



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**JUL 01 2010**

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

Mr. Jim Henry, Manager of Technical Services  
Walter Coke, Inc.  
3500 35<sup>th</sup> Avenue  
Birmingham, Alabama 35207-2918

SUBJ: Consent Agreement and Final Order:  
Docket No. CWA-04-2010-5016

Dear Mr. Henry:

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, Walter Coke, Inc.) and the EPA docket number CWA-04-2010-5016, and shall be sent depending upon your preferred method of payment identified in Enclosure A.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

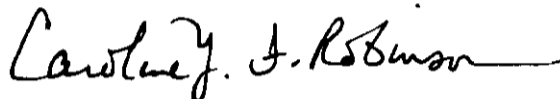
At the same time, you shall send a separate copy of each check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

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,



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

Enclosures:

1. Expedited Settlement Agreement
2. Payment Information

cc: USCG

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  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact – Jesse White 301-887-6548  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
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.pay.gov](http://www.pay.gov)

Enter sfo 1.1 in the search field

Open form and complete required fields.

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

DOCKET NO. CWA-04-2010-5016

On: March 5, 2010 Time: 17:30  
At: or near 3500 35<sup>th</sup> Avenue, Birmingham, Jefferson County, Alabama, Walter Coke, Inc. (Respondent) received into its NPDES wastewater treatment system from an off-site source via a State Indirect Discharge Permit 200 gallons of oil, some of which then discharged into a navigable waterway 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 does not contest the Allegations in the Form, and waives any objections it may have to EPA's jurisdiction.

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(b). 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 \$25,000 and it has taken corrective actions that will prevent future spills. The Respondent also by signature of 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". Instruction 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 payment of the assessed penalty, 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): CHUCK STEWART

Title (print): PRESIDENT

Signature: Chuck Stewart

APPROVED BY EPA:

Caroline Y.F. Robinson Date: 6/23/10  
Caroline Y.F. Robinson, Chief  
RCRA/OPA Enforcement and Compliance Branch  
RCRA Division

IT IS SO ORDERED:

Susan B. Schub Date: 6/30/10  
Susan B. Schub  
Regional Judicial Officer

HEARING CLERK  
- 1 AM  
0  
EPA REGION 4  
rev 3-3-10 JMJ

**ALLEGED CIVIL VIOLATION - DOCKET NO. CWA-04-2010-5016**

1. Walter Coke, Inc. is the Respondent. The Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act, 33 U.S.C. § 1321(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 located at or near 3500 35<sup>th</sup> Avenue, Birmingham, Jefferson County, Alabama. ("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 March 5, 2010, Respondent received into its NPDES wastewater treatment system's Final Pond from an off-site source via a State Indirect Discharge Permit 200 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its facility into or upon the Walter Coke Final Pond which discharged into Five Mile Creek which flows into Locust Fork which flows into the Black Warrior River and adjoining shorelines.
6. The Five Mile Creek which flows into the Locust Fork which flows into the Black Warrior River 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 March 5, 2010, discharge of oil from its facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of the Five Mile Creek 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 March 5, 2010, discharge of oil from its facility into or upon the Five Mile Creek 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.

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Walter Coke, Inc., Docket No. CWA-04-2010-5016 (filed with the Regional Hearing Clerk on JUL 0 1 2010, 2010) was served on JUL 0 1 2010, 2010 in the manner specified to each of the person set forth below:

Mr. Jim Henry, Manager of Technical Services  
Walter Coke, Inc.  
3500 35<sup>th</sup> Avenue  
Birmingham, Alabama 35207-2918

CERTIFIED MAIL  
Return Receipt Requested

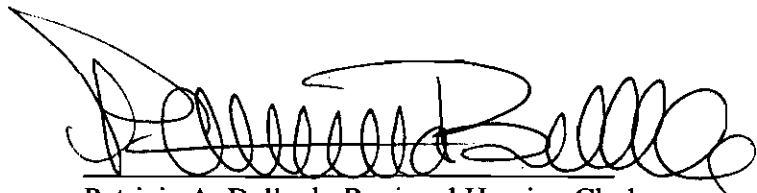
Mel Rechtman  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Via EPA's Internal Mail

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

Via EPA's Internal Mail and PDF

Date: 7-1-10



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 6/1/10  
(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: Walter Coke, Inc.

The Total Dollar Amount of the Receivable: \$500.000  
(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA-04-2010-5016  
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     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD)    |