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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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REGION 6

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF

Torrent Oil, LLC
Port Neches Field
Orange County, TX

CWA SECTION 311 CLASS I
CONSENT AGREEMENT
AND FINAL ORDER
UNDER 40 CFR § 22.13(b)

Respondent.

Docket No. CWA-06-2023-4801

LEGAL AUTHORITY

1. 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 CFR §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6. Pursuant to the April 17, 2019, Region 6 Realignment: General Delegation Memo (General Delegation Memo), the Regional Administrator delegated these authorities to the successor Division Director or Office Director in accordance with the Region 6 2019 reorganization, to wit: the Enforcement and Compliance Assurance Division of EPA, Region 6. The General Delegation Memo has, in turn, further redelegated these authorities to the comparable official subordinate to the Enforcement and Compliance Assurance Division Director, to wit: the Branch Chief, Water Enforcement Branch in Region 6.

CONSENT AGREEMENT

SPCC Stipulations

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

2. Section 311(j)(1)(C) of the Act, 33 USC § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil from onshore or offshore vessels and from onshore or offshore facilities, and to contain such discharges."

3. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.

4. Through Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to the Department of the Interior (DOI), responsibility for spill prevention and control, contingency planning, and equipment inspection activities associated with offshore facilities. Subsequently, pursuant to section 2(i) of E.O. 12777, the Secretary of the Interior re-delegated, and the Administrator of EPA agreed to assume (MOU published as Appendix B to 40 CFR Part 112), responsibility for non-transportation-related offshore facilities located landward of the coast line.

5. EPA subsequently promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 et seq., which established certain procedures, methods and

other requirements upon each owner and operator of a non-transportation-related onshore or off-shore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as EPA has determined in 40 CFR § 110.3 may be harmful to the public health or welfare or the environment of the United States (harmful quantity).

6. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 USC § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. Respondent is a firm conducting business in the State of Texas, with a place of business located at 2 Greenway Plaza, Houston, TX 77002, and 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 CFR § 112.2.

8. Respondent is the owner within the meaning of Section 311(a)(6) of the Act, 33 USC § 1321(a)(6), and 40 CFR § 112.2 of a crude oil, gasoline, diesel fuel, asphalt, and jet fuel storage facility, located in Orange County, TX (the facility). The approximate coordinates of the facility are 30.033988° N and -93.940259° W. Drainage from the facility drains into the Bessie Heights Marshland which connects to the Neches River.

9. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons. Facility capacity is approximately 320,121 gallons.

10. The Neches River is a navigable water of the United States within the meaning of 40 CFR § 112.2.

11. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the facility.

12. The facility is therefore a non-transportation-related offshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity (an SPCC-regulated facility).

13. Pursuant to Section 311(j)(1)(C) of the Act, E.O. 12777, and 40 CFR § 112.1 Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

SPCC Allegations

14. Paragraphs 6 through 12 above are re-stipulated as though fully set forth herein.

15. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing and implement that plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

16. On September 13, 2022, EPA inspected the facility and found that Respondent had failed to develop and implement an SPCC plan for the facility as follows:

- a. Respondent failed to adequately document five-year plan reviews in accordance with 40 CFR § 112.5(b).
- b. Respondent failed to address in the plan the physical layout and diagrams of the facility. Specifically, respondent failed to provide the facility layout and diagrams identifying the location and contents of all regulated fixed oil storage containers, location of storage areas where mobile or portable containers are located, location of completely buried tanks otherwise exempt from the SPCC requirements, location of transfer stations, and connecting pipes in accordance with 40 CFR § 112.7(a)(3).
- c. Respondent failed to address in the plan discharge prevention measures, including procedures for routine handling of products (loading, unloading, and facility transfers, etc.) in accordance with 40 CFR § 112.7(a)(3)(ii).

- d. Respondent failed to address in the plan discharge or drainage controls, such as secondary containment around containers, and other structures, equipment, and procedures for the control of a discharge in accordance with 40 CFR § 112.7(a)(3)(iii).
- e. Respondent failed to adequately discuss in the plan countermeasures for discharge discovery, response, and cleanup as required in accordance with 40 CFR § 112.7(a)(3)(iv).
- f. Respondent failed to adequately discuss in the plan methods of disposal of recovered materials in accordance with 40 CFR § 112.7(a)(3)(v).
- g. Respondent failed to adequately address in the plan and maintain at the facility appropriate containment and/or diversionary structures or equipment for oil-filled operational equipment (as defined in 112.2) and piping and related appurtenances as required in 40 CFR § 112.7(c).
- h. Respondent failed to address in the plan and maintain at the facility appropriate inspections and tests in accordance with written procedures. Specifically, respondent failed to provide the record of inspections or tests signed by supervisor or inspector in accordance with 40 CFR § 112.7(e).
- i. Respondent failed to address in the plan more stringent state rules, regulations, guidelines, and other effective discharge prevention and containment procedures listed in 40 CFR § 112.7(j).
- j. Respondent failed to address in the plan and maintain at the facility what oil drainage collection equipment is being used to prevent and control small discharges around pumps, glands, valves, flanges, expansion joints, hoses, drain lines, separators, treaters, tanks, and associated equipment. Specifically, respondent failed to address in the plan how facility drains are controlled and directed toward a central collection sump to prevent a discharge as described in 40 CFR § 112.1(b) in accordance with 40 CFR § 112.11(b).
- k. Respondent failed to address in the plan sump system and drain sizes, availability of spare pump to remove liquids and assure that oil does not escape, and mention the regularly scheduled preventative maintenance inspection and testing program to assure reliable operation of liquid removal system and pump start-up device in accordance with 40 CFR § 112.11(c).
- l. Respondent failed to adequately address in the plan and maintain at the facility either extending the flare line to a diked area if the separator is near shore, equipping separator with high liquid level sensor to automatically shut in wells producing to the separator, or installing parallel redundant dump valves. Specifically, dumb valves are present which requires respondent to

address in the plan and maintain at the facility one of the discharge preventative methods in accordance with 40 CFR § 112.11(d).

