



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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

MAY 21 2009

James M. Ellerbe, Senior Attorney  
Marathon Petroleum Company LLC  
439 South Main Street  
Findlay, Ohio 45840

RE: Catlettsburg Refinery, LLC – Executed Consent Agreement and Final Order,  
Docket No. CWA-04-2009-5134(b)

Dear Mr. Ellerbe,

The United States Environmental Protection Agency (EPA) hereby notifies you that the public comment period regarding the Class II Consent Agreement and Final Order (CAFO) docketed CWA-04-2009-5134(b), for Catlettsburg Refinery, LLC has expired. EPA did not receive any comments during the public comment period disclosing material evidence that was not considered. Therefore, EPA has finalized the CAFO by filing it with the Regional Hearing Clerk (an executed copy of which is enclosed). The CAFO was effective upon filing, and payment of the civil penalty of \$110,000.00 is due within thirty (30) days of this date.

Please do not hesitate to contact me at (404) 562-9539 with any questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bonnie Sawyer".

Bonnie Sawyer  
Associate Regional Counsel

Enclosure.

439 South Main Street  
Findlay, Ohio 45840


Re: Notice of Proposed Consent Agreement and Final Order  
Docket No. CWA-04-2009-5134(b)

Dear Mr. Ellerbe,

The purpose of this Letter is to advise you that the U.S. Environmental Protection Agency (EPA) failed to properly file the Consent Agreement and Final Order in the above referenced case in accordance with EPA's filing procedures. Enclosed is a copy of the Consent Agreement and Final Order that has been properly filed with the Regional Hearing Clerk.

Please note the following: The allegations as set forth in the Consent Agreement and Final Order (CWA-04-2009-5134(b)) dated May 21, 2009, have not been altered in any way.

We apologize for any inconvenience that this may have caused. If you have any questions, please contact Ms. Bonnie Sawyer at (404) 562-9539.

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

Enclosure



2. The Respondent, at all times relevant to this Consent Agreement and Final Order, was the operator 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 an oil refining facility (“Facility”) located near Catlettsburg, Kentucky.

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. The Big Sandy River is a water body 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.

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 the environment of the United States 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. Respondent admits the jurisdictional statements contained herein.

#### **Allegations**

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

8. On May 8, 2004, Respondent discharged 21,210 gallons (505 barrels) 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 that entered into or upon the Big Sandy River and/or its adjoining shorelines.

9. Respondent's May 8, 2004, discharge of oil from its Facility caused a sheen upon or discoloration of the surface of the Big Sandy River and/or its adjoining shoreline, 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 One Hundred Ten Thousand Dollars (\$110,000.00).

**Payment Terms**

Based on the foregoing, 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 One Hundred Ten Thousand Dollars (\$110,000.00) by means of a corporate

cashier's or certified check, or by electronic funds transfer (EFT). 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 addressed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

If paying by EFT, the Respondent shall transfer \$110,000 to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
33 Liberty St.  
New York, NY 10045

Field tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency." In the case of an international transfer of funds, the Respondent shall use SWIFT address FRNYUS33.

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 copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following people:

Patricia Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 4  
SNAFC  
61 Forsyth Street, SW  
Atlanta, GA 30303

Doug McCurry, Chief  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch

RCRA Division  
U.S. Environmental Protection Agency  
Region 4  
SNAFC  
61 Forsyth Street, SW  
Atlanta, GA 30303

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 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.

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 there under, 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/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.

20. The following attorney represents EPA in this matter and is authorized to receive service for EPA in the proceeding:

Bonnie Sawyer  
Associate Regional Counsel  
United States Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center,  
61 Forsyth Street, SW  
Atlanta, Georgia 30303  
(404) 562-9539  
[Sawyer.Bonnie@epa.gov](mailto:Sawyer.Bonnie@epa.gov)

The following attorney represents Respondent in this matter and is authorized to receive service for Respondent in the proceeding:

James M. Ellerbe, Senior Attorney  
Marathon Petroleum Company LLC  
539 South Main Street  
Findlay, Ohio 45840  
(419) 421-4125  
[jellerbe@marathonoil.com](mailto:jellerbe@marathonoil.com)

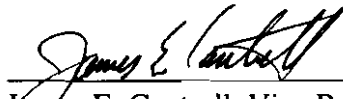


**Effective Date**

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

For CATLETTSBURG REFINING, LLC:

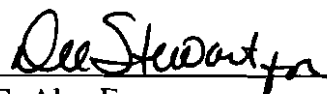
Date: 3/6/09

Signature:   
James E. Cantrell, Vice President,  
Catlettsburg Refining, LLC



For U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: 3/19/09

Signature:   
G. Alan Farmer  
Director  
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

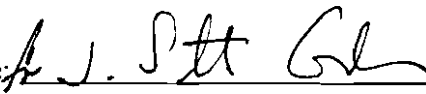
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|------------------------------|---|----------------------------|
| IN THE MATTER OF             | ) | CWA SECTION 311 CLASS II   |
|                              | ) | CONSENT AGREEMENT AND      |
| Catlettsburg Refining, LLC   | ) | FINAL ORDER                |
| 11631 US Route 23            | ) |                            |
| Catlettsburg, Kentucky 41129 | ) | UNDER 40 C.F.R. § 22.13(b) |
|                              | ) |                            |
| Respondent.                  | ) | No. CWA-04-2009-5134(b)    |
| _____                        | ) |                            |

**FINAL ORDER**

Pursuant to Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 1321(b)(6), and the delegated authority of the undersigned, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” codified at 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties and Allegations by the Complainant are adopted as Findings in this Final Order.

Catlettsburg Refining, LLC, the Respondent, is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2009-5134(b).

Date:     MAY 14 2009    

Signature:   
A. Stanley Meiburg  
Acting Regional Administrator

CERTIFICATE OF SERVICE

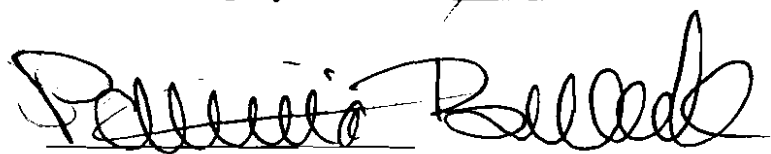
I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Catlettsburg Refining, LLC, Docket No. CWA-04-2009-5134(b), on the parties listed below in the manner indicated:

Bonnie Sawyer (Via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

Jacq Marie Jack (Via EPA's internal mail)  
RCRA & OPA Enforcement and Compliance Branch  
U.S. EPA, Region 4  
61 Forsyth St., S.W.  
Atlanta, Georgia 30303

James M. Ellerbe, Senior Attorney (Via Certified Mail)  
Marathon Petroleum Company LLC  
539 South Main Street  
Findlay, Ohio 45840

Dated this 21 day of May, 2009.



Ms. Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA – Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960