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2011 JAN 24 11:01:19 AM UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGIONAL HEARING CLERK
EPA REGION VI

REGION 6

IN THE MATTER OF

**Jordan Oil Company, Inc.
Cameron Parish, Louisiana**

Respondent.

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

Docket No. CWA-06-2010-4853

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)(ii) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(ii), 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, Delegation No. 2-52-A, dated May 11, 1994 and Delegation No. R6-2-52-A, dated January 31, 2008 ("Complainant").

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 vessels and from onshore facilities and offshore facilities, and to contain such discharges"

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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 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 redelegates, and the Administrator of EPA agrees 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 promulgated the Spill Prevention Control and Countermeasure (SPCC) regulations pursuant to these delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, which established certain procedures, methods and requirements upon each owner and operator of a non-transportation-related onshore or offshore 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 U.S.C. § 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 Corporation conducting business in the State of Louisiana, with a place of business located at 4187 Highway 3059, Lake Charles, Louisiana 70615, 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 an offshore oil production facility, the Dr. S.O. Carter A#1, located in the NE 1/4 of Section 10, Township 15 South, Range 7 West, Cameron Parish, Louisiana ("the facility"). Drainage from the facility travels directly into and upon an unnamed canal and tributary of the Mermentau River; thence to the Mermentau River; thence to the Gulf of Mexico.

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 500,000 gallons.

10. The Mermentau River & the Gulf of Mexico are navigable waters 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 a non-transportation-related facility within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

13. The facility is an offshore facility within the meaning of Section 311(a)(10) of the Act, 33 USC § 1321(a)(11), 40 CFR § 112.2, and 40 CFR § 112 Appendix B.

14. 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").

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

16. The facility began operating before August 16, 2002. Information provided indicates the facility began operation in 1993.

Allegations

Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the violations alleged in paragraphs 18-24.

COUNT 1: Failure to prepare a SPCC plan that meets the requirements of 40 CFR § 112.7 and other applicable section, as required in 40 CFR § 112.3

17. Paragraphs 1 through 16 above are hereby incorporated by reference.

18. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing, and in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

19. On May 11, 2010, EPA inspected the facility and found that Respondent had failed to prepare a SPCC plan that was fully in accordance with 40 CFR § 112.7 and other applicable sections, for the facility. Respondent's SPCC plan deficiencies are as follows:

- a. **The SPCC Plan did not include a prediction and description of major equipment failure that could result in a discharge from the facility, in accordance with 40 CFR § 112.7(b).**

- b. **The SPCC Plan does not adequately address containment/diversionary structures and equipment, in accordance with 40 CFR § 112.7(c).**
- c. **The SPCC Plan did not include requirements for Inspections, Tests and Records to be signed by the appropriate supervisor or inspector and to be kept with the SPCC plan, in accordance with 40 CFR § 112.7(e).**
- d. **The SPCC Plan did not designate a person accountable for spill prevention, in accordance with 40 CFR § 112.7(f).**

20. Respondent's failure to prepare an adequate SPCC plan for the facility violated 40 CFR § 112.3, and impacted their ability to prevent a spill.

COUNT 2: Failure to fully implement their SPCC plan as required in 40 CFR § 112.3

21. Paragraphs 1 through 16 above are hereby incorporated by reference.

22. 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.

23. On May 11, 2010, EPA inspected the facility and found that Respondent had failed to fully implement their SPCC plan for the facility. Respondent failed to fully implement such an SPCC plan for the facility as follows:

- a. **Respondent failed to provide secondary containment, by allowing the containment walls to erode away, as required at 40 CFR § 112.7(c), and § 112.11(b) & (c).**
- b. **Respondent failed to provide the requisite training for oil handling personnel, as required at 40 CFR § 112.7(f).**
- c. **Respondents failed to maintain the required pump and spare pump on the sump system for the salt water barge, as required at 40 CFR § 112.11(e).**

24. Respondent's failure to fully implement their SPCC plan for the facility violated 40 CFR § 112.3, and impacted their ability to prevent a spill.

Waiver of Rights

25. 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

26. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$59,830.00**.

Payment Terms

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

27. The Respondent shall submit this Consent Agreement and Final Order, with original signature to:

OPA Enforcement Coordinator
U. S. Environmental Protection Agency
Region 6 (6SF-PC)
1445 Ross Avenue
Dallas, Texas 75202-2733.

28. The Respondent shall pay to the United States a civil penalty in the amount of **\$59,830.00**, to settle the violations as alleged in the CAFO, in accordance with 40 C.F.R.

22.18(c). Payment must be made within thirty (30) days after the effective date of this CAFO, by means of a cashier's or certified check, or by electronic funds transfer (EFT).

- **Penalty Payment:** If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number CWA-06-2010-

4853. 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
Government Lockbox 979077 US EPA Fines & Penalties
1005 Convention Plaza, Mail Station SL-MO-C2GL
St. Louis, MO 63101
314-418-1028

- The Respondent shall submit copies of the check to the OPA Enforcement Coordinator, at the address above as well as:

Lorena Vaughn
Regional Hearing Clerk (6RC)
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

29. Failure by the Respondent to pay any portion of the penalty assessed by the Final Order in 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

30. Complainant reserves the right, pursuant to 40 CFR § 22.45(c)(4)(iii), to withdraw this Consent Agreement and proposed Final Order within 15 days of receipt of a Commenter's petition requesting, pursuant to 40 CFR § 22.45(c)(4)(ii), that the Regional Administrator set aside the Consent Agreement and proposed Final Order on the basis that material evidence was not considered.

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

32. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 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.

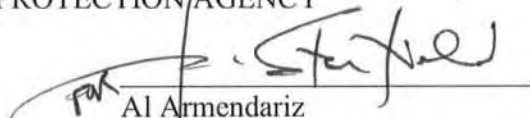
JORDAN OIL COMPANY, INC.

Date: 10-7-10


Steve Jordan
Jordan Oil Company, President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 10/26/10


Al Armendariz
Regional Administrator

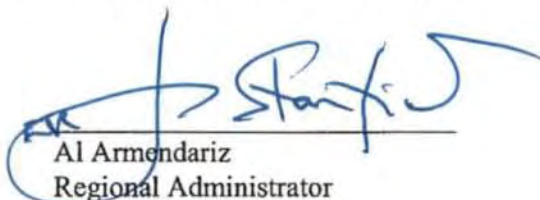
FINAL ORDER

Pursuant to Section 311(b)(6) of the Act, 33 U.S.C. §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: _____

1/19/11




Al Armendariz
Regional Administrator

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Administrative Complaint and Opportunity to Request a Hearing," issued pursuant to 40 C.F.R. 22.13(b), was filed on 1-24, 2011, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; 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:
7009 1680 0002 2886 3675

NAME: Steve Jordan
ADDRESS: 4187 Highway 3059
Lake Charles, LA 70615



Frankie Markham
OPA Enforcement Administrative Assistant