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REGION 6

REGIONAL ADMINISTRATOR
EPA REGION 6

IN THE MATTER OF

**Energy Partners, LTD.
East Bay Central
Plaquemines Parish LA**

Respondent

**CWA SECTION 311 CLASS I
CONSENT AGREEMENT
AND FINAL ORDER**

UNDER 40 CFR § 22.13(b)

Docket No. **CWA-06-2014-4812**

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 CFR §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6, who has in turn delegated them to the Director of the Superfund Division of EPA, Region 6, who has, by his concurrence, re-delegated the authority to act as Complainant to the Associate Director Prevention and Response Branch in Region 6, Delegation No. R6-2-51, dated February 13, 2008 ("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 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 or offshore vessels and from onshore or offshore 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 and offshore 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 re-delegated, and the Administrator of EPA agreed 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 & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 *et seq.*, which established certain procedures, methods and other requirements upon each owner and operator of a non-transportation-related onshore or off-shore 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 USC § 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 firm conducting business in the State of Louisiana, with a place of business located at 201 St. Charles Ave. suite 3400 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 oil production facility, East Bay Central, located in Plaquemines Parish, Louisiana (“the facility”). The approximate coordinates of the facility are 29.05777° N and -89.3025° W. Drainage from the facility travels to the Mississippi River; thence, 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 2,245,204 gallons.

10. The Mississippi River and 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 CFR § 112.1 Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

16. The facility began operating on or prior to November 10, 2011.

Allegations

17. 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.

18. On July 25, 2013 EPA inspected the facility and found that Respondent had failed to fully implement its SPCC plan for the facility. Respondent failed to fully implement such an SPCC plan for the facility as follows:

- a. Facility failed to discuss in physical layout of the facility and include a facility diagram that identifies location, storage area, buried tanks transfer stations and connecting pipes. Specifically, the facility failed to discuss in plan the wells that flow directly in to the facility and failed to address the many tanks at the facility that are marked out of service in plan but does not reflect that in practical and therefore not in accordance with 40 CFR § 112.7(a)(3) and 112.7(a)(3)(i).

- b. Facility failed to adequately address in plan a prediction of the direction, rate of flow and total quantity of oil that could be discharged for each type of major equipment failure where experience indicates a reasonable potential for equipment failure for fixed containers types of oil and storage capacity. Specifically, the chart does not include the direction of flow upon leaving containment and therefore not in accordance with 40 CFR § 112.7(b).
- c. Facility to discuss the appropriate containment and/or diversionary structures or equipment to prevent a discharge. The entire containment system, including walls and floors, must be capable of containing oil and must be constructed so that any discharge from a primary containment system. Specifically, the plan does not describe all the correct containment on site. Also all the produced water tanks were not inside secondary containment. The produced water tanks had leaks that entered the Mississippi River and therefore not in accordance with 40 CFR § 112.7(c).
- d. Facility failed to discuss in plan use of drainage collection equipment to prevent and control small oil discharge around pumps, glands, valves flanges expansion joints, hoses, drain lines and etc. Additionally, the facility failed to address in the plan a sump system that provides adequately sized sump and drains and make available a spare pump to remove liquid from the sump and assure that oil does not escape. Specifically, the plan does not address the caisson sump that is utilized as secondary containment for the whiskey slabs that are considered offshore and therefore not in accordance with 40 CFR § 112.11(b) and 112.11(c).
- e. Facility failed to discuss in plan and to conduct testing and inspection of pollution prevention equipment and systems conducted on a scheduled periodic basis commensurate with the complexity, conditions, and circumstances of the facility and any other applicable regulations. Additionally, the facility failed to discuss in plan and conduct simulated discharges used for testing and inspecting human and equipment pollution control and countermeasure systems in accordance with 40 CFR § 112.11(i).
- f. Facility failed to discuss in plan the detail records that describe surface and surface well shut-in valves and devices in use at the facility for each well and how records are maintained regarding the method of activation or control, such as pressure differential, change in fluid or flow conditions, combination of pressure and flow or manual or remote control mechanisms in accordance with 40 CFR § 112.11(j).

