

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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REGION 6

REGIONAL HEARING CLERK  
EPA REGION VI

IN THE MATTER OF

Citgo Refining and Chemicals Company LP  
Corpus Christi Refinery  
Nueces County, Texas

Respondent.

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

Docket No. CWA-06-2019-4813

**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 Division of EPA, Region 6. The General Delegation Memo has, in turn, further redelegated these authorities to the comparable official subordinate to the Enforcement Division Director, to wit: the Branch Chief, Water Enforcement Branch in Region 6.

5. 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.

6. Respondent is a firm conducting business in the State of Texas, with a place of business located at 1802 Nueces Bay Boulevard, Corpus Christi, Texas 78469, 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.

7. 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, gasoline, diesel, and heating oil storage and refining facility, located in Nueces County, Texas ("the facility"). The approximate coordinates of the facility are 27.807200° N and -97.430570° W. Drainage from the facility drains into the Corpus Christi Ship Channel.

8. 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 510,027,202 gallons.

9. Corpus Christi Ship Channel is a navigable water of the United States within the meaning of 40 CFR § 112.2.

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

accordance with 40 CFR § 112.7(b).

- e. Respondent failed to specifically describe in the plan appropriate containment and/or diversionary structures or equipment for the piping and related appurtenances and the transfer areas, equipment and activities to prevent a discharge from the facility in accordance with 40 CFR § 112.7(c).
- f. Respondent failed to address in the plan personnel, training, and oil discharge prevention procedures. Specifically, no description of training of oil-handling personnel in operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operation; and contents of SPCC Plan in accordance with 40 CFR § 112.7(f)(1).
- g. Respondent failed to identify in the plan a person accountable for discharge prevention at the facility and reports to facility management in accordance with 40 CFR § 112.7(f)(2).
- h. Respondent failed to describe in the plan discharge prevention briefings conducted at least once a year for oil handling personnel to assure adequate understanding of the Plan as required in 40 CFR § 112.7(f)(3).
- i. Respondent failed to address in the plan appropriate integrity tests or inspections for each above ground container on a regular schedule and whenever material repairs are made, qualifications for personnel performing tests and inspections, and the frequency and type of testing and inspections as required in 40 CFR § 112.8(c)(6).
- j. Respondent failed to discuss in the plan requirements for the effluent treatment facility for detection of possible system upsets that could cause a discharge in accordance with 40 CFR § 112.8(c)(9).
- k. Respondent failed to discuss in the plan how oil discharged into diked areas will be promptly removed as required in 40 CFR § 112.8(c)(10).

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

#### **FRP Stipulations**

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

18. The facility is a non-transportation-related facility within the meaning of 40

25. Therefore, Respondent, as the owner/operator of a FRP-regulated facility, is subject to the FRP regulations found at 40 CFR. § 112.20.

26. It is stipulated that pursuant to Section 311(j)(5) of the Act and 40 CFR § 112.20, the owner or operator of an FRP-regulated facility in operation on or before February 18, 1993, must no later than that date submit a Facility Response Plan (FRP) that satisfies the requirements of Section 311(j)(5).

### **FRP Allegations**

27. Paragraphs 6 through 12 and 18 through 26 above are re-stipulated as though fully set forth herein.

28. On April 30, 2019, EPA inspected the facility and found that Respondent had failed to properly develop and implement an FRP plan in accordance with 40 CFR § 112.20, as follows:

- l. Respondent failed to provide a complete Emergency Response Action Plan (ERAP). Additionally, respondent did not provide sufficient Emergency Response Information and also failed to provide adequate plans for evacuation of the facility and refer to community evacuation plans, as appropriate, in accordance with 40 CFR § 112.20(h)(1) and (h)(3)
- m. Respondent failed to provide an adequate description of the scenarios affected by the response efforts under the Worst Case Discharge response as required in 40 CFR § 112.20(h)(5)
- n. Respondent failed to provide a complete site drainage plan diagram in accordance with 40 CFR § 112.20(h)(7).

29..Respondent's failure to properly develop and implement an FRP violates the requirements of Section 311(j)(5) of the Act and 40 CFR § 112.20.

### **Waiver of Rights**

30. 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),

- 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

33. 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**

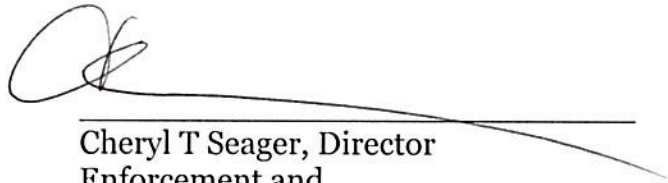
34. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns. 35. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §1321, or any regulations 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.

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: August 27, 2019

  
Cheryl T Seager, Director  
Enforcement and  
Compliance Assurance Division

Docket No. CWA-06-19-4813

**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 August 27, 2019, 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:  
7005 1820 0003 7455 3130

NAME: Mr. David Cave  
ADDRESS: 1802 Nueces Bay Boulevard  
Corpus Christi, TX 78469



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Enoch Johnbull  
OPA Enforcement Officer