

FILED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

2009 AUG -7 PM 3:10

REGION 6

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF

**International Asset Management,
Inc.
Nowata County, Oklahoma**

Respondent.

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

Docket No. CWA-06-2009-4806

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:

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 . . . 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 subsequently promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to these delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 *et seq.*, which established certain procedures, methods and requirements upon each owner and operator of a non-transportation-related onshore 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 organized under the laws of New Jersey with a place of business located at 4371 Province Line Road, Princeton, New Jersey 08540 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 was 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, Hill Lease, located on Lots 3 & 4 in the NW/2, of the SW/4 of Section 3, Township 28N, Range 15E, Nowata County, Oklahoma ("the facility"), drainage travels approximately 200 yards to the Southeast where it enters an unnamed tributary of Hickory Creek; thence to Hickory Creek; thence to the Verdigris River.

8. The facility has an aggregate above-ground storage capacity greater than 1320 gallons (approx. 24,360) of oil in containers each with a shell capacity of at least 55 gallons.

9. Hickory Creek & the Verdigris River are navigable waters of the United States within the meaning of 40 CFR § 112.2.

10. Respondent was 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 onshore facility within the meaning of Section 311(a)(10) of the Act, 33 USC § 1321(a)(10), and 40 CFR § 112.2.

13. The facility is therefore a non-transportation-related onshore 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 (at the time of the Inspection), was subject to the SPCC regulations.

15. The facility began operating before August 16, 2002. The facility has been in operation since at least 1980.

Stipulations and Allegations

COUNT 1: Failure to prepare a SPCC plan that meets the requirements of 40 CFR § 112.7, as required in 40 CFR § 112.3

16. Paragraphs 1 through 15 above are hereby incorporated by reference.

17. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing, and in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

18. On September 4, 2008, EPA inspected the facility and found that Respondent had failed to prepare a SPCC plan that was fully in accordance with 40 CFR § 112.7, for the facility.

Respondent's SPCC plan deficiencies are as follows:

- a. Respondent failed to provide required elements in their SPCC plan, such as 1) management approval of Plan, as required at 40 CFR § 112.7; 2) Plan does not follow sequence of the rule and/or cross reference not provided as required at 40 CFR § 112.7; 3) a prediction of equipment failures that could result in a discharge from the facility, as required at 40 CFR § 112.7(a)(4)&(5) and § 112.7(b); 4) inspections and tests are not developed as required at 40 CFR § 112.7(e); 5) adequately address Procedures for Personnel Training and Discharge Prevention, as required in 40 CFR § 112.7(f)(1-2); 6) adequately address Oil Production Facility Drainage, as required in 40 CFR § 112.9(b).

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

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

Payment Terms

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

26. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **\$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-06-2009-4806. 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:

General Provisions

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

31. 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.

International Asset Management, Inc.

Date:

7/6/2009

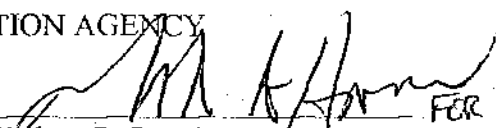


Erik C. Schoemaker
President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date:

8-6-9



Robert R. Broyles
Associate Director
Prevention and Response Branch
Superfund Division

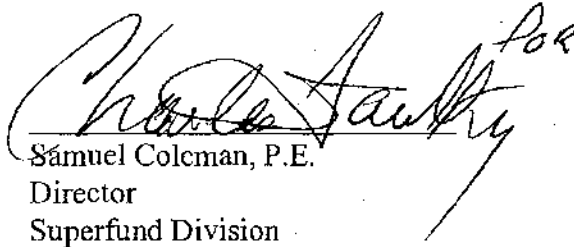
Docket No. CWA-06-2009-4806

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: 8/7/89

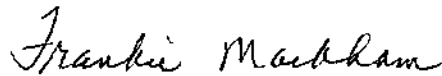
 ^{For}
Samuel Coleman, P.E.
Director
Superfund Division

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 _____, 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: Erik C. Schoemaker
% Domain Assoc
ADDRESS: 1 Palmer Square, Suite 515
Princeton, NJ 08540



Frankie Markham
OPA Enforcement Administrative Assistant