



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas E. Hayes
Associate General Counsel
Watco Companies, L.L.C.
315 West 3rd Street
Pittsburg, Kansas 66762

Re: Oil Spill Expedited Spill Settlement Agreement
Watco Companies, L.L.C.
NRC No.: 958342
Docket No. CWA-04-2013-5005(b)

Dear Mr. Hayes:

This letter is to notify Watco Companies, L.L.C. that the Expedited Settlement Agreement (ESA) for the above-referenced matter has been signed by the U.S. Environmental Protection Agency and became effective on the date of filing with the Regional Hearing Clerk, as required by 40 C.F.R. §§ 22.6 and 22.31, as indicated on the Certificate of Service. The ESA is binding on the EPA and Watco Companies, L.L.C. A copy of the ESA is enclosed.

Pursuant to the ESA, Watco Companies, L.L.C. shall submit the payment of \$4,500.00 within thirty (30) days of the receipt of this letter. The payment shall be made in one of the forms stated in Enclosure A. For additional payment information see EPA's payments webpage <http://www2.epa.gov/financial/makepayment>.

If paying by check, you shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

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

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

If you have any questions, please contact Quantindra Smith at (404) 562-8564

Sincerely,

A handwritten signature in black ink, appearing to read "César A. Zapata". The signature is stylized and somewhat cursive, with the first name "César" being the most prominent part.

César A. Zapata
Chief, RCRA and OPA Enforcement and
Compliance Branch
RCRA Division

Enclosures

cc: USCG



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

DOCKET NO.: CWA-04-2013-5005(b)

On October 28, 2010 at 1:50 p.m., an Alabama Southern Railroad locomotive, operated by Watco Companies, L.L. C. (Respondent), discharged 2,500 gallons of oil from its fuel tank near the Peco Feed Mill and east of the town of Gordo, in Pickens County, Alabama in violation of the Clean Water Act (CWA) § 311(b)(3), 33 U.S.C. § 1321(b)(3), as described on the attached "Findings and Alleged Violations Form" (Form), which is hereby incorporated by reference.

The United States Environmental Protection Agency (EPA) finds the Respondent's conduct is subject to the discharge prohibition of CWA § 311(b)(3), as described in that statute and further described by 40 C.F.R. § 110.3, and that the Respondent has violated CWA § 311(b)(3), as described in the Form. The Respondent admits being subject to CWA § 311(b)(3), and that the EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent neither admits nor denies the Allegations in the Form.

The EPA is authorized to enter into this Expedited Settlement Agreement (ESA) under the authority vested in the Administrator of the EPA by the CWA § 311(b)(6)(B)(i), amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 22.13(b). The parties enter into this ESA in order to settle the civil violation described in the Form for a penalty of \$4,500. Respondent consents to the assessment of this penalty.

This ESA 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 \$173,274.35, and it has taken corrective actions that will prevent future spills. The Respondent also by signature on this ESA agrees to payment of the penalty assessed within thirty (30) days of receiving written notice that the ESA has been executed and effective. **Do not enclose payment.** The EPA will provide instructions in writing on the procedures for making the penalty payment.

Upon signing and returning this ESA to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to CWA § 311, and consents to the EPA's approval of the ESA without further notice.

After this ESA becomes effective and the assessed penalty is

paid, the EPA will take no further action against the Respondent for the violation of CWA § 311(b)(3) of the Act described in the Form. However, the EPA does not waive any rights to take any enforcement action for any other past, present, or future violation by the Respondent of the CWA § 311(b)(3) or of any other federal statute or regulation.

This ESA is binding on the parties signing below, and effective upon the EPA's filing of the document with the Regional Hearing Clerk. If the Respondent does not sign and return this ESA as presented within fifteen (15) days of the date of its receipt, the proposed ESA is withdrawn without prejudice to the EPA's ability to file any other enforcement action for the violation identified in the Form.

APPROVED BY RESPONDENT:

Name (print): Thomas Hayes

Title (print): Associate General Counsel

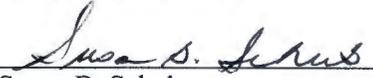
Signature: 

APPROVED BY THE EPA:

 Date 7/14/14

César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

IT IS SO ORDERED:

 Date 7/16/14

Susan B. Schub
Regional Judicial Officer

RECEIVED
EPA REGION IV
2014 JUL 17 AM 7:11
HEARING CLERK

Findings and Alleged Violations Form
Expedited Oil Spill Agreement

1. Watco Companies, L.L.C. (Respondent) is a limited liability company organized under the laws of the state of Kansas, with a place of business located at 315 West 3rd Street, Pittsburg, Kansas 66762. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7) (Act).
2. Respondent is the owner or operator of an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), located near the Peco Feed Mill located east of the town of Gordo, Pickens County, Tuscaloosa, Alabama ("facility").
3. 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.
4. For purposes of Section 311(b)(3) and (b)(4) of the CWA, 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 EPA has determined may be harmful to the public health, welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.
5. On October 28, 2010, Respondent discharged 2,500 gallons of oil as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F. R. § 110.1, from its facility into or upon Little Bear Creek, which flows into Bear Creek and discharges into Lubbug Creek, which flows into the Tombigbee River, which merges with the Alabama River to form the Mobile River, that empties into Mobile Bay in the Gulf of Mexico. EPA obtained this information through Respondent's response to the EPA's Information Request issued pursuant to Section 308 of the Act..
6. Little Bear Creek which eventually flows to the Tombigbee River is a "navigable water of the United States", as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1 and is subject to the jurisdiction of Section 311 of the CWA.
7. Respondent's October 28, 2010 discharge of oil from its facility caused a film or sheen upon or discoloration of the surface of the Little Bear Creek and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, which implements Section 311(b)(3) and (b)(4) of the CWA, 33 U.S.C. § 1321(b)(3) and (b)(4).
8. Respondent's October 28, 2010, discharge of oil from its facility into or upon Little Bear Creek, in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3 violated Section 311(b)(3) of the CWA, 33 U.S.C. § 3121(b)(3). Pursuant to Section 311(b)(6)(B)(i) of the CWA, 33 U.S. C. § 3121(b)(6)(B)(i) and 40 C.F.R. § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per violation, up to a maximum of \$37,500.

Docket No. CWA-04-2013-5005(b)

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Watco Companies, L.L.C., Docket No. CWA-04-2013-5005(b) (filed with the Regional Hearing Clerk on JUL 17 2014) was served on JUL 17 2014 2014 in the manner specified to each of the person set forth below:

Mr. Thomas E. Hayes
Associate General Counsel
Watco Companies, L.L.C.
315 West 3rd Street
Pittsburg, Kansas 66762

CERTIFIED MAIL
Return Receipt Requested

Quantindra Smith
RCRA & OPA Enforcement & Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Via EPA's Internal Mail and PDF

Date: 7-17-14



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