

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)

Plains Marketing, L.P.)
333 Clay Street, Suite 1600)
Houston, Texas 77002)

Respondent)

) CWA SECTION 311 CLASS 1
) CONSENT AGREEMENT AND
) FINAL ORDER
) UNDER 40 C.F.R. § 22.13(b)

) Docket No. CWA-04-2009-5147(b)

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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 (“CWA”), 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 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division (“Complainant”).

CONSENT AGREEMENT

Stipulations

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

1. Respondent, Plains Marketing, L.P., is a limited partnership organized under the laws of Texas and registered to do business in the State of Mississippi. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5).

2. The Respondent is the owner and operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), of an oil gathering pipeline located in Clarke County, Mississippi ("the Facility").

3. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

4. The unnamed tributary of Pachuta Creek flows into Pachuta Creek which flows into Chickasawhay River. The unnamed tributary of Pachuta Creek is a navigable water subject to the jurisdiction of Section 311 of the CWA as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

5. 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.

6. 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 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.

7. For the purposes of this Consent Agreement, Respondent admits to EPA's jurisdiction over the matters set out above, but neither admits nor denies the factual allegations or other legal conclusions set forth in this Agreement. Other than in an action to enforce the payment of the

penalty agreed to in this Consent Agreement, it is agreed that nothing in this Consent Agreement nor any part thereof, nor any entry into or performance under this Order, shall constitute or be construed as an admission or acknowledgment of liability in this proceeding or any subsequent legal action. This paragraph shall not in any way negate Respondent's admission of EPA's jurisdiction over the matters set out above to the full extent required under 40 C.F.R. Part 22.

Allegations

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

8. On or about March 25, 2008, Respondent discharged 4 barrels 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 the unnamed tributary of Pachuta Creek and/or its adjoining shorelines.

9. Respondent's March 25, 2008, discharge of oil from its Facility caused a sheen upon or discoloration of the surface of the unnamed tributary of Pachuta 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 CWA.

Waiver of Rights

10. 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)(i) of the CWA, 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 CWA, 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.

12. Nothing in this Consent Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Consent Agreement. Except as otherwise provided herein, Complainant and Respondent each expressly reserves any and all rights, defenses, claims, demands, and causes of action which it may have with respect to any matter, transaction, or occurrence relating in any way to the facts alleged in the Consent Agreement against any person not a party hereto.

Penalty

13. Complainant proposes, and Respondent consents to, the assessment of a civil penalty of Twelve Hundred Dollars (\$1,200.00).

Payment Terms

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

14. No later than 30 days after the effective date of the Final Order, Respondent shall pay the amount of \$1,200 by means of a corporate cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, 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 sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000

If the 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
314-418-1028

Respondent may also elect the On Line Payment Option, available through the Department of Treasury. This payment option can be accessed at www.pay.gov. Enter sfo 1.1 in the search field and then open form and complete required fields.

If the 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
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

15. 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 a wire transfer, a copy of the wire transfer 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:

Larry Lamberth, Chief
South Enforcement and Compliance 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 30303-8960

16. 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

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

18. The 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 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. Except as otherwise set forth herein, compliance with this Consent Agreement shall resolve the allegations of violations contained herein.

19. The undersigned representative of Respondent hereby certifies that he or 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. 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:

Michael Newton, Attorney
Office of Regional Counsel
U. S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9567

21. 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:

Mike Kelly, Esq.
Plains Marketing, L.P.
333 Clay Street, Suite 1600
Houston, Texas 77002
713-646-4100

Effective Date

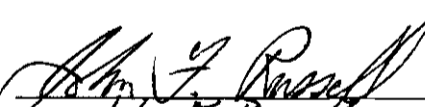
22. This Consent Agreement and Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

PLAINS MARKETING, L.P.

By Plains Marketing GP Inc., its General Partner

Date: 7/23/09

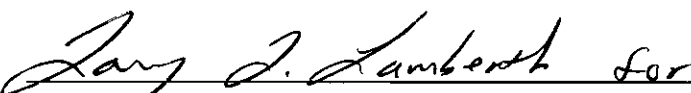
By: 
Name: John F. Russell (Printed or Typed)
Title: Vice President (Printed or Typed)

MNK

In the Matter of Plains Marketing, L.P.
Docket No. CWA-04-2009-5147(b)

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 07/27/09



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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	CWA SECTION 311 CLASS I
)	CONSENT AGREEMENT AND
Plains Marketing, L.P.)	FINAL ORDER
333 Clay Street, Suite 1600)	UNDER 40 C.F.R. § 22.13(b)
Houston, Texas 77002)	
)	
Respondent)	Docket No. CWA-04-2009-5147(b)
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 29th day of July, 2009.

BY: Susan B. Schub
Susan Schub
Regional Judicial Officer

In the Matter of Plains Marketing, L.P.
Docket No.: CWA-04-2009-5147(b)

CERTIFICATE OF SERVICE

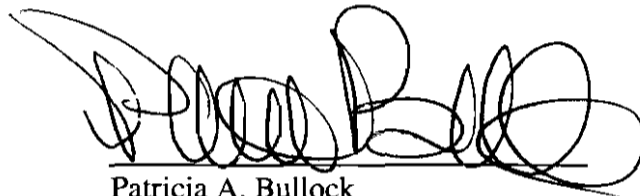
I hereby certify that on JUL 29 2009, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Plains Marketing, L.P., Docket No.: CWA-04-2009-5147(b) and that on JUL 29 2009, I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Via Certified Mail - Return Receipt Requested

Mike Kelly, Esq.
Plains Marketing, L.P.
333 Clay Street, Suite 1600
Houston, Texas 77002

Via EPA's internal mail

Michael T. Newton, Attorney
Office of Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511