- m. Respondent failed to fully address within the plan and properly maintain at the facility atmospheric storage or surge containers equipped with high liquid level sensing devices that activate an alarm or control the flow, or otherwise prevent discharges in accordance with 40 CFR § 112.11(e).
- n. Respondent failed to fully address within the plan and properly maintain at the facility pressure containers equipped with high and low pressure sensing devices that activate an alarm or control the flow in accordance with 40 CFR § 112.11(f).
- o. Respondent failed to fully address within the plan containers equipped with suitable corrosion protection in accordance with 40 CFR § 112.11(g).
- p. Respondent failed to fully address within the plan written procedures maintained in the SPCC Plan for inspecting and testing pollution prevention equipment and systems in accordance with 40 CFR § 112.11(h).
- q. Respondent failed to fully address within the plan testing and inspection of pollution prevention equipment and systems conducted on a scheduled periodic basis commensurate with the complexity, conditions, and circumstances of the facility and any other applicable regulations. Respondent also failed to fully address within the plan simulated discharges used for testing and inspecting human and equipment pollution control and countermeasure systems in accordance with 40 CFR § 112.11(i).
- r. Respondent failed to fully address within the plan and properly maintain at the facility detailed records that describe surface and subsurface well shut-in valves and devices in use at the facility for each well. Respondent also failed to fully address within the plan and maintain at the facility records that are sufficient to determine the method of activation or control, such as pressure differential, change in fluid or flow conditions, combination of pressure and flow, or manual or remote control mechanisms in accordance with 40 CFR § 112.11(j).
- s. Respondent failed to address in the plan and maintain at the facility either flowlines equipped with a high pressure sensing device and shut-in valve at the wellhead, or pressure relief system provided for flowlines in accordance with 40 CFR § 112.11(m).
- t. Respondent failed to address in the plan the piping appurtenant to the facility is protected from corrosion, such as with protective coatings or cathodic protection in accordance with 40 CFR § 112.11(n).

- u. Respondent failed to address in the plan and maintain at the facility that submarine piping appurtenant to the facility is protected against environmental stresses and other activities such as fishing operations in accordance with 40 CFR § 112.11(o).
- v. Respondent failed to address in the plan and maintain at the facility how submarine piping is always maintained in good operating condition. Piping periodically inspected or tested on a regular schedule for failures. Inadequate documentation of inspections or tests kept at facility, in accordance with 40 CFR § 112.11(p).

17. Respondent's failure to fully develop and implement its SPCC plan for the facility violated 40 CFR § 112.3 and impacted its ability to prevent an oil spill.

Waiver of Rights

18. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. Respondent waives the right 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.

Penalty

19. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$47,400.00**.

Payment Terms

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

20. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **\$47,400.00** by means of a cashier's or certified check, or by electronic funds transfer (EFT). The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment via Mail and E-Mail to:

Energy Sector Compliance Section
U. S. Environmental Protection Agency
Region 6 (6ECD-WE)
1201 Elm Street
Dallas, TX 75270-2102
blaha.michael@epa.gov

- If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number CWA-06-2023-4801. If you use the U.S. Postal Service, address the payment to:

U.S. Environmental Protection Agency, Fines & Penalties
P.O. Box 979077, St. Louis, MO 63197-9000

- If you use a private delivery service, address the payment to:

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

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

Lorena Vaughn
Regional Hearing Clerk (6RC)
U.S. Environmental Protection Agency
Region 6
1201 Elm Street
Dallas, TX 75270-2102

21. Failure by the Respondent 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 USC §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

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

23. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §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 violations and facts stipulated to and alleged herein.


Torrent Oil, LLC

Date: 1-9-23


Richard Watson
VP of Operations
Torrent Oil, LLC

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 1/19/2023

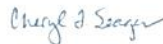

Bryant Smalley
Chief
Water Enforcement Branch

FINAL ORDER

Pursuant to Section 311(b)(6) of the Act, 33 USC §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 CFR Part 22, the forgoing 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: January 19, 2023



Digitally signed by Seager,
Cheryl
Date: 2023.01.19 12:45:13
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Docket No. CWA-06-2023-4801

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on January 23, 2023, with the Regional Hearing Clerk, U.S. EPA Region 6, 1201 Elm Street, Dallas, TX 75270-2102; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Copy by certified mail,
return receipt requested:

NAME: Mr. Richard Watson
ADDRESS: 2 Greenway Plaza, Suite 250
Houston, TX 77002

Michael Blaha

Michael Blaha
OPA Enforcement Officer