



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

NOV 10 2010

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

Mr. S. David Padgett, President  
Davidson Fuels & Oil, Inc.  
8450 Tanner Williams Road  
Mobile, Alabama 36608

SUBJ: Consent Agreement and Final Order:  
Docket No. CWA-04-2010-5023  
Spill in Escambia County, Florida, on or about June 21, 2010  
NRC Report No. 944928

Dear Mr. Padgett:

Enclosed is a copy of the Consent Agreement and Final Order (CAFO) for the above referenced matter. This CAFO became effective on the date of filing with the Regional Hearing Clerk as required by 40 C.F.R. §§ 22.6 and 22.31, and as indicated on the Certificate of Service.

The United States Environmental Protection Agency (EPA) hereby notifies you that the Expedited Settlement Agreement has been executed by both parties and is binding on EPA and you. Upon receipt of your assessed penalty of \$500.00, EPA will take no further action against you for the violations cited in the Settlement Agreement. Your copy of the executed agreement is enclosed.

You must submit your payment within seven (7) days of your receipt of this letter by either electronic funds transfer, certified or cashiers check made payable to "Environmental Protection Agency." The check and a letter accompanying the check shall reference the name of the responsible party (Oil Spill Liability Trust Fund-311, Davidson Fuels & Oil, Inc.) and the EPA docket number CWA-04-2010-5023, and shall be sent depending upon your preferred method of payment identified in Enclosure A.

At the same time, you shall send a separate copy of each check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

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

Mel Rechtman  
U.S. EPA - Region 4  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

If you have any questions, please contact Mel Rechtman at (404) 562-8745.

Sincerely,



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

Enclosures:

1. Expedited Settlement Agreement
2. Payment Information

cc: USCG

OCT 4 2010

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
61 FORSYTH STREET, ATLANTA, GEORGIA 30303  
EXPEDITED SPILL SETTLEMENT AGREEMENT

DOCKET NO. CWA-04-2010-5023

On: June 21, 2010 Time: 14:50  
At: or near Bahia Mar Marina, Escambia County, Florida,  
Davidson Fuels & Oil, Inc. (Respondent) discharged 400  
gallons of oil in violation of Section 311(b)(3) of the Clean  
Water Act (the Act), as noted on the attached ALLEGED  
CIVIL VIOLATION (Form), which is hereby incorporated  
by reference.

EPA finds the Respondent's conduct is subject to the  
discharge prohibition of Section 311(b)(3) of the Act, as  
described in that statute and further described by  
40 C.F.R. § 110.3. The Respondent admits being subject  
to Section 311(b)(3) and that EPA has jurisdiction over the  
Respondent and the Respondent's conduct as described in  
the Form. Respondent neither admits nor denies the  
Allegations in the Form.

EPA is authorized to enter into this Expedited Spill  
Settlement Agreement under the authority vested in the  
Administrator of EPA by Section 311(b)(6)(B)(i) of the Act,  
33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil  
Pollution Act of 1990, and by 40 C.F.R. § 22.13(h). The  
parties enter into this Expedited Spill Settlement Agreement  
in order to settle the civil violation described in the Form for  
a penalty of \$500.00. Respondent consents to the assessment  
of this penalty.

This Expedited Spill Settlement Agreement is also subject to  
the following terms and conditions: Respondent certifies,  
subject to civil and criminal penalties for making a false  
submission to the United States Government, that it has  
investigated the cause of the spill, it has cleaned up the spill  
pursuant to federal requirements at a cost of \$10,000.00  
and it has taken corrective actions that will prevent future  
spills. The Respondent also by signature on this Expedited  
Spill Settlement Agreement agrees to payment of the penalty  
assessed. Do not enclose payment. Upon receiving written  
execution of this Agreement, Respondent shall submit  
payment within 7 days by certified check or electronic funds  
transfer for \$500.00 payable to the "US Environmental  
Protection Agency CWA-311". Instructions on how to  
make this payment will be included in the written notice that  
will be issued when the Expedited Spill Settlement  
Agreement becomes effective.

Upon signing and returning this Expedited Spill Settlement  
Agreement to EPA, Respondent waives the opportunity for  
a hearing or appeal pursuant to Section 311 of the Act, and  
consents to EPA's approval of the Expedited Spill  
Settlement Agreement without further notice.

