



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

DEC 27 2010

Eddie Ormond, Jr.
Ormond's Oil and Gas, Inc.
9535 Highway 70 East
Princeton, North Carolina 27569

Re: Executed Consent Agreement and Final Order, Docket
No. CWA-04-2010-5139(b)

Dear Mr. Ormond:

Please find enclosed a copy of the fully executed Consent Agreement and Final Order (CAFO) in the above referenced matter. The CAFO was effective upon filing and payment of the first installment of \$5,006.24 is due within thirty (30) days of the effective date of the CAFO. The second and final installment of \$5,006.24 is due by June 1, 2011.

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

IN THE MATTER OF)	CWA SECTION 311 CLASS I
)	CONSENT AGREEMENT AND
Ormond's Oil and Gas, Inc.)	FINAL ORDER
9535 Highway 70 East)	UNDER 40 C.F.R. § 22.13(b)
Princeton, North Carolina 27569)	
)	
)	
Respondent)	Docket No. CWA-04-2010-5139(b)
_____)	

RECEIVED
MAY 11 2010
RCRA DIVISION

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 ("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, 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 (CAFO), and Respondent

hereby agrees to comply with the terms of this CAFO. For purposes of this CAFO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

Stipulations

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

1. Respondent is a corporation organized under the laws of North Carolina and is therefore a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7).

2. Respondent was at all times relevant to this Consent Agreement the “owner or operator” of an “onshore facility” within the meanings of Sections 311(a)(6) and (10) of the Act, 33 U.S.C. §§ 1321(a)(6) and (10), which included storage tanks with a total capacity in excess of 1,320 gallons of gasoline and diesel fuel operating at 9535 Highway 70 East, Princeton, North Carolina (“Facility”).

3. The gasoline and diesel fuel are “oil” within the meaning of Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1).

4. 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”

5. 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 facilities.

6. EPA subsequently promulgated the Spill Prevention Control and Countermeasures (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").

7. 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.

8. The Facility is up gradient of a drainage ditch that leads to Beaverdam Creek, which is located less than a mile from the Facility.

9. Beaverdam Creek is a navigable water as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2 and is therefore subject to the jurisdiction of Section 311 of the Act.

10. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil or oil products located at the Facility.

11. 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.

12. 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, a SPCC-regulated facility.

13. 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.

14. 40 C.F.R. § 112.7(h)(1) requires that where the loading/unloading area drainage does not flow into a catchment basin or treatment facility designed to handle the discharges, the facility must use a secondary containment system capable of holding at least the maximum capacity of any single tank car or tank truck loaded or unloaded at the facility.

15. Solely for purposes of this Consent Agreement and Final Order, Respondent admits the jurisdictional statements contained herein.

Allegations

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

16. Respondent began operating the facility prior to 1998.

17. On January 12, 2006, and in October, 2009, EPA inspected the facility and found that Respondent had failed to timely prepare an SPCC plan for the facility in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.

18. Therefore, Respondent failed to prepare a written SPCC Plan ("Plan") for the facility in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112 in violation of 40 C.F.R. § 112.3(a).

19. During the January 12, 2006, inspection, EPA found that the secondary containment for the loading rack was breached in several areas and was not capable of containing any releases in the area and did not meet the requirements of 40 C.F.R. § 112.7(h)(1).

20. Therefore, Respondent failed to implement the SPCC Plan as required by 40 C.F.R. § 112.3 in accordance with the guidelines for Plan implementation at 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112 in violation of 40 C.F.R. § 112.3(a).

Waiver of Rights

21. 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.

Terms of Settlement

22. Respondent consents to the assessment of a civil penalty of Ten Thousand Dollars (\$10,000).

23. By signing this Consent Agreement, Respondent certifies that all violations alleged in this Consent Agreement have been corrected.

Payment Terms

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

24. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of \$5,006.24. No later than June 1, 2011, the Respondent shall pay the amount of \$5,006.24. The payments shall be made by means of a corporate cashier's check or certified check, or by electronic funds transfer (EFT), 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."

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. 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. Enter SFO 1.1 in the search field and then open the form and complete required fields.

25. 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 or online payment, copies of the wire transfer or online confirmation) to the following people:

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

and to:

Doug McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency
US EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

26. 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

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

28. 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.

29. 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.

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

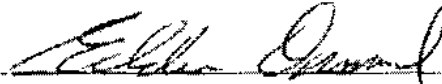
Bonnie Sawyer
Associate Regional Counsel
United States Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center,
61 Forsyth Street, SW
Atlanta, Georgia 30303
(404) 562-9539
Sawyer.bonnie@epa.gov

Effective Date

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


For Ormond's Oil and Gas, Inc.

Date: 12-6-10


Eddie Ormond, Jr.
President
Ormond's Oil and Gas, Inc.

For U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 12/15/10


Dee Stewart
Acting Chief, RCRA and OPA Enforcement and
Compliance Branch
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF

Ormond's Oil and Gas, Inc.
9535 Highway 70 East
Princeton, North Carolina 27569

Respondent

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

Docket No. CWA-04-2010-5139(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 with prejudice pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 23rd day of December, 2010.

BY: Susan O. 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 Ormond's Oil and Gas, Inc., Docket No. CWA-04-2010-5139(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

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

Eddie Ormond, Jr. (Via Certified Mail)
President
Ormond's Oil and Gas, Inc.
9535 US Highway 70 East
Princeton, North Carolina 27569

Dated this 22 day of December, 2010.



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