



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

JAN 27 2010

LeAnn Mynatt, Esq.
Baker, Donelson, Bearman, Caldwell & Berkowitz
265 Brookview Centre Way, Suite 600
Knoxville, Tennessee 37919

Re: Executed Consent Agreement and Final Order, Docket
No. CWA-04-2010-5129(b)

Dear Ms. Mynatt:

Please find enclosed a copy of the fully executed Consent Agreement and Final Order (CAFO) for your client, TA Operating, LLC. The CAFO was effective upon filing and payment of the civil penalty of \$105,000.00 is due within thirty (30) days of the effective date of the CAFO.

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

RECEIVED
HEARINGS DIVISION
EPA REGION 4

2010 JAN 27 AM 11:48

IN THE MATTER OF)	CWA SECTION 311 CLASS II
)	CONSENT AGREEMENT AND
TA Operating, LLC)	FINAL ORDER
D/B/A Petro Stopping Center, L.P.)	
722 Watt Road)	UNDER 40 C.F.R. § 22.13(b)
Knoxville, Tennessee 37922)	
)	
Respondent)	Docket No. CWA-04-2010-5129(b)
_____)	

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 these authorities to the Director, RCRA Division pursuant to EPA Region 4 Clean Water Act Delegation 2-52-A ("Complainant").

CONSENT AGREEMENT

Stipulations

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

1. Respondent, TA Operating, LLC, is a limited liability corporation formed under the laws of the State of Delaware and doing business in the State of Tennessee as Petro Stopping Center, L.P. 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, at all times relevant to this Consent Agreement and Final Order, was the owner and 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 Petro Stopping Center #312, a filling station for large trucks, located at 722 Watt Road, Knoxville, Tennessee (the "Facility").

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. Grable Branch and the Clinch River are navigable waters 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. Solely for purposes of this Consent Agreement and Final Order, Respondent admits the jurisdictional statements contained herein.

Allegations

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

8. On June 13, 2008, Respondent discharged approximately 226 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 Grable Branch, which flows into Clinch River, and/or adjoining shorelines.

9. Respondent's June 13, 2008, discharge of oil from its Facility caused a sheen upon or discoloration of the surface of Grable Branch and Clinch River and/or their adjoining shorelines, 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.

Penalty

11. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of One Hundred, Five Thousand Dollars (\$105,000).

Payment Terms

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

12. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of One Hundred, Five Thousand Dollars (\$105,000) by means of a corporate

cashier's or certified check, by electronic funds transfer (EFT), or on-line. 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, Missouri 63197-9000

If paying by EFT, the Respondent shall transfer the payment to:

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

If Respondent chooses the On-Line Payment option, available through the Department of Treasury, this payment option can be accessed from the information below.

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Open form and complete required fields.

13. 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 or on-line payment, copies of the EFT or on-line confirmation) to the following people:

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

Doug McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

14. 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

15. 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.

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

17. 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.

18. 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.

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

Bonnie Sawyer
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-9539
Sawyer.Bonnie@epa.gov

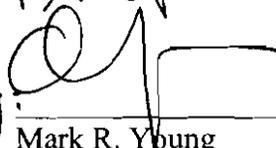
The following attorney represents Respondent in this matter and is authorized to receive service for Respondent in the proceeding:

LeAnn Mynatt
Attorney
Baker, Donelson, Bearman, Caldwell & Berkowitz
265 Brookview Centre Way, Suite 600
Knoxville, Tennessee 37919

Effective Date

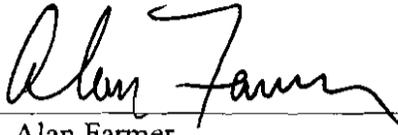
20. This Consent Agreement and attached Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

Date: 10/12/09

Signature: By: 
TA Operating LLC
Mark R. Young
Executive Vice President and
General Counsel
TA Operating LLC

For U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: 12/2/09

Signature: 
G. Alan Farmer
Director
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

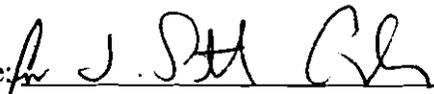
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Respondent)	Docket No. CWA-04-2010-5129(b)
_____)	

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.

TA Operating, LLC, the Respondent, is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2010-5129(b).

Date: 1 | 25 | 10

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 TA Operating, LLC, Docket No. CWA-04-2010-5129(b), on the parties listed below in the manner indicated:

Bonnie Sawyer
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's internal mail)

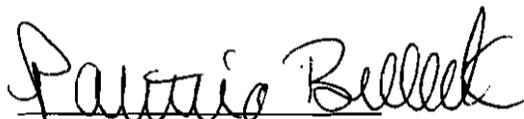
Jacqueline M. Jack
RCRA & OPA Enforcement and Compliance Branch
U.S. EPA - Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303-8960

(Via EPA's internal mail)

LeAnn Mynatt
Attorney
Baker, Donelson, Bearman, Caldwell & Berkowitz
265 Brookview Centre Way, Suite 600
Knoxville, Tennessee 37919

(Via Certified Mail)

Dated this 27 day of January, 2010.



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