



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

MAR 22 2011

Kevin E. Holbrooks
Director, Environmental Compliance
Jacksonville Electric Authority
21 West Church Street
Jacksonville, Florida 32202-3139

Re: Executed Consent Agreement/Final Order, Docket No. CWA-04-2011-5128(b), Jacksonville Electric Authority

Dear Mr. Holbrooks:

Please find enclosed a copy of the fully executed Consent Agreement/Final Order (CA/FO), Docket No. CWA-04-2011-5128(b), for Jacksonville Electric Authority. The CA/FO was effective upon filing, and payment of the civil penalty of \$33,000 is due within thirty (30) days of this date.

Please feel free to contact me with any questions concerning this matter at 404-562-9539.

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 II
)	CONSENT AGREEMENT AND
Jacksonville Electric Authority)	FINAL ORDER
21 West Church Street)	UNDER 40 C.F.R. § 22.13(b)
Jacksonville, Florida 32202-3139)	
)	
Respondent)	Docket No. CWA-04-2011-5128(b)
_____)	

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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)(ii) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(ii), 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 to the Director, RCRA Division pursuant to EPA Region 4 Clean Water Act Delegation 2-52-A ("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, Jacksonville Electric Authority, is a community-owned utility based in Jacksonville, Florida. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

2. The Respondent is the “owner” and “operator” (as defined in Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6)) of an oil-filled electric power transmission line pipe buried under the Trout River in Jacksonville, Duval County, Florida (“the facility”), which is an “offshore facility” within the meaning of Section 311(a)(11) of the CWA, 33 U.S.C. § 1321(a)(11)).

3. The Trout River is a navigable water as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1 and is therefore subject to the jurisdiction of Section 311 of the CWA.

4. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), 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.

5. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321 (b)(4), the determination of quantities of oil that may be harmful and thereby prohibited under Section 311(b)(3), 33 U.S.C. § 1321 (b)(3), is defined at 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 cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

Allegations

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

6. On or about March 5, 2009, Respondent discharged approximately 47.6 barrels of oil as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), from its facility into or upon Trout River and/or its adjoining shorelines.

7. Respondent's March 5, 2009, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Trout River and/or its adjoining shoreline and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, in violation of Section 311(b)(3) of the CWA.

Waiver of Rights

8. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), to appeal any Final Order in this matter under Section 311(b)(6)(G)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(ii), and consents to the issuance of a Final Order without further adjudication.

Penalty

9. Respondent consents to the assessment of a civil penalty of Thirty Three Thousand Dollars (\$33,000). Payment of such penalty amount does not constitute, nor shall be construed as an admission of liability or wrongdoing.

Payment Terms

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

10. No later than 30 days after the effective date of the Final Order, Respondent shall pay the penalty by means of a corporate cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency". The check shall bear the notation "OSLTF - 311", along with the title and docket number of this case.

If the Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office 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.

11. Respondent shall submit copies of the check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

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

and to:

Larry Lamberth, Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

12. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

13. 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

14. Complainant reserves the right, pursuant to 40 C.F.R. § 22.45(c)(4)(iii), to withdraw from this Consent Agreement and proposed Final Order within 15 days of receipt of a Commenter's petition requesting, pursuant to 40 C.F.R. § 22.45(c)(4)(ii), that the Regional Administrator set aside the Consent Agreement and proposed Final Order on the basis that material evidence was not considered.

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

16. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 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.

17. Compliance with this CAFO resolves Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

18. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

19. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Bonnie Sawyer
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9539
sawyer.bonnie@epa.gov

20. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is to receive service for the Respondent in this proceeding:

Kevin F. Holbrooks
Director, Environmental Compliance
Jacksonville Electric Authority
21 West Church Street
Jacksonville, Florida 32202-3139
904-665-4540
holbke@jea.com

Effective Date

21. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

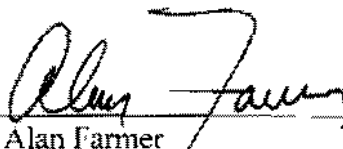
JACKSONVILLE ELECTRIC AUTHORITY

Date: 12/7/10


Name: Kevin Holbrooks
Title: Director Environmental Compliance

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3/15/11



G. Alan Farmer
Director
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**


IN THE MATTER OF)	CWA SECTION 311 CLASS II
)	CONSENT AGREEMENT AND
Jacksonville Electric Authority)	FINAL ORDER
21 West Church Street)	UNDER 40 C.F.R. § 22.13(b)
Jacksonville, Florida 32202-3139)	
)	
Respondent)	Docket No. CWA-04-2011-5128(b)
_____)	

FINAL ORDER

Pursuant to Section 311(b)(6) of the Clean Water 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 foregoing 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.

Jacksonville Electric Authority, the Respondent, is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2011-5128(b).

Date: 3-16-2011

Signature: 
Gwendolyn Keyes Fleming
Regional Administrator

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 Jacksonville Electric Authority, Docket No. CWA-04-2011-5128(b), on the parties listed below in the manner indicated:

Bonnie Sawyer
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

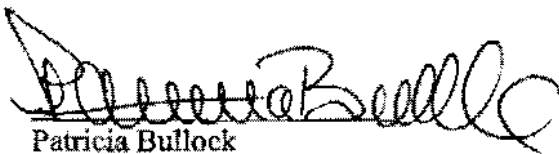
Quantindra Smith
RCRA & OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

Kevin E. Holbrooks
Director, Environmental Compliance
Jacksonville Electric Authority
21 West Church Street
Jacksonville, Florida 32202-3139

(Via Certified Mail)

Dated this 22 day of March, 2011.



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