



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**OCT 17 2008**

4WD-ROECB

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Thurman E. Holcomb, President  
Lone Mountain Processing, Inc.  
P.O. Drawer C  
St. Charles, Virginia 24282

**SUBJ: Consent Agreement and Final Order:  
Docket No. CWA-04-2008-5012**

Dear Mr. Holcomb:

Enclosed is a copy of the Consent Agreement and Final Order (CAFO) for the above referenced matter. This CAFO became effective on the date of filing with the Regional Hearing Clerk as required by 40 C.F.R. §§ 22.6 and 22.31, and as indicated on the Certificate of Service.

The United States Environmental Protection Agency (EPA) hereby notifies you that the Expedited Settlement Agreement has been executed by both parties and is binding on EPA and you. Upon receipt of your assessed penalty of \$3,000.00, EPA will take no further action against you for the violations cited in the Settlement Agreement. Your copy of the executed agreement is enclosed.

You must submit your payment within seven (7) days of your receipt of this letter by either electronic funds transfer, certified or cashiers check made payable to "Environmental Protection Agency." The check and a letter accompanying the check shall reference the name of the responsible party (Oil Spill Liability Trust Fund -311, Lone Mountain Processing, Inc.) and the EPA docket number CWA-04-2008-5012, and shall be sent depending upon your preferred method of payment identified in Enclosure A.

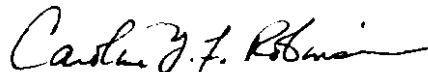
At the same time, Respondent shall send separate copy of each check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Mel Rechtman at:  
U.S. EPA - Region 4  
RCRA/OPA Enforcement & Compliance Branch  
RCRA Division  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

If you have any questions, please contact Mel Rechtman at (404)562-8745.

Sincerely,



Caroline Y. F. Robinson, Chief  
RCRA/OPA Enforcement & Compliance Branch  
RCRA Division

Enclosure:  
Expedited Settlement Agreement  
Enclosure A - Payment Information  
cc: USCG

**ENCLOSURE A**

**COLLECTION INFORMATION**

**CHECK PAYMENTS:**

US Environmental Protection Agency  
Fines and Penalties  
PO Box 979077  
St. Louis, MO 63197-9000

**WIRE TRANSFERS:**

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency "

**OVERNIGHT MAIL:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson 314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact – Jesse White 301-887-6548  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006

**CTX Format**

**ON LINE PAYMENT:**

**There is now an On Line Payment Option, available through the Dept. of Treasury.  
This payment option can be accessed from the information below:**

**WWW.PAY.GOV**

**Enter sfo 1.1 in the search field**

**Open form and complete required fields.**

AUG 14 2008

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
61 FORSYTH STREET, ATLANTA, GEORGIA 30303  
EXPEDITED SPILL SETTLEMENT AGREEMENT

DOCKET NO. CWA-04-2008-5012

On: March 17, 2008

Time:

08:10

At: or near Holmes Mill, Harlan County, Kentucky, Lone Mountain Processing, Inc. (Respondent) discharged an estimated 1,000 gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached ALLEGED CIVIL VIOLATION (Form), which is hereby incorporated by reference.

Upon signing and returning this Expedited Spill Settlement Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Spill Settlement Agreement without further notice.

EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in that statute and further described by 40 CFR § 110.3. The Respondent admits being subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Allegations in the Form, and waives any objections it may have to EPA's jurisdiction.

After this Expedited Spill Settlement Agreement becomes effective, EPA will take no further action against the Respondent for the violation of Section 311(b)(3) of the Act described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violation by the Respondent of Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violation set forth in the Form.

EPA is authorized to enter into this Expedited Spill Settlement Agreement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Spill Settlement Agreement in order to settle the civil violation described in the Form for a penalty of \$3,000.00. Respondent consents to the assessment of this penalty.

This Expedited Spill Settlement Agreement is binding on the parties signing below, and effective upon EPA's filing of the document with the Regional Hearing Clerk. If the Respondent does not sign and return this Expedited Spill Settlement Agreement as presented within 30 days of the date of its receipt, the proposed Expedited Spill Settlement Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violation identified in the Form.

