



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**AUG 28 2012**

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Sid J. Trant  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1918 Fifth Avenue North  
Birmingham, Alabama 35203-2119

Re: Hunt Southland Refining Company  
Consent Agreement and Final Order, Docket Number: CWA-04-2012-5136(b)

Dear Mr. Trant:

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 and payment of the \$27,000.00 is due within thirty (30) days of the effective date of the CA/FO. As a reminder, please submit a copy of the check, wire transfer or online payment to the following people:

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

and to:

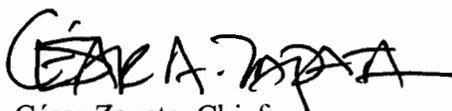
Larry L. Lamberth, Chief  
South Section, RCRA & OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

In addition to the payment of a civil penalty, within one-hundred eighty (180) days of the effective date of the CA/FO, a representative of the Hunt Southland Refining Company must submit a signed certification statement to the U.S. Environmental Protection Agency, care of Larry Lamberth.

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 Hunt Southland Refining Company on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Naeha Dixit, Assistant Regional Counsel, at (404) 562-9441.

Sincerely,

A handwritten signature in black ink, appearing to read "CÉSAR A. ZAPATA". The signature is stylized with a large initial "C" and a long horizontal stroke at the end.

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

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

**RECEIVED  
EPA REGION IV**

**2012 AUG 28 PM 1:36**

**HEARING CLERK**

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
Hunt Southland Refining Company	)	FINAL ORDER
2200 Jack Warner Parkway, Suite 400	)	UNDER 40 C.F.R. § 22.13(b)
Tuscaloosa, Alabama 35401	)	
	)	
Respondent	)	Docket No. CWA-04-2012-5136(b)

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**LEGAL AUTHORITY**

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 the 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**

Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (CA/FO), and Respondent hereby agrees to comply with the terms of this CA/FO. For purposes of this CA/FO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

### Stipulations

1. Respondent, Hunt Southland Refining Company, is a corporation organized under the laws of Delaware and registered to do business in the State of Mississippi. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

2. The 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 asphalt production and transportation facilities, which includes storage tanks at its Lumberton, Mississippi facility with a total oil storage capacity of approximately 13,000,000 gallons. The Lumberton, Mississippi facility is located at 7539 Highway 11 North, Lumberton, Mississippi 39455 (“Facility”), which is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

3. Pursuant to 40 C.F.R. § 112.1(b), the Spill Prevention, Control, and Countermeasure (SPCC) regulations contained in 40 C.F.R. Part 112 apply to each owner and operator of a non-transportation-related onshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products, which 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 may be harmful, as described in 40 C.F.R. § 110.3 (“harmful quantity”).

4. Respondent is engaged in storing, transferring, distributing, using, or consuming oil or oil products located at the Facility.

5. The Facility has an aggregate above-ground storage capacity greater than 1,320 gallons of oil in containers, each with a capacity of at least 55 gallons and therefore, does not qualify for the exemption under 40 C.F.R. § 112.1(d)(2).

6. The Facility is a “non-transportation-related facility” within the meaning of 40 C.F.R. § 112.2, as described in 40 C.F.R. Part 112, Appendix A.

7. The Facility and its storage tanks are located less than one-hundred (100) feet from an unnamed tributary of Red Creek. Furthermore, the majority of the Facility drains directly overland to a retention lagoon, which then discharges into at least one National Pollutant Discharge Elimination System (NPDES) outfall at the Facility. This NPDES outfall eventually discharges to an unnamed tributary of Red Creek. The unnamed tributary of Red Creek flows into the Red Creek. The unnamed tributary of Red Creek and/or Red Creek mentioned in this Paragraph are “navigable waters” as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2 and are therefore subject to the jurisdiction of Section 311 of the CWA.

8. The Facility is therefore a non-transportation-related onshore 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 and is, as such, an SPCC-regulated facility.

9. Pursuant to 40 C.F.R. § 112.3, the owner or operator of an SPCC-regulated facility must prepare in writing and implement an SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.

#### **Allegations**

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

10. On or about July 30, 2008, an inspection was conducted by the EPA at the Respondent’s Facility to determine compliance with SPCC regulations.

11. Respondent failed to prepare an adequate written SPCC plan (“Plan”) in accordance with 40 C.F.R. §§ 112.7, 112.8, and any other applicable sections of 40 C.F.R. Part 112, as required by 40 C.F.R. § 112.3(a). The EPA found the following violations because the Facility’s Plan did not meet the following requirements:

- a. The Plan neither followed the sequence specified in the SPCC regulations nor included a section properly cross referencing requirements in the plan, as required by 40 C.F.R. § 112.7.

