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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF

Volunteer Oil Services, LLC  
1241 Salem Park Court  
Murfreesboro, TN 37129

Respondent.

**CWA SECTION 311 CLASS I  
CONSENT AGREEMENT  
AND FINAL ORDER  
UNDER 40 C.F.R. § 22.13(b)**

Docket No. CWA-04-2007-5175(b)

HEARING CLERK

2007 SEP 12 AM 9:38

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EPA REGION 4

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 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 through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division ("Complainant").

**CONSENT AGREEMENT**

**Stipulations**

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

1. Respondent is an association in the form of a limited liability company, duly organized and existing under the laws of Tennessee. 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 was at all times relevant to this Consent Agreement an owner or operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), of a tanker truck that was involved in a single-vehicle accident on Highway 240 at the bridge over Buffalo River in Lawrence County, 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. The Buffalo River is a navigable water, as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and is therefore subject to the jurisdiction of Section 311 of the Act..

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 environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that (1) violate applicable water quality standards or (2) 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.

7. Respondent admits the jurisdictional statements contained herein.

### **Allegations**

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

8. On or about March 13, 2006, Respondent discharged approximately 6,500 gallons 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 the Buffalo River and its adjoining shorelines.

9. Respondent's discharge of oil, on March 13, 2006, from its facility caused a sheen upon or discoloration of the surface of the Buffalo River and its 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)(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.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this Consent Agreement or the Final Order.

### **Penalty**

12. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$7,000.

### Payment Terms

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

13. Respondent shall pay the penalty amount in two equal installments. The first installment of \$3,500 is due 30 days after the effective date of the Final Order. The second installment of \$3,500 is due six months after the effective date of the Final Order. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Therefore, interest on the second \$3,500 installment will begin to accrue 30 days after the effective date of the Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

14. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of \$3,500 by means of a cashier's or certified check, or by electronic funds transfer (EFT). Respondent shall pay the balance of \$3,500 plus accrued interest no later than six months after the effective date of the Final Order. If paying by check, the Respondent shall submit a cashier's or certified checks, payable to "Environmental Protection Agency," and bearing the notation "OSLTF - 311." If the Respondent sends the payments by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, PA 15251

If the Respondent sends the payments by a private delivery service, the payment shall be addressed to:

Mellon Client Service Center  
ATTN: Shift Supervisor  
Lockbox 371099M Account 9109125  
500 Ross Street  
Pittsburgh, PA 15262-0001

If paying by EFT, the Respondent shall transfer each penalty payment of \$3,500 to:

Mellon Bank  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh, PA 15235

In the case of an international transfer of funds, the Respondent shall use SWIFT address MELNUS3P.

15. If paying by check, the Respondent shall note on the penalty payment checks the title and docket number of this case. The Respondent shall submit copies of the checks (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following people:

Patricia Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 4  
SNAFC  
61 Forsyth Street, SW  
Atlanta, GA 30303

Doug McCurry, Chief  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. Environmental Protection Agency  
Region 4  
SNAFC  
61 Forsyth Street, SW  
Atlanta, GA 30303

16. Respondent's failure to pay the penalty installments, plus accrued interest, assessed by the Final Order by the due dates 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**

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

18. 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 violation and facts stipulated to and alleged herein.


19. 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.

**Effective Date**

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


Volunteer Oil Services, LLC

Date: 7/10/07

  
\_\_\_\_\_  
Ron Blabber, President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/11/07

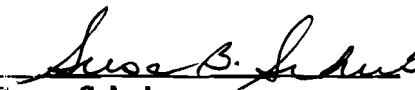
  
\_\_\_\_\_  
Narindar Kumar  
Chief, RCRA & OPA Enforcement and Compliance  
Branch  
RCRA Division

**FINAL ORDER**

Pursuant to Section 3.1(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, Issuance of Compliance or Corrective Action Orders, 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.

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

Date: 9/11/07

  
Susan Schub  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreements and the attached Final Orders (CA/FOs), in the Matter of Volunteer Oil Services, LLC: CWA-04-2007-5175(b) on the parties listed below in the manner indicated:

Susan Capel, Associate Regional Counsel  
U.S. Environmental Protection Agency  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's internal mail)

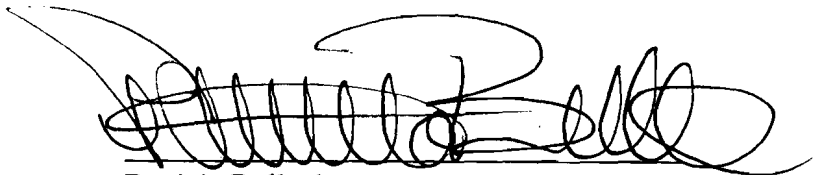
Mr. Ron Blaber, President  
Volunteer Oil Services, LLC  
1241 Salem Park Court  
Murfeesboro, Tennessee 37129

(Via Certified Mail- Return Receipt  
Requested)

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Via Certified Mail - Return Receipt  
Requested)

Date 9-12-07



Patricia Bullock  
Law Clerk