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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGIONAL HEARING CLERK
EPA REGION VI

REGION 6

IN THE MATTER OF

D.J.F. Services, Inc.
Seminole County
Oklahoma

Respondent.

Spill Case

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

Docket No. CWA-06-2021-4802

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 the EPA, Region 6. Pursuant to the April 17, 2019 Region 6 Realignment: General Delegation Memo (General Delegation Memo), the Regional Administrator delegated these authorities to the successor Division Director or Office Director in accordance with the Region 6 2019 reorganization, to wit: the Enforcement and Compliance Assurance Division of the EPA, Region 6. The General Delegation Memo has, in turn, further redelegated these authorities to the comparable official subordinate to the Enforcement and Compliance Assurance Division Director, to wit: The Branch Chief, Water Enforcement Branch in Region 6.

CONSENT AGREEMENT

Stipulations

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

2. Respondent is a firm conducting business in the State of Oklahoma, with a place of business located at 3230 NS 3715, Holdenville, OK 74848. 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 CFR § 112.2.
3. Respondent is the "owner" within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. §1321(a)(6), and 40 CFR §112.2, of an oil storage facility, which is located in Seminole County, Oklahoma (the facility). Drainage from the facility flows into Little Wewoka Creek, thence into Wewoka Creek and the North Canadian River.
4. Little Wewoka Creek 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 CFR §110.1.
5. Section 311(b)(3) of the Act, 33 U.S.C. §1321(b)(3), 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

Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the violations alleged in paragraphs 7 - 9.

7. On February 25, 2021, Respondent discharged 157 barrels 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 Little Wewoka Creek and its adjoining shorelines.

8. Respondent's February 25, 2021, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Little Wewoka Creek, and therefore, was in a quantity that has been determined may be harmful under 40 CFR §110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.

9. Respondent's February 25, 2021, discharge of oil from its facility into or upon Little Wewoka Creek and adjoining shorelines 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, 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

11. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$20,300.00.

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 via Mail and E-Mail to:

Energy Sector Compliance Section
U. S. Environmental Protection Agency
Region 6 (6ECD-WE)
1201 Elm Street, Suite 500
Dallas, TX 75270-2102
johnbull.enoch@epa.gov

13. The Respondent shall pay to the United States a civil penalty in the amount of **\$20,300.00** to settle the violations as alleged in the CAFO, in accordance with 40 CFR § 22.18(c). Payment must be made within thirty (30) days after the effective date of this CAFO, by means of a cashier's or certified check, or by electronic funds transfer (EFT).

If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number **CWA-06-2021-4802**.

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 to the following person:

Lorena Vaughn
Regional Hearing Clerk (6RC)
U.S. Environmental Protection Agency
Region 6
1201 Elm Street
Dallas, TX 75270-2102

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.

D.J.F. Services, Inc.

Date: 7/27/2021



Donald J. Flint
President
D.J.F. Services, Inc.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/12/2021



Digitally signed by BRYANT SMALLEY
DN: cn=U.S. Government,
ou=Environmental Protection Agency,
em=BRYANT SMALLEY,
o=92342 1970000 100 1 1-800 100 3655555
Date: 2021.08.12 15:53:32 -0500

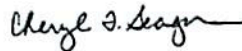
Bryant Smalley
Chief
Water Enforcement Branch

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: August 13, 2021



Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental
Protection Agency, email=CHERYL.SEAGER,
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Date: 2021.08.13 08:33:08 -0500

Cheryl T Seager, Director
Enforcement and
Compliance Assurance Division

Docket No. CWA-06-2021-4802

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 August 16, 2021, with the Regional Hearing Clerk, U.S. EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270-2102, and that on the same date a copy of the same was sent to the following, in the manner specified below:

NAME: Donald J. Flint
ADDRESS: P. O. Box 150
Holdenville, OK
74848
donaldjflint@gmail.com

**ENOCH
JOHNBULL**

Digitally signed by ENOCH JOHNBULL
DN: c=US, o=U.S. Government,
ou=Environmental Protection
Agency, cn=ENOCH JOHNBULL,
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Enoch Johnbull
OPA Enforcement Officer