After this Expedited Spill Settlement Agreement becomes  
effective and the assessed penalty is paid, EPA will take  
no further action against the Respondent for the violation  
of Section 311(b)(3) of the Act described in the Form.  
However, EPA does not waive any rights to take any  
enforcement action for any other past, present, or future  
violation by the Respondent of Section 311(b)(3) of the Act  
or of any other federal statute or regulation. By its first  
signature, EPA ratifies the Findings and Alleged Violation  
set forth in the Form.

This Expedited Spill Settlement Agreement is binding on  
the parties signing below, and effective upon EPA's filing  
of the document with the Regional Hearing Clerk. If the  
Respondent does not sign and return this Expedited Spill  
Settlement Agreement as presented within 30 days of the  
date of its receipt, the proposed Expedited Spill Settlement  
Agreement is withdrawn without prejudice to EPA's ability  
to file any other enforcement action for the violation  
identified in the Form.

APPROVED BY RESPONDENT:

Name (print): S. David Padgett  
Title (print): Pres.  
Signature: [Signature]

APPROVED BY EPA:

[Signature] Date 11/3/10  
Caroline Y. F. Robinson, Chief  
RCRA/OPA Enforcement and Compliance Branch  
RCRA Division

IT IS SO ORDERED:

[Signature] Date 11/10/10  
Susan B. Schub  
Regional Judicial Officer

rev 7/1-10 55

2010 OCT 10 10 12 AM '10

RECEIVED

**ALLEGED CIVIL VIOLATION - DOCKET NO. CWA-04-2010-5023**

1. Davidson Fuels & Oil, Inc., Respondent, is a corporation with a place of business located at 8450 Tanner Williams Road, Mobile, Alabama 36608. The respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act, 33 U.S.C. § 321(a)(7) (Act).
2. Respondent is the owner of an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), which is a tanker truck located at or near the Bahia Mar Marina in Escambia County, Florida. ("facility").
3. Section 311(b)(3) of the Act prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.
4. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that (1) violate applicable water quality standards or, (2) cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines or, (3) cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.
5. On June 21, 2010, Respondent discharged an estimated 400 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), from its facility into or upon the Bayou Chico which flows into Pensacola Bay and adjoining shorelines.
6. The Bayou Chico which flows into the Pensacola Bay is a "navigable water of the United States" subject to the jurisdiction of Section 311 of the Act as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.
7. Respondent's June 21, 2010, discharge of oil from its facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of the Bayou Chico or caused a sludge or emulsion to be deposited beneath the surface, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3.
8. Respondent's June 21, 2010, discharge of oil from its facility into or upon the Bayou Chico and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 C.F.R. § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per violation, up to a maximum of \$37,500.

Account 310006  
CTX Format

**ON LINE PAYMENT:**

There is now an On Line Payment Option, available through the Dept. of Treasury.  
This payment option can be accessed from the information below:

[www.dav.gov](http://www.dav.gov)

Enter sfo 1.1 in the search field

Open form and complete required fields.

ENCLOSURE A

COLLECTION INFORMATION

CHECK PAYMENTS:

U.S. Environmental Protection Agency  
Fines and Penalties  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

WIRE TRANSFERS:

Wire transfers 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"

OVERNIGHT MAIL:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

Contact: Natalie Pearson 314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving U.S. currency  
US Treasury REX / ACH Receiver  
5700 Rivertech Court  
Riverdale, MD 20737  
Contacts: John Schmid 202-874-7028 or  
Remittance Express 1-866-234-5681  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency

Docket No. CWA-04-2010-5023

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Davidson Fuels & Oil, Inc., Docket No. CWA-04-2010-5023 (filed with the Regional Hearing Clerk on NOV 10 2010 2010) was served on ~~NOV 10 2010~~ 2010 in the manner specified to each of the person set forth below:

Mr. S. David Padgett, President  
Davidson Fuels & Oil, Inc.  
8450 Tanner Williams road  
Mobile, Alabama 36608

CERTIFIED MAIL  
Return Receipt Requested

Mel Rechtman  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Via EPA's Internal Mail

Quantindra Smith  
RCRA & OPA Enforcement & Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Via EPA's Internal Mail and PDF

Date: 11-10-10



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**PAYMENT DUE DATE:** \_\_\_\_\_

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Mel Rechtman on October 4, 2010  
(Name) (Date)

in the ROECB at 404/562-8745  
(Office) (Phone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
|  | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> This is a modification  |

**PAYEE:** Davidson Fuels & Oil, Inc.

The Total Dollar Amount of the Receivable: \$500.00  
(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA-04-2010-5023  
The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: RCRA Division

**To Be Completed By Cincinnati Finance Center**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date: /2010

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order Should be to:

- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|