



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

MAR 19 2009

C. A. Robinson, President
Robinson Engineering & Oil Company, Inc.
1410 N. Cullen Avenue
Evansville, Indiana 47716

RE: Robinson Engineering & Oil Company, Inc. - Executed Consent Agreement and Final Order, Docket No. CWA-04-2009-5132(b)

Dear Mr. Robinson:

Please find enclosed a copy of the fully executed Consent Agreement and Final Order (CAFO) docketed CWA-04-2009-5132(b), for Robinson Engineering & Oil Company, Inc. The CAFO was effective upon filing. As payment of the civil penalty amount of \$16,743.00 has been received, no further action is necessitated under the terms of the CAFO.

Please do not hesitate to contact me at (404) 562-9539 with any questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bonnie Sawyer".

Bonnie Sawyer
Associate Regional Counsel

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

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EPA REGION IV
2009 MAR 19 PM 1:13
MEMPHIS CLERK
16743.00

IN THE MATTER OF

Robinson Engineering &
Oil Company, Inc.
1410 N. Cullen Avenue
Evansville, Indiana 47716

Respondent.

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

Docket No. CWA-04-2009-5132(b)

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 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 of the RCRA Division, to the Chief of the 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:

2. Section 311(j)(1)(C) of the Act, 33 U.S.C. § 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 . . . facilities, and to contain such discharges"

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. EPA subsequently promulgated the 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 for each owner and operator of a non-transportation-related onshore 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 C.F.R. § 110.3 may be harmful to the public health or welfare or the environment of the United States ("harmful quantity").

5. In promulgating 40 C.F.R. § 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.

6. Respondent is a corporation organized under the laws of Indiana and doing business in the Commonwealth of Kentucky. Respondent 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 C.F.R. § 112.2.

7. Respondent is the “owner/operator” of an “onshore facility” within the meaning of Section 311(a)(6) and (10) of the Act, 33 U.S.C. § 1321(a)(6) and (10), and 40 C.F.R. § 112.2, which includes a 4,830 gallon above-ground storage tank used to store oil pumped from a nearby well, located on leased property at or near 1694 Wells Road, Nortonville, Kentucky (“the Facility”).

8. The Facility is up gradient of drains to an unnamed tributary of Pleasant Run Creek, which is located approximately 600 feet from the Facility.

9. Pleasant Run Creek is a navigable water of the United States within the meaning of 40 C.F.R. § 112.2, as amended at 73 Federal Register 71,944 (November 20, 2008), and Section 502(7) of the Act, 33 U.S.C. § 1362(7).

10. 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.

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 C.F.R. § 112.2 Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.

13. 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 (an "SPCC-regulated facility").

14. Respondent admits the jurisdictional statements contained herein.

Allegations

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

15. Robinson Engineering & Oil Company, Inc. began operating the Facility around 1970 after purchasing the lease from another party.

16. 40 C.F.R. § 112.8(a) requires the owner or operator of an SPCC-regulated facility to meet the containment procedures listed in this section. Pursuant to 40 C.F.R. § 112.8(c)(2), owners and operators must construct all bulk storage tank installations so that they provide a secondary means of containment for the entire capacity of the largest single container, and sufficient freeboard to contain precipitation. Owners and operators must also ensure that diked areas are sufficiently impervious to contain discharged oil. They may use a system consisting of a drainage trench enclosure that ensures that any discharge will terminate and be safely confined in a facility catchment basin or holding pond.

17. On February 13, 2004, an EPA On-Scene Coordinator (OSC) conducted an SPCC inspection at the Facility. The inspection was prompted by an earlier oil release of 90 barrels from the 4,830 gallon storage tank.

18. During the inspection, the OSC noted that the secondary containment for the 4,830 gallon storage tank was inadequate.

19. Respondent, therefore, failed to meet the containment procedures by failing to

complete and document a review and evaluation of the plan at least once every five years from the date such facility became subject to the SPCC regulations, and sign a statement as to whether the plan will be amended.

21. During the February 13, 2004 inspection, the OSC found no evidence that a five-year review of the SPCC plan had been conducted for the Facility.

22. Respondent, therefore, failed to timely review and evaluate the SPCC plan and/or document the review and evaluation of the SPCC plan and sign a statement whether the plan will be amended in violation of 40 C.F.R. § 112.5(b).

Waiver of Rights

23. Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the Act, 33U.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.

24. 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.

Penalty

25. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$16,743.

Payment Terms

26. Respondent consents and agrees to the payment of the civil penalty no later than thirty (30) calendar days after the effective date of the Final Order.

27. Respondent shall make payment of the penalty by a corporate/cashier's check or certified check, by a wire transfer, or on line. If paying by check, the Respondent shall submit a corporate/cashier's check or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF – 311." Respondent shall reference the facility name and the docket number for this matter on the face of the check, and the check shall be tendered, if by U.S. Postal Service, to:

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

or if by commercial express delivery service to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

If Respondent sends payment by wire transfer, the payment shall be addressed 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 NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency "

If Respondent chooses the On Line Payment option, available through the Department of Treasury, this payment option can be accessed from the information below.

WWW.PAY.GOV

Enter sfo 1.1 in the search field

Open form and complete required fields.

Respondent shall submit a copy of the payment to the following addressees:

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

and to:

Doug McCurry, Chief
North Enforcement & Compliance Section
RCRA/OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

28. 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

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

30. 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.

31. The undersigned representative of Respondent hereby certifies that he/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.

32. The following attorney represents EPA in this matter and is authorized to receive service for EPA in the proceeding:

Bonnie Sawyer
Associate Regional Counsel
United States Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center,
61 Forsyth Street, SW
Atlanta, Georgia 30303
(404) 562-9539
Sawyer.bonnie@epa.gov

Effective Date

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

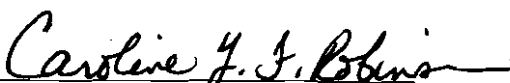
ROBINSON ENGINEERING & OIL COMPANY, INC.

Date: 3/2/09


C.A. Robinson, President

U.S. ENVIRONMENTAL PROTECTION AGENCY


Date: 3/18/09


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

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 and the Revocation-Termination or Suspension of Permits," codified at 40 C.F.R. 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.

Robinson Engineering & Oil Company, Inc., the Respondent is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2009-5132(b).

Date: March 19, 2009



Susan Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

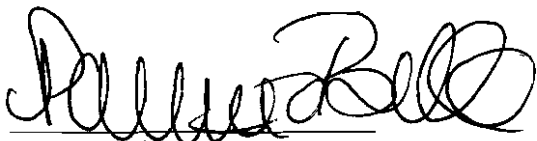
I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Robinson Engineering & Oil Company, Inc., Docket No. CWA-04-2009-5132(b), on the parties listed below in the manner indicated:

Bonnie Sawyer (Via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303

John C. Goodwin (Via EPA's internal mail)
RCRA & OPA Enforcement and Compliance Branch
U.S. EPA, Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

C.A. Robinson, President (Via Certified Mail)
Robinson Engineering & Oil Company, Inc.
1410 N. Cullen Avenue
Evansville, Indiana 47716

Dated this 19 day of march, 2009.



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