

FILED UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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REGIONAL HEARING CLERK  
EPA REGION VI

REGION 6

MAR 04 2010

Spill Case

IN THE MATTER OF

**New Dominion, L.L.C.  
Chambers County, Texas**

Respondent.

**CWA SECTION 311 CLASS I  
CONSENT AGREEMENT  
AND FINAL ORDER  
UNDER 40 CFR § 22.13(b)**

**Docket No. CWA-06-2010-4803**

**LEGAL AUTHORITY**

1. 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)(i) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 CFR § 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6, who has in turn delegated them to the Director of the Superfund Division of EPA, Region 6, who has, by his concurrence, re-delegated the authority to act as Complainant to the Associate Director Prevention and Response Branch in Region 6, Delegation No. R6-2-51, dated February 13, 2008 ("Complainant").

**CONSENT AGREEMENT**

**Stipulations**

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

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2. Respondent is a corporation conducting business in the State of Oklahoma, with a place of business located at 3400 S. E. 59<sup>th</sup> Street, Oklahoma City, Oklahoma 73135. The Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. §1321(a)(7) and 40 CFR §112.2.

3. 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), and 40 CFR §112.2, an oil production Salt Water Disposal Well, the Chambers SWD #1, which was located at 3400 S. E. 29<sup>th</sup> Street, Del City, Oklahoma ("facility").

4. Cherry Creek and the North Canadian River are navigable waters and are tributaries of the Arkansas River. Cherry Creek and the North Canadian River are navigable waters of the United States as defined in Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 CFR §110.1.

5. Section 311(b)(3) of the Act prohibits the discharge of oil or a hazardous substance 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 CFR §110.3 to include discharges of oil that violate applicable water quality standards or 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.

**Allegations**

7. EPA alleges and Respondent neither admits nor denies that on April 29, 2009, Respondent discharged approximately 4 barrels of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 CFR §110.1, from its facility into or upon Cherry Creek and the North Canadian River and adjoining shorelines.

8. EPA alleges and Respondent neither admits nor denies that Respondent's April 29, 2009, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Cherry Creek and the North Canadian River and adjoining shorelines and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R §110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.

9. EPA alleges and Respondent neither admits nor denies that Respondent's April 29, 2009, discharge of oil from its facility into or upon Cherry Creek and the North Canadian River and adjoining shorelines, was in a quantity that has been determined may be harmful under 40 CFR §110.3 violated Section 311(b)(3) of the Act.

**Waiver of Rights**

10. Respondent waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. §1321(b)(6)(G)(i), 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 **\$3,800.00**.

**Payment Terms**

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

12. The Respondent shall submit this Consent Agreement and Final Order, with original signature to:

OPA Enforcement Coordinator  
U. S. Environmental Protection Agency  
Region 6 (6SF-PC)  
1445 Ross Avenue  
Dallas, Texas 75202-2733.

13. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **\$3,800.00** by means of a cashier's or certified check, or by electronic funds transfer (EFT).

- **Penalty Payment:** If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "**OSTLF-311**" and docket number **CWA-06-2010-4803**. If you use the U.S. Postal Service, address the payment to:

**U.S. Environmental Protection Agency, Fines & Penalties  
P.O. Box 979077, St. Louis, MO 63197-9000**

- If you use a private delivery service, address the payment to:

U.S. Bank  
Government Lockbox 979077 US EPA Fines & Penalties  
1005 Convention Plaza, Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
314-418-1028

- The Respondent shall submit copies of the check to the OPA Enforcement Coordinator, at the address above as well as:

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Lorena Vaughn  
Regional Hearing Clerk (6RC)  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

14. Failure by the Respondent 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.

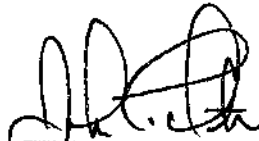
**General Provisions**

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

16. 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.

New Dominion, LLC

Date: 25 FEB 2010




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John E. Watson  
Manager, EH&S

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3 MAR 2010



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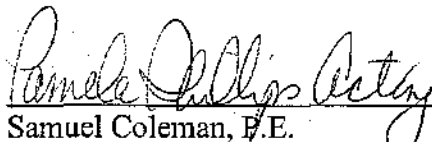
Mark A. Hansen  
Acting Associate Director  
Prevention & Response Branch  
Superfund Division  
USEPA Region 6 (6SF-P)  
1445 Ross Avenue  
Dallas, Texas 75202-2733

**FINAL ORDER**

Pursuant to Section 311(b)(6) of the 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, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," codified at 40 CFR Part 22, the forgoing 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.

The Respondent is ordered to comply with the terms of the Consent Agreement.

Date: 3/3/2010

  
Samuel Coleman, P.E.  
Director  
Superfund Division

**CERTIFICATE OF SERVICE**

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on 3-8, 2009, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Copy by certified mail,  
return receipt requested:

NAME: John E. Watson  
ADDRESS: 3400 S.E. 59th Street  
Oklahoma City, Oklahoma 73135



Frankie Markham  
OPA Enforcement Administrative Assistant