- g. Facility failed to discuss in plan as it pertains to the shut-in well pressure, if it is greater than the working pressure of the flowline and manifold valves up to and including the header valves, flowlines are equipped with a high pressure sensing device and shut-in valve at the wellhead or pressure relief system provided for flowlines in accordance with 40 CFR § 112.11(m).
- h. Facility failed to discuss in plan piping appurtenant to the facility is protected from corrosion, such as with protective coatings or cathodic protection in accordance with 40 CFR § 112.11(n).
- i. Facility failed to discuss in plan adequate protection of sub-marine piping against environmental stresses in accordance with 40 CFR § 112.11(o).
- j. Facility failed to discuss in plan and failed to conduct periodic inspections or tests, at a regular schedule on sub-marine piping and appurtenances for failure prevention and failed to maintain records of inspections or tests in accordance with 40 CFR § 112.11(p).
- k. Facility failed to discuss in plan and failed to inspect each aboveground container for integrity on a regular schedule and whenever materials repairs are made. The facility must determine in accordance with industry standards, the appropriate qualifications for personnel performance test and inspections, the frequency and type of testing and inspections which take into account container size configuration and design. Specifically, the facility failed to conduct integrity testing on all tanks and failed to provide a description of the integrity testing along with records to indicate completion of testing in accordance with 40 CFR § 112.8(c)(6).
- l. Facility failed to accurately discuss in plan for tank batteries and separation and treating areas where there is a reasonable possibility of a discharge; close and seal at all times drains of dikes or drains of equivalent measure required except when draining uncontaminated rainwater. Prior to drainage, you must inspect the diked area and take action as provided. Remove accumulated oil on the rainwater and return it to storage or dispose of it in accordance with legally approved methods. Specifically, the plan does not accurately describe the drainage system that is in place at the facility and is therefore not in accordance with 40 CFR § 112.9(b)(1).
- m. Facility failed to implement secondary containment for all tank battery separation and treating facilities sized to hold the capacity of largest single container and sufficient freeboard for precipitation. Specifically, the produced water containers at the facility do not have secondary containment and is therefore not in accordance with 40 CFR § 112.9(c)(2).

- n. Facility failed to discuss in plan the engineering/updating of new and old tank battery installations in accordance with good engineering practices to prevent discharges. Specifically, the plan did not discuss the type of good engineering practice applied to tank battery and is therefore not in accordance with CFR § 112.9(c)(4).
- o. Facility failed to discuss in plan a flowline/intra-facility gathering line maintenance program to prevent discharges. Specifically, the plan needs to state how the facility meets the regulation requirements in accordance with 40 CFR § 112.9(d)(4)(i-iv).

19. Respondent's failure to fully implement its SPCC plan for the facility violated 40 CFR § 112.3, and impacted its ability to prevent an oil spill.

Waiver of Rights

20. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. 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

21. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$19,057.00**.

Payment Terms

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

21. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **\$19,057.00** by means of a cashier's or certified check, or by electronic funds

transfer (EFT). The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment to:

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

- If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number **CWA-06-2014-4812**. 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
1005 Convention Plaza, Mail Station SL-MO-C2GL
St. Louis, MO 63101

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

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

22. Failure by the Respondent 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 USC §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.

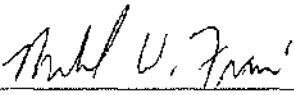
General Provisions

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

24. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §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.

Energy Partners, LTD


Date: 6/18/14



Michael W. Francis
EH&S Manager

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 7/7/14



Ronnie D. Crossland
Associate Director
Prevention & Response Branch
Superfund Division

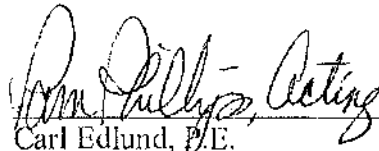
FINAL ORDER

Pursuant to Section 311(b)(6) of the Act, 33 USC §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: _____

7/8/14



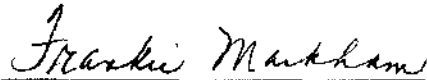
Carl Edlund, P.E.

Director
Superfund Division

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on 7-9, 2014, 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:

NAME: Michael W. Francis
ADDRESS: 201 St. Charles Avenue, Suite 3400
New Orleans, LA 70170



Frankie Markham
OPA Enforcement Administrative Assistant