

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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IN THE MATTER OF:)

HOP Energy, LLC)
d.b.a. DDLC Energy)
410 Bank Street)
New London, Connecticut,)
Respondent.)
_____)

**CONSENT AGREEMENT
AND FINAL ORDER**

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

Docket No. CWA 01-2009-0004

This Consent Agreement is proposed and entered into under the authority vested in the U.S. Environmental Protection Agency ("EPA") by Section 311(b)(6)(B)(ii) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, and under the authority provided by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits, set forth at 40 C.F.R. Part 22 ("Part 22").

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against HOP Energy, LLC, d.b.a. DDLC Energy ("Respondent") pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), by filing an Administrative Complaint, Docket No. CWA-01-2009-0004 ("Complaint") on December 15, 2008.

2. The Complaint alleges that Respondent's violations of Sections 311(j) of the CWA have subjected Respondent to penalties up to the statutory maximum authorized under the CWA.

3. The factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint and incorporated herein by reference.

4. Section 311(b)(6)(C) of the CWA, 33 U.S.C. § 1321(b)(6)(C) and 40 C.F.R. § 22.45(b) provide that, prior to issuing an order assessing a penalty under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), EPA must provide public notice of, and reasonable opportunity to comment on, the proposed issuance of such order. EPA has satisfied this requirement by providing public notice of, and reasonable opportunity to comment on, the proposed penalty from December 18, 2008 through January 16, 2009. EPA has received no public comments regarding this matter.

II. CONSENT AGREEMENT

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent.

6. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies specific factual or other legal allegations contained in the Complaint.

7. Respondent certifies that it has corrected the alleged violations described in the Complaint in compliance with Section 311 of the CWA and the Oil Pollution Prevention Regulations (40 C.F.R. Part 112) promulgated thereunder.

Waiver of Rights

8. Respondent waives any defenses it might have as to jurisdiction and venue and consents to the terms of this Consent Agreement and Final Order ("CAFO").

9. Respondent waives its rights to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

10. Respondent waives its rights to appeal any Final Order in this matter, and consents to the issuance of a Final Order without further adjudication.

Penalty

11. For the purpose of settlement of this action, Complainant proposes and Respondent consents to the assessment of a civil penalty of \$ 75,000.

Payment Terms

12. In agreeing to the penalty described in paragraph 11 above, EPA has taken into account the statutory penalty factors at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8). Respondents shall pay a total penalty of \$ 75,000 which shall be due within 30 calendar days of the date the Final Order becomes final pursuant to this document and Section 311(b)(6)(D) of CWA. Respondent shall pay a penalty of \$ 75,000 for violation of Section 311(j) of the CWA as alleged in the Complaint and shall make payment by cashier's or certified check, payable to "Environmental Protection Agency," and referencing the title and docket numbers of the action ("In the Matter of HOP Energy LLC, d.b.a. DDL Energy, CWA-01-2009-0004") and "Oil Spill Liability Trust Fund - 311." The payment shall be mailed via regular U.S. Postal Service mail, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

13. Respondent shall simultaneously submit copies of the check referenced in the previous paragraph to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100 (RAA)
Boston, Massachusetts 02114-2023

And to:

Tonia Bandrowicz, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100 (SEL)
Boston, Massachusetts 02114-2023

14. Pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), failure by the Respondent to pay the penalty amounts relating to the CWA violations assessed by this CAFO in full by the date required shall subject the Respondent to a civil action to collect the assessed penalty, plus interest at the prevailing rates from the effective date of the CAFO. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Further, under Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), if Respondent fails to pay on a timely basis any CWA penalty payment assessed by this CAFO, Respondent shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. Interest will be assessed pursuant to 31 C.F.R. § 901.9(b), promulgated pursuant to 31 U.S.C. § 3717.

15. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. §162(f) and is not tax deductible for purposes of federal, state, or local law.

16. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

17. Except as described in Paragraph 15 above, each party shall bear its own costs and attorneys fees in this proceeding.


18. This CAFO shall not limit the authority of the United States to enforce the underlying substantive legal requirements of this administrative penalty assessment, whether administratively or judicially.

19. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

20. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 311(j) of the CWA, for the violations of the CWA specifically alleged in the Complaint. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

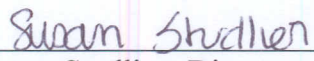
21. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and legally bind Respondent.

FOR RESPONDENT


Rickana Nota, EYP & CFO
HOP Energy LLC
d.b.a DDLC Energy

Date: 7-27-09

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY


Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

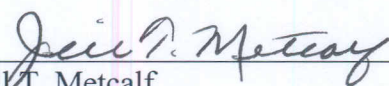
Date: 08/04/09

FINAL ORDER

In accordance with 40 C.F.R. § 22.18(b), the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.

Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Final Order shall become final 30 days from today pursuant to Section 311(b)(6)(D) of the CWA, 33 U.S.C. § 1321(b)(6)(D).

U.S. ENVIRONMENTAL PROTECTION AGENCY



Jill T. Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: August 5, 2009

In re: HOP Energy, LLC d.b.a. DDL Energy
EPA Docket No. CWA 01-2009-0004

CERTIFICATE OF SERVICE

I, Tonia Bandrowicz, hereby certify that on this 6th day of June 2009, caused the foregoing Consent Agreement & Final Order to be served on the following persons in the manner indicated:

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Original and One Copy By Hand Delivery

Wanda I. Santiago, Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023

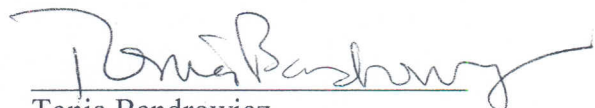
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OFFICE OF
REGIONAL HEARING CLERK

One Copy By Fax (202-565-0044) and Pouch Mail

The Honorable Susan L. Biro
Chief Administrative Law Judge and Presiding Officer
Office of the Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

One Copy By Fax (617-557-5999) and By Federal Express

Christopher Foster, Esq.
Robinson & Cole LLP
One Boston Place
Suite 2500
Boston, MA 02108-4404



Tonia Bandrowicz
Senior Enforcement Counsel
EPA Region 1