



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 18 2008

Joan B. Sasine, Esq.
Powell Goldstein LLP
One Atlantic Center, 14th Floor
1201 West Peachtree Street, NW
Atlanta, Georgia 30309-3488

RE: Tellus Operating Group, LLC. - Executed Consent Agreements and Final Orders, Docket Nos. CWA-04-2008-5150(b) and CWA-04-2008-5151(b).

Dear Ms. Sasine:

Please find enclosed copies of the fully executed Consent Agreements and Final Orders (CAFOs) docketed CWA-04-2008-5150(b) and CWA-04-2008-5151(b), for Tellus Operating Group, LLC. The CAFOs were effective upon filing, and payment of the civil penalties of \$156,357.80 for CWA-04-2008-5150(b) and \$500 for CWA-04-2008-5151(b) is due within thirty (30) days of this date.

Please do not hesitate to contact me at (404) 562-9539 with any questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bonnie Sawyer".

Bonnie Sawyer
Associate Regional Counsel

Enclosure

2. The Respondent was the operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 110.1 of an oil production facility (“the facility”) located near Baxterville, Mississippi.

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. 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.

5. 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.

6. Respondent, solely for purposes of this Consent Agreement, does not contest the jurisdictional statements contained herein.

Allegations

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

7. On June 5, 2007, Respondent discharged 2 barrels 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 into or upon the unnamed tributary to Middle Fork Creek and/or its adjoining shorelines.

8. The unnamed tributary to Middle Fork Creek is a water body 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.

9. Respondent's June 5, 2007, discharge of oil from its facility caused a sheen upon or discoloration of the surface of the unnamed tributary of Middle Fork Creek and/or its adjoining shoreline, 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), 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 \$500.00.

Payment Terms

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

13. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of \$500.00 by means of a corporate cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, the Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF – 311." If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 93197-9000

If paying by EFT, the Respondent shall transfer \$500.00 to www.pay.gov. Enter SFO 1.1 into the "search public forms" field. Open the form and enter the requested information.

14. If paying by check, the Respondent shall note on the penalty payment check the title and docket number of this case. The Respondent shall submit copies of the check (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

Frank Ney, Acting Chief
South 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

15. Respondent's failure 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

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

17. 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 there under, 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.

18. Other than the issues that Respondent has agreed not to contest solely for this Consent Agreement and this incident, Respondent does not waive, and specifically reserves, its right to contest EPA's assertion of jurisdiction or determination as to any issue concerning the facility or Middle Fork Creek and its tributaries, including but not limited to any rights or defenses related to jurisdiction under or a determination of navigable waters under 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.

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.

20. The following attorney represents EPA in this matter and is authorized to receive service for EPA in the proceeding:

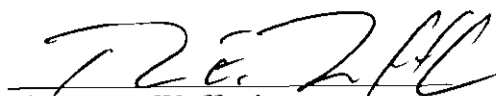
Bonnie Sawyer
Associate Regional Counsel
United States Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center,
61 Forsyth Street, SW
Atlanta, Georgia 30303
(404) 562-9539
Sawyer.Bonnie@epa.gov

The following attorney represents Respondent in this matter and is authorized to receive service for Respondent in the proceeding:

Joan B. Sasine, Esq.
Powell Goldstein LLP
1201 West Peachtree Street, NW
Atlanta, Georgia 30309
404-572-6647

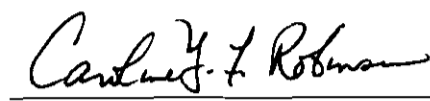
FOR TELLEUS OPERATING GROUP, LLC

Date: August 14, 2008


Thomas E. Wofford
Chief Financial Officer

For U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/20/08

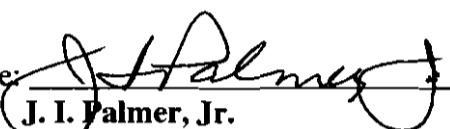

Caroline Y. F. Robinson
Chief, RCRA and OPA Enforcement and
Compliance Branch
RCRA Division

FINAL ORDER

Pursuant to Section 311(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 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.

Tellus Operating Group, LLC, the Respondent, is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2008-5151(b).

Date: DEC 16 2008

Signature: 
J. I. Palmer, Jr.
Regional Administrator

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Tellus Operating Group, LLC, Docket No. CWA-04-2008-5151(b), on the parties listed below in the manner indicated:

Bonnie Sawyer
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(Via EPA's internal mail)

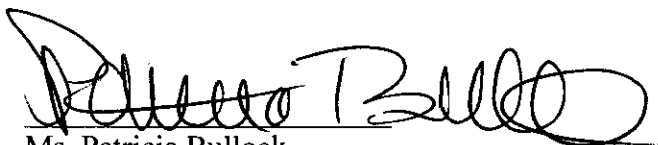
Randy G. Jackson
RCRA & OPA Enforcement and Compliance Branch
U.S. EPA, Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

(Via EPA's internal mail)

Joan B. Sasine, Esq.
Powell Goldstein LLP
1201 West Peachtree Street, NW
Atlanta, Georgia 30309
404-572-6647

(Via Certified Mail)

Dated this 18 day of December, 2008.



Ms. Patricia Bullock
Regional Hearing Clerk
U.S. EPA – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960