



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

OCT 25 2011

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

Ms. Christine McAnney, Vice President  
Balfour Beatty Infrastructure, Inc,  
765 South Kerr  
Wilmington, North Carolina 28403

SUBJ: Consent Agreement and Final Order:  
Docket No. CWA-04-2011-5018

Dear Ms. McAnney:

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 hereby notifies you that the Expedited Settlement Agreement (ESA) has been executed by both parties and is binding on the EPA and you. Upon receipt of your assessed penalty of \$500.00, the EPA will take no further action against you for the violations cited in the ESA. Your copy of the executed ESA is 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, Balfour Beatty Infrastructure, Inc.) and the EPA docket number CWA-04-2011-5018, and shall be sent depending upon your preferred method of payment identified in Enclosure A.

At the same time, you shall send a 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:

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

Mr. Mel Rechtman  
South Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank S. Ney', written in a cursive style.

Frank S. Ney, Acting Branch Chief  
RCRA and OPA Enforcement and Compliance  
Branch  
RCRA Division

Enclosures

cc: USCG

ENCLOSURE A

CHECK PAYMENTS:

U.S. Environmental Protection Agency  
Fines and Penalties  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

WIRE TRANSFERS:

Wire transfers 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, New York 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

OVERNIGHT MAIL:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

Contact: Natalie Pearson 314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving U.S. currency  
US Treasury REX / ACH Receiver  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contacts: John Schmid 202-874-7028 or  
Remittance Express 1-866-234-5681  
ABA = 051036706  
Transaction Code 22 – checking  
Environmental Protection Agency  
Account 310006  
CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.  
This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter sfo 1.1 in the search field

Open form and complete required fields.

Docket No. CWA-04-2011-5018

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Balfour Beatty Infrastructure, Inc., Docket No. CWA-04-2011-5018 (filed with the Regional Hearing Clerk on ~~OCT 25 2011~~) was served on ~~OCT 25 2011~~ 2011 in the manner specified to each of the person set forth below:

Ms. Christine McAnney, Vice President  
Balfour Beatty Infrastructure, Inc.  
765 South Kerr  
Wilmington, North Carolina 28403

CERTIFIED MAIL  
Return Receipt Requested

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

Via EPA's Internal Mail

Quantindra Smith  
RCRA & OPA Enforcement & Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

Via EPA's Internal Mail and PDF

Date: 10-25-11



Belinda Johnson, Acting Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511

SEP 4 9 2011

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

RECEIVED  
AUG 25 2011  
BALFOUR BEATTY  
INFRASTRUCTURE INC.

DOCKET NO. CWA-04-2011-5018

On: May 18, 2011 Time: 14:30  
At: or near Harry S. Truman Parkway, 9181 Creekwood Road, Savannah, Georgia, Balfour Beatty Infrastructure, Inc.. (Respondent) discharged an estimated 150 gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached ALLEGED CIVIL VIOLATION (Form), which is hereby incorporated by reference.

The 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 the EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent neither admits nor denies the Allegations in the Form.

The EPA is authorized to enter into this Expedited Spill Settlement Agreement under the authority vested in the Administrator of the 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 Expedited Spill Settlement Agreement in order to settle the civil violation described in the Form for a penalty of \$500.00. Respondent consents to the assessment of this penalty.

This Expedited Spill 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 \$ 100,000, and it has taken corrective actions that will prevent future spills. The Respondent also by signature on this Expedited Spill Settlement Agreement agrees to payment of the penalty assessed. Do not enclose payment. Upon receiving written execution of this Agreement, Respondent shall submit payment within 45 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 Spill Settlement Agreement becomes effective.

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

After this Expedited Spill Settlement Agreement becomes effective and the assessed penalty is paid, EPA will take no further action against the Respondent for the violation 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 violation 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 Violation set forth in the Form.

This Expedited Spill Settlement Agreement is binding on the parties signing below, and effective upon the EPA's filing of the document with the Regional Hearing Clerk. If the Respondent does not sign and return this Expedited Spill Settlement Agreement as presented within 7 days of the date of its receipt, the proposed Expedited Spill Settlement Agreement is withdrawn without prejudice to the EPA's ability to file any other enforcement action for the violation identified in the Form.

APPROVED BY RESPONDENT:

Name (print): Christine McAnney  
Title (print): Vice President  
Signature: Christine McAnney

APPROVED BY THE EPA:

Frank S. Ney Date 10/12/11  
Frank S. Ney, Acting Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

IT IS SO ORDERED:

Susan B. Schub Date 10/11/11  
Susan B. Schub  
Regional Judicial Officer

RECEIVED  
EPA REGION IV  
HEARING CLERK  
OCT 25 PM 2:45

**ALLEGED CIVIL VIOLATION - DOCKET NO. CWA-04-2011-5018**

1. Balfour Beatty Infrastructure, Inc., Respondent is a corporation with a place of business located at 765 South Kerr Avenue, Wilmington, North Carolina 28403. 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 was a construction site located at or near Harry S. Truman Parkway, 9181 Creekwood Road, Savannah, Georgia ("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, 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, (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. May 18, 2011, Respondent discharged an estimated 150 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), from its facility into or upon the Vernon River, and adjoining shorelines.
6. The Vernon River is a "navigable water of the United States", 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.
7. Respondent's May 18, 2011, discharge of oil from its facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of the Vernon River, 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 May 18, 2011, discharge of oil from its facility into or upon the Vernon River 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 \$16,000 per violation, up to a maximum of \$37,500.

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 9/20/11  
(Name) (Date)

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

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Balfour Beatty Infrastructure, Inc.

The Total Dollar Amount of the Receivable: \$500.00  
(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA-04-2011-S018

The Site Specific Superfund Account Number:

The Designated Regional/Headquarters Program Office: RCRA Division

To Be Completed By Cincinnati Finance Center

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date: /2010

**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)<br>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<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|