This Expedited Spill Settlement Agreement is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to federal requirements at a cost of \$22,595, and it has taken corrective actions that will prevent future spills. The Respondent also by signature on this Expedited Spill Settlement Agreement agrees to payment of the penalty assessed. Do not enclose payment. Upon receiving written execution of this Agreement, Respondent shall submit payment within 7 days by certified check or electronic funds transfer for \$3,000.00 payable to the "US Environmental Protection Agency CWA-311". Instructions on how to make this payment will be included in the written notice that will be issued when the Expedited Spill Settlement Agreement becomes effective.

APPROVED BY RESPONDENT:

Name (print): THURMAN E. HOLCOMB  
Title (print): President and General Mgr.  
Signature: [Signature]

APPROVED BY EPA:

Caroline Y. F. Robinson Date 8/18/08  
Caroline Y. F. Robinson, Chief  
RCRA/OPA Enforcement & Compliance Branch  
RCRA Division

IT IS SO ORDERED:

Susan B. Schub Date 10/26/08  
Susan B. Schub  
Regional Judicial Officer

RECEIVED  
EPA REGION 4  
2008 OCT 17 11:21  
JERRING  
ERK

**ALLEGED CIVIL VIOLATION – DOCKET NO. CWA-04-2008-5012**

1. Lone Mountain Processing, Inc., Respondent, is a corporation organized under the laws of Virginia with a place of business located at P/O/ Drawer C, St. Charles, Virginia 24282. The Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act, 33 U.S.C. § 1321(a)(7) (Act).

2. 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), which is a diesel fuel tank located at or near LMPI's Days Branch Transfer Facility in Harlan County, Kentucky ("facility").

3. Section 311(b)(3) of the Act 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.

4. 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, (3) cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

5. On March 17, 2008, Respondent discharged an estimated 1,000 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its facility, some of which reached into or upon the Clover Fork of the Cumberland River which discharges into the Cumberland River and adjoining shorelines.

6. The Clover Fork of the Cumberland River is a "navigable water of the United States" subject to the jurisdiction of Section 311 of the Act as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

7. Respondent's March 17, 2008 discharge of oil from its facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of the Clover Fork of the Cumberland River or caused a sludge or emulsion to be deposited beneath the surface, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3.

...violation of Section 311(b)(6)(B)(i) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 C.F.R. § 19.4, the Respondent is liable for civil penalties of up to \$11,000 per violation, up to a maximum of \$32,500.

Docket No. CWA-04-200x-xxxx

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Lone Mountain Processing, Inc., Docket No. CWA-04-2008-5012 (filed with the Regional Hearing Clerk on ~~OCT 17 2008~~ 2008) was served on ~~OCT 17 2008~~ 2008 in the manner specified to each of the person set forth below:

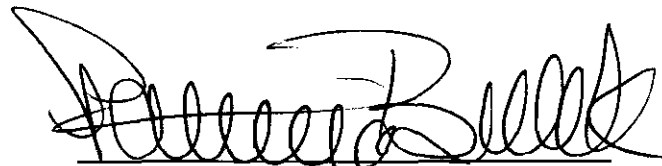
Thurman E. Holcomb, President  
Lone Mountain Processing, Inc.  
P.O. Drawer C  
St.Charles, Virginia 24282

CERTIFIED MAIL  
Return Receipt Requested

Mel Rechtman  
RCRA OPA Enforcement & Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Via EPA's Internal Mail

Date: 10-17-08



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511



**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**PAYMENT DUE DATE:** \_\_\_\_\_

**TO BE COMPLETED BY THE ORGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Mel Rechtman on 8/18/08  
(Name) (Date)

in the ROECB at 404/562-8745  
(Office) (Phone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

**PAYEE:** Lone Mountain Processing, Inc.

The Total Dollar Amount of the Receivable: 3,000.00

(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA-04-2008-5012

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: Waste

**To Be Completed By Cincinnati Finance Center**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date: / /2008

**DISTRIBUTION:**

**A. JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

1. Debt Tracking Officer  
Environmental Enforcement Section  
Department of Justice RM 1647  
P.O. Box 7611, Benjamin Franklin Station  
Washington, D.C. 20044

2. Originating Office (EAD)  
3. Designated Program Office

**B. ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order Should be to:

1. Originating Office  
2. Regional Hearing Clerk

3. Designated Program Office  
4. Regional Counsel (EAD)