



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**SEP 11 2007**

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

Dan McCormick  
Risk Manager  
WilcoHess, LLC  
2604 South Saunders Street  
Raleigh, North Carolina 27603

SUBJ: Consent Agreement and Final Order  
Docket No. CWA-04-2007-5177(b)

Dear Mr. McCormick:

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.

Please submit your penalty payment of \$1,330.00 within 30 days of the effective date of the CAFO by electronic funds transfer (EFT), or certified or cashier's check made payable to "Environmental Protection Agency." The check and a letter accompanying the check shall reference the name of the case as follows: "Oil Spill Liability Trust Fund – CWA 311, WilcoHess, LLC", as well as the EPA docket number CWA 04-2007-5177(b), and shall be sent depending upon your preferred method of payment identified in Enclosure A.

At the same time, Respondent shall send a copy of the check or EFT receipt, 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

Doug McCurry, Chief  
North Enforcement and Compliance Section  
RCRA/OPA Enforcement & Compliance Branch  
US EPA, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

resolve this matter quickly.

Sincerely,

A handwritten signature in black ink that reads "Joan Redleaf Durbin". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Joan Redleaf Durbin  
Associate Regional Counsel

Enclosures:  
Settlement Agreement  
Payment Information

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

RECEIVED  
EPA REGION IV  
2007 SEP 11 PM 4:00  
HEARING CLERK

DOCKET NO. CWA-04-2007-5177(b)

On: January 1, 2006  
Time: 07:00

At: 2604 South Saunders Street, Raleigh, Wake County, North Carolina, WilcoHess, LLC, (Respondent) discharged 138 gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached ALLEGED CIVIL VIOLATIONS (Form), which is hereby incorporated by reference.

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 C.F.R.

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 allegations in the Form, and waives any objections it may have to EPA's jurisdiction.

EPA is authorized to enter into this Settlement Agreement 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 C.F.R. 22.13(b). The parties enter into this Settlement Agreement in order to settle civil violations described in the Form for a penalty of \$1,330.00. Respondent consents to the assessment of this penalty.

This Settlement Agreement 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 \$4,623.97, and it has taken corrective actions that will prevent future spills. The Respondent also by signature on this Settlement Agreement agrees to payment of the penalty assessed. **Do not enclose payment.** Upon receiving written execution of this Settlement Agreement, Respondent shall submit payment within 14 days by certified check or electronic funds transfer for \$1,330.00 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 Settlement Agreement becomes effective.

Upon signing and returning this Settlement Agreement 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 Settlement Agreement without further notice.

After this Settlement Agreement 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 Alleged Civil Violations set forth in the Form.

This Settlement Agreement is binding on the parties signing below, and effective upon EPA's filing of the document with the Regional Hearing Clerk.

APPROVED BY RESPONDENT:

Name (print): Dan McCormick

Title (print): Risk Manager

Signature: [Handwritten Signature]

APPROVED BY EPA:

[Handwritten Signature] Date 8/27/07

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

IT IS SO ORDERED:

[Handwritten Signature] Date 9/11/07  
Susan B. Schub

Regional Judicial Officer

**ALLEGED CIVIL VIOLATIONS - DOCKET NO. CWA-04-2007-5177(b)**

1. WilcoHess, LLC, Respondent, is a Limited Liability Corporation organized under the laws of North Carolina with a place of business located at 2604 South Saunders Street, Raleigh, NC 27603. 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) (Act).
2. 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 2604 South Saunders Street in Raleigh, Wake County, North Carolina ("facility").
3. 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.
4. 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.
5. On January 1, 2006, Respondent discharged an estimated 138 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 storm drain that flowed into an unnamed tributary of Walnut Creek which flows into the Neuse River which discharges into the Pamlico Sound and the Atlantic Ocean and adjoining shorelines.
6. The unnamed tributary which flows into Walnut Creek which discharges into the Neuse River is a "navigable water of the U. S." 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.
7. Respondent's January 1, 2006 discharge of oil from its facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of the unnamed tributary of Walnut Creek 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.
8. Respondent's January 1, 2006 discharge of oil from its facility into or upon the unnamed tributary to Walnut Creek 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 to a maximum of \$32,500.

Docket No. CWA-04-2007-5177(b)

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order (Settlement Agreement), in the Matter of WilcoHess, LLC, Docket No. CWA-04-2007-5177(b) (filed with the Regional Hearing Clerk on ~~SEP 11 2007~~ **SEP 11 2007**) was served on ~~SEP 11 2007~~ **SEP 11 2007**, 2007 in the manner specified to each of the persons set forth below:

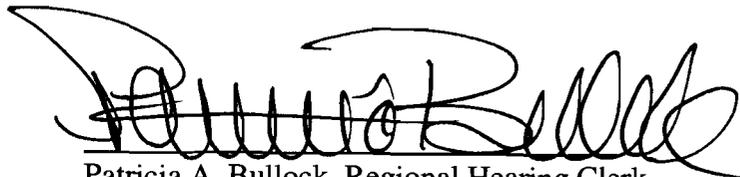
Dan McCormick  
Risk Manager  
WilcoHess, LLC  
2604 South Saunders Street  
Raleigh, NC 27603

Via Certified Mail  
Return Receipt Requested

Joan Redleaf Durbin  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Via EPA's Internal Mail

Date: 9-11-07



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

## **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

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: Alan Newman on 8/30/2007  
(Name) (Date)

in the ROECB at (404) 562 - 8589  
(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: WilcoHess LLC

The Total Dollar Amount of the Receivable: 1,330  
(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA - 04 - 2007 - 5177(b)  
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: 0/00/2007  
**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  
Environmental Enforcement Section  
Department of Justice RM 1647  
P.O. Box 7611, Benjamin Franklin Station  
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
2. Regional Hearing Clerk

3. Designated Program Office
4. Regional Counsel (EAD)