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EPA REGION VI

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

IN THE MATTER OF **Williams Gas Pipeline Company, LLC** **Transco Station 44** **Cameron Parish, Louisiana** Respondent.	**CWA SECTION 311 CLASS I CONSENT AGREEMENT AND FINAL ORDER UNDER 40 CFR § 22.13(b)** Docket No. **CWA-06-2011-4828**

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 and Allegations

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

COUNT 1: SPCC Requirements, 40 § CFR 112

2. Section 311(j)(1)(C) of the Act, 33 USC § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil from onshore vessels and from onshore facilities and offshore facilities, and to contain such discharges . . . ."

3. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.

4. EPA promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 *et seq.*, which established certain procedures, methods and other requirements upon each owner and operator of a non-transportation-related onshore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as EPA has determined in 40 CFR § 110.3 may be harmful to the public health or welfare or the environment of the United States ("harmful quantity").

5. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 USC § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

6. Respondent is a Corporation conducting business in the State of Louisiana, with a place of business located at 2800 Post Oak Blvd., Houston, Texas 77066, and 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 CFR § 112.2.

7. Respondent is the owner within the meaning of Section 311(a)(6) of the Act, 33 USC § 1321(a)(6), and 40 CFR § 112.2 of an onshore oil production facility, Transco Station, located in, Cameron Parish, Louisiana ("the facility"). The approximate coordinates of the facility are 29.76389° N and -93.63889° W. Drainage from the facility travels directly into and upon Hamilton Lake; thence to the Gulf of Mexico.

8. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons.

9. Hamilton Lake and the Gulf of Mexico are navigable waters of the United States within the meaning of 40 CFR § 112.2.

10. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the facility.

11. The facility is a non-transportation-related facility within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

12. The facility is an offshore facility within the meaning of Section 311(a)(10) of the Act, 33 USC § 1321(a)(11), 40 CFR § 112.2, and 40 CFR § 112 Appendix B.

13. The facility is therefore a non-transportation-related offshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity ("an SPCC-regulated facility").

14. Pursuant to Section 311(j)(1)(C) of the Act, E.O. 12777, and 40 CFR § 112.1

Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

15. The facility began operating before August 16, 2002.

SPCC Allegations

16. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing, and implement that plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

17. On June 16, 2010, EPA inspected the facility and found that Respondent had failed to fully implement its SPCC plan for the facility as follows:

a. The plan failed to include the rate of flow in the prediction and description of a major failure that could result in a discharge in accordance with 40 CFR 112.7(b);

b. The plan did not adequately describe the written inspection protocol for the facility, some of the monthly inspection reports for the past three years were not signed by the inspector, and no annual written inspection reports were maintained in accordance with 40 CFR 112.7(e);

c. The plan failed to describe general secondary containment at the truck loading area in accordance with 40 CFR 112.7(a)(1) and 112.7(c);

d. The plan failed to describe procedures for ensuring that uncontaminated rainwater drainage bypass valves are open and resealed under supervision;

e. The plan failed to describe the saltwater disposal system at the facility as well as the requisite examination and/or inspection program to prevent discharges in accordance with 40 CFR 112.9(d)(2).

18. Respondent's failure to fully implement its SPCC plan for the facility violated 40 CFR § 112.3(b).

COUNT 2: FRP Requirements, 40 § CFR 112.20

19. Section 311(j)(5)(A) of the Act, 33 U.S.C. §1321(j)(5)(A), provides that the President shall issue regulations requiring each owner or operator of certain facilities to "submit

to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance."

20. By Section 2(d)(1) of Executive Order 12777 (October 18, 1991), the President delegated to the Administrator of EPA the authorities under Section 311(j)(5)(A) of the Act.

21. The Administrator of EPA promulgated regulations, codified within Subparts A and D of 40 CFR Part 112 ("the [Facility Response Plan] FRP regulations"), implementing these delegated statutory authorities.

