



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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

MAR 20 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark Carlisle
Vice President
Owensboro Grain Company, LLC
P.O. Box 1787
Owensboro, Kentucky 42303-1787

Re: Consent Agreement and Final Order
Owensboro Grain Company, LLC
Docket No. CWA-04-2013-5133(b)

Dear Mr. Carlisle:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CA/FO was effective upon filing with the RHC and payment of the civil penalty is to be paid within thirty (30) calendar days of the effective date of the CA/FO.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Owensboro Grain Company on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the U.S. Environmental Protection Agency.

If you have any questions, please feel free to contact Raj Aiyar, of my staff, at (404) 562-9023.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Alan Farmer".

G. Alan Farmer
Director
RCRA Division

Enclosures

III. STIPULATIONS

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

3. Owensboro Grain Company, LLC (“Respondent”) is a limited liability company organized under the laws of the Commonwealth of Kentucky and is registered to do business in Kentucky. Respondent is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. Respondent is the “owner” and “operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a pipeline that transfers soybean oil from Respondent’s plant, located at 822 East Street, Owensboro, Kentucky, to Respondent’s tank farm, located on East Sixth Street, Owensboro, Kentucky (“facility”). The pipeline is located near the Ohio River.

5. The facility is an “onshore facility” as defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

6. The Ohio River is a navigable water within the meaning of Section 502(7) of the CWA, 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 CWA, 33 U.S.C. § 1321.

7. The soybean oil constitutes “oil” within the meaning of Section 311(a)(1) of the CWA, 42 U.S.C. § 1321(a)(1).

8. Section 311(b)(3) of the CWA, 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.

9. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), the determination of the quantity of oil that may be harmful and is thereby prohibited under Section 311(b)(3), 33 U.S.C. § 1321 (b)(3), is defined at 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.

IV. ALLEGATIONS

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

10. On or about June 10, 2010, Respondent discharged approximately 143 barrels of soybean oil from its onshore facility, at the 90 degree turn on Highway 60. A portion of the discharged oil flowed into the Ohio River, and/or its adjoining shorelines.

11. Respondent's June 10, 2010 discharge of soybean oil from its onshore facility caused a sheen upon or discoloration of the surface of the Ohio River and/or its adjoining shorelines, and therefore, the discharge was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3.

12. Accordingly, Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

V. WAIVER OF RIGHTS

13. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), to appeal any Final Order in this matter under Section 311(b)(6)(G)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(ii), and consents to the issuance of a Final Order without further adjudication.

14. Complainant reserves the right, pursuant to 40 C.F.R. § 22.45(c)(4)(iii), to withdraw from this Consent Agreement and proposed Final Order within fifteen (15) calendar days of receipt of a commenter's petition requesting, pursuant to 40 C.F.R. § 22.45(c)(4)(ii), that the Regional Administrator set aside the Consent Agreement and proposed Final Order on the basis that material evidence was not considered.

15. This Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 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 the 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. Except as otherwise set forth herein, compliance with this Consent Agreement shall resolve the allegations of violations contained herein.

VI. PAYMENT OF CIVIL PENALTY

16. Respondent consents to the payment of a civil penalty in the amount of THIRTY NINE THOUSAND FIVE HUNDRED DOLLARS (\$39,500), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.

17. Payment shall be made by a corporate/cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate/cashier's or certified check, payable to the "Environmental Protection Agency." The check shall bear the notation "OSLTF – 311" and Respondent shall reference the title and docket number of this case on the face of the check.

(a) If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

(b) If Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx, or UPS, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 429-1818

(c) If Respondent sends payment by wire transfer, the wire transfer 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, New York 10045

The Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency.”

(d) If Respondent elects to use the On-Line Payment Option, available through the Department of the Treasury, this payment option can be accessed at www.pay.gov. Enter sfo 1.1 in the search field and then open the form and complete required fields.

18. Respondent shall submit copies of each check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

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

and to:

Raj Aiyar,
North Compliance and Enforcement Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

19. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

20. 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 CWA, 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.

VII. GENERAL PROVISIONS

21. Pursuant to Section 311(b)(6)(C) of the CWA, 33 U.S.C. § 1321(b)(6)(C), and 40 C.F.R. § 22.45, Complainant will provide public notice of and reasonable opportunity to comment on this Consent Agreement and proposed Final Order.

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

23. No change in ownership, partnership, corporate, or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under the CA/FO.

24. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

25. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Teresa Mann
Senior Regional Counsel
Office of Environmental Accountability
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-9572
mann.teresa@epa.gov

26. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is to receive service for the Respondent in this proceeding:

Mark Carlisle
Vice President
Owensboro Grain Company, LLC
P.O. Box 1787
Owensboro, Kentucky 42303-1787
270-926-2032
carlisle@owensborograin.com

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

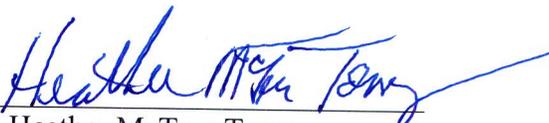
IN THE MATTER OF)	
)	CWA SECTION 311 CLASS II
Owensboro Grain Company, LLC)	CONSENT AGREEMENT AND
719 East 2 nd Street)	FINAL ORDER
Owensboro, Kentucky 42303)	UNDER 40 C.F.R. § 22.13(b)
)	
Respondent)	Docket No. CWA-04-2013- 5133(b)
_____)	

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.

Owensboro Grain, the Respondent, is hereby ORDERED to comply with all terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk.

Date: MAR 12 2014

Signature: 
Heather McTeer Toney
Regional Administrator

In the matter of Owensboro Grain Company, LLC, Docket No. CWA-04-2013-5133(b):

CONSENTED AND AGREED TO:

Owensboro Grain, Company, LLC

Date: 1/21/14



Mark Carlisle
Vice President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 2/20/14



G. Alan Farmer
Director
RCRA Division

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 Owensboro Grain Company, LLC, Docket No. CWA-04-2013-5133(b), on the parties listed below in the manner indicated:

Teresa Mann
Senior Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(Via EPA's Electronic Mail)

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(Via EPA's Electronic Mail)

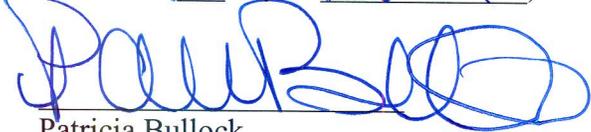
Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(Via EPA's Electronic Mail)

Owensboro Grain Company, LLC
719 East 2nd Street
Owensboro, Kentucky 42303

(Via Certified Mail)

Dated this 20 day of march, 2013.



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