, discharge of oil from its facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of Rogers Fork 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 \$24,900.00.

Payment Terms

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

13. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of \$24,900.00 by means of a cashier's or certified check, or by online payment 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 notation "OSLTF – 311."

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

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 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, MO 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. 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

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."

14. 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 online payment, a copy of the online confirmation or, in the case of a wire transfer, a copy of the wire transfer 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, GA 30303-8960

Doug McCurry, Chief
North 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, GA 30303-8960

15. 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

16. Complainant reserves the right, pursuant to 40 C.F.R. § 22.45(c)(4)(iii), to withdraw 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.

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

18. 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.

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

20. 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:

Michael T. Newton,
Associate Regional Counsel
U.S. EPA – Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9567

21. 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:

Steve N. Siegel, Esq.
Attorney at Law
Murdock Goldenberg Schneider & Groh, LPA
35 East Seventh Street, Suite 600
Cincinnati, OH 45202
513.345.3080

Effective Date

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

CONSENTED AND AGREED TO:

UNITED AMERICAN ENERGY, LLC

Date: 10/20/08


Name: Barbara O'Hare
Title: Chief operating officer/
Managing Director

In the Matter of: United American Energy, LLC
Docket Number: CWA-04-2009-5127(b)

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 10/28/08



G. Alan Farmer
Director
RCRA Division

In the Matter of United American Energy, LLC
Docket Number: CWA-04-2009-5127(b)

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2008, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of United American Energy, LLC, Docket Number: CWA-04-2009-5127(b), and that on December 31, 2008,

I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Via Certified Mail - Return Receipt Requested

Steve N. Siegel, Esq.
Attorney at Law
Murdock Goldenberg Schneider & Groh, LPA
35 East Seventh Street, Suite 600
Cincinnati, OH 45202

Via EPA's internal mail

Michael T. Newton
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303


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

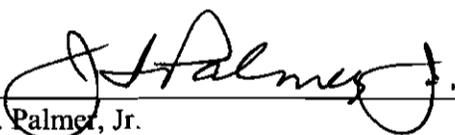
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	CWA SECTION 311 CLASS II
)	CONSENT AGREEMENT AND
United American Energy, LLC.)	FINAL ORDER
Cow Creek Road)	UNDER 40 C.F.R. § 22.13(b)
Ravenna, Kentucky 40472)	
)	
Respondent.)	Docket No.: CWA-04-2009-5127(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 18th day of December, 2008.

BY: 
J. I. Palmer, Jr.
Regional Administrator
EPA Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

December 31, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve N. Siegel, Esq.
Attorney at Law
Murdock Goldenberg Schneider & Groh, LPA
35 East Seventh Street, Suite 600
Cincinnati, OH 45202

Dear Mr. Siegel

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO), Docket No.: CWA-04-2009-5127(b), which resolves the November 15, 2006, discharge of oil into Rogers Fork from United American Energy, LLC's S. M. Maple lease in Estill County, Kentucky. Please note that pursuant to Paragraph 13 of the CA/FO, your client has 30 days from the effective date of the CA/FO to submit its payment of the \$24,900.00 penalty.

If you have questions regarding the CA/FO, please contact me at (404) 562-9567.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Newton".

Michael T. Newton
Associate Regional Counsel