22. Paragraphs 6 through 13 above are re-stipulated as though fully set forth herein.

23. The facility has a total oil storage capacity of greater than or equal to 1 million gallons and the facility is located at a distance (as calculated using the appropriate formula in 40 CFR § 112, Appendix C or a comparable formula) such that a discharge from the facility would significantly impact Lake Hamilton, coastal wetlands, and the Gulf of Mexico.

24. The facility is therefore a non-transportation related, onshore facility within the meaning of 40 CFR §112.2 that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines, within the meaning of Section 311(j)(5)(B)(iii) of the Act, 33 U.S.C. §1321(j)(5)(B)(iii), and 40 CFR § 112.20(f)(1) ("an FRP-regulated facility").

25. Therefore, Respondent, as the owner/operator of a FRP-regulated facility, is subject to the FRP regulations found at 40 CFR.§ 112.20.

26. The facility began operation before February 18, 1993.

27. It is stipulated that pursuant to Section 311(j)(5) of the Act and 40 CFR §112.20, the owner or operator of an FRP-regulated facility in operation on or before February 18, 1993, must no later than that date submit a facility response plan ("FRP") that satisfies the requirements of

Section 311(j)(5).

FRP Allegations

28. On June 16, 2010, EPA inspected the facility and found that Respondent had failed to fully develop and implement an adequate FRP as follows:

a. Respondent failed to provide evidence of a contract ensuring availability of response resources in accordance with 40 CFR § 112.20(h)(3)(iii);

b. Respondent failed to provide required contact information for the Local Emergency Planning Committee in accordance with 40 CFR § 112.20(h)(1)(ix)(D);

c. Respondent failed to list response times in accordance with 40 CFR § 112.20(h)(1)(v);

d. Respondent failed to include a site specific evacuation plan in accordance with 40 CFR § 112.20(h)(1)(vii) and (viii);

e. Respondent failed to list Qualified Individual (QI) duties in accordance with 40 CFR § 112.20(h)(1)(ix);

f. Respondent failed to provide a site specific vulnerability analysis in accordance with 40 CFR § 112.20(h)(4);

g. Respondent failed to conduct an adequate analysis of oil spill potential and provide a history of spills in accordance with 40 CFR § 112.20(h)(4);

h. Respondent failed to provide site specific scenarios for most probable spills in accordance with 40 CFR § 112.20(h)(4);

i. Respondent failed to ensure proper inspection and maintenance of on-site response equipment in accordance with 40 CFR § 112.20(h)(8)(i);

j. Respondent failed to conduct adequate drills and drill exercises in accordance with 40 CFR § 112.20(h)(8)(ii);

k. Respondent failed to provide a site drainage diagram in accordance with 40 CFR § 112.20(h)(9).

29. Respondent's failure to fully develop and implement an adequate FRP violates the

requirements of Section 311(j)(5) of the Act and 40 CFR §112.20.

Waiver of Rights

30. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. Respondent waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), 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

31. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **$12,500.00.**

Payment Terms

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

32. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **$12,500.00** by means of a cashier's or certified check, or by electronic funds transfer (EFT). The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment to:

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

- If you are paying by check, pay the check to "Environmental Protection Agency,"

noting on the check **"OSTLF-311"** and docket number **CWA-06-2010-4828**. 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
1005 Convention Plaza, Mail Station SL-MO-C2GL
St. Louis, MO 63101

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

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

33. 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 USC §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

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

35. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §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.

Williams Gas Pipeline Company, LLC

Date: _____

~~Mark Bisett~~ GREG FORD
~~EH&S Supervisor~~ DIRECTOR, EHS!S

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

Ragan R. Broyles
Associate Director
Prevention & Response Branch
Superfund Division

FINAL ORDER

Pursuant to Section 311(b)(6) of the Act, 33 USC §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: 12/13/10

Samuel Coleman, P.E.
Director
Superfund Division

Docket No. CWA-06-2011-4828

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Administrative Complaint and Opportunity to Request a Hearing," issued pursuant to 40 C.F.R. 22.13(b), was filed on 12-13, 2010, 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: Mark Bisett
ADDRESS: 2800 Post Oak Boulevard
Houston, Texas 77066

Frankie Markham
Frankie Markham
OPA Enforcement Administrative Assistant