- b. The Plan did not discuss brittle fracture evaluation of field constructed tanks, as required by 40 C.F.R. § 112.7(i).
- c. The Plan did not discuss that secondary containment systems are sufficiently impervious so as to contain any discharged oil, as required by 40 C.F.R. § 112.8(c)(2).
- d. The Plan did not discuss records of dike drainage events, as required by 40 C.F.R. § 112.8(c)(3)(iv).
- e. The Plan did not discuss inspection and integrity testing procedures for above-ground tanks, as required by 40 C.F.R. § 112.8(c)(6).
- f. The Plan did not discuss overfill prevention devices for above-ground tanks, as required by 40 C.F.R. § 112.8(c)(8).
- g. The Plan did not discuss observation of the Facility's effluent treatment system to detect possible system upsets that could cause a discharge, as required by 40 C.F.R. § 112.8(c)(9).
- h. The Plan did not discuss the prompt correction of visible discharges from tanks and ancillary equipment, as required by 40 C.F.R. § 112.8(c)(10).
- i. The Plan did not discuss various facility transfer and piping requirements, as required by 40 C.F.R. §§ 112.8(d)(2), (d)(3), (d)(4), and (d)(5).

12. Respondent failed to implement the Facility's Plan in accordance with 40 C.F.R. §§ 112.7, 112.8, and any other applicable sections of 40 C.F.R. Part 112, as required by 40 C.F.R. § 112.3(a). The EPA found the following violations because the Respondent failed to implement the following elements of the SPCC requirements:

- a. Respondent failed to provide acceptable secondary containment for one above-ground tank, as required by 40 C.F.R. § 112.8(c)(2).

- b. Respondent failed to maintain records of the inspections and integrity testing of bulk storage containers and the inspections of above-ground piping, valves, and similar equipment, as required by 40 C.F.R. §§ 112.8(c)(6) and (d)(4).
- c. Respondent failed to equip tanks with overfill prevention devices, as required by 40 C.F.R. § 112.8(c)(8).
- d. Respondent failed to adequately observe the Facility's effluent treatment system to detect possible system upsets that could cause a discharge, as required by 40 C.F.R. § 112.8(c)(9).

13. The EPA therefore alleges that Respondent violated the regulatory requirements cited in paragraphs 11.a. through 11.i. and paragraphs 12.a. through 12.d.

#### **Waiver of Rights**

14. 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), and 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.

#### **Terms of Agreement**

15. Respondent consents to the payment of a civil penalty of Twenty-Seven Thousand Dollars (\$27,000).

16. Within one hundred eighty (180) calendar days of the effective date of this CA/FO, Respondent shall submit to the EPA a certification signed by Respondent's representative, which states as follows:

"I certify under penalty of law that Hunt Southland Refining Company is now in compliance with all applicable portions of 40 C.F.R. Part 112. In addition, I specifically certify under penalty of law that Hunt Southland Refining Company has installed secondary containment for all bulk storage containers as required by 40 C.F.R. § 112.8(c)(2); and is now observing the effluent treatment facilities frequently enough to detect possible system upsets as required by 40 C.F.R. § 112.8(c)(9)."

This certification shall be sent to the EPA care of Larry Lamberth at the address below:

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

17. By signing this Consent Agreement, Respondent certifies that all violations alleged in this Consent Agreement, except as provided in Paragraph 16, have been corrected.

**Payment Terms**

18. No later than thirty (30) days after the effective date of the Final Order, Respondent shall pay the penalty by means of 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 "Environmental Protection Agency." The check shall bear the notation "OSLTF - 311," along with the title and docket number of this case.

If the 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

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

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"

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](http://www.pay.gov). Enter "sfo 1.1" in the search field and then open the form and complete required fields.

19. Respondent shall submit copies of the 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:

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

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

21. 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.

#### **General Provisions**

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

23. 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 CA/FO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged herein. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein.

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 the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Naeha Dixit  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-9441  
dixit.naeha@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:

Sid J. Trant  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1918 Fifth Avenue North  
Birmingham, Alabama 35203-2119  
205-521-8479  
strant@babco.com

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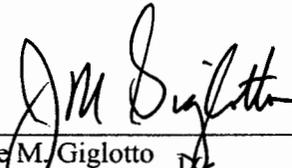
**Effective Date**

27. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

**CONSENTED AND AGREED TO:**

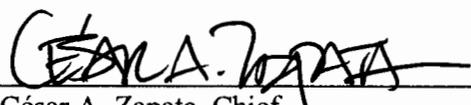
HUNT SOUTHLAND REFINING COMPANY

Date: 8/20/12

  
\_\_\_\_\_  
Joe M. Giglotto  
President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/20/12

  
\_\_\_\_\_  
César A. Zapata, 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
2200 Jack Warner Parkway, Suite 400	)	UNDER 40 C.F.R. § 22.15(b)
Tuscaloosa, Alabama 35401	)	
	)	
Respondent	)	Docket No. CWA-04-2012-5136(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 28 day of August, 2012.

BY: Susan B. Schub  
Susan Schub  
Regional Judicial Officer

## 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 Hunt Southland Refining Company, Docket No. CWA-04-2012-5136(b), on the parties listed below in the manner indicated:

Naeha Dixit (Via EPA's electronic mail)  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

Quantindra Smith (Via EPA's internal mail)  
RCRA & OPA Enforcement and Compliance Branch  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

Sid J. Trant (Via Certified Mail)  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, Alabama 35203

Dated this 28 day of August, 2012.



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