



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

SEP 21 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jerry G. Gantt
President and Chairman, Board of Trustees
Shriners Hospitals for Children
950 West Faris Road
Greenville, South Carolina 29605

Re: Consent Agreement and Final Order
Shriners Hospitals for Children
Docket No. CWA-04-2017-5126

Dear Mr. Gantt:

This letter is to notify Shriners Hospital for Children that the Consent Agreement and Final Order (CA/FO) for the above-referenced matter has been signed by the U.S. Environmental Protection Agency, and became effective on the date of filing with the Regional Hearing Clerk, as required by 40 C.F.R. §§ 22.6 and 22.31. A copy of the Consent Agreement and Final Order is enclosed. Pursuant to the Final Order, Shriners Hospitals for Children shall submit the payment of \$23,100.00 within thirty (30) days of the effective date.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Shriners Hospitals for Children on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please contact Winston Smith at (404) 562 - 9467.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

cc: Rita Bolt Barker, Wyche, P.A.

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	
)	CWA SECTION 311 CLASS I
Shriners Hospitals for Children)	CONSENT AGREEMENT AND
950 West Faris Road)	FINAL ORDER
Greenville, South Carolina)	UNDER 40 C.F.R. § 22.13(b)
)	
Respondent)	Docket No. CWA-04-2017-5126
_____)	

2017 SEP 21 AM 6:47
HEARING CLERK
USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL

I. 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 (“CWA”), 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 to and through the Director, Resource Conservation and Restoration Division (RCRD), to the Chief, Enforcement and Compliance Branch, RCRD (Complainant) pursuant to EPA Region 4 CWA Delegation 2-51.

II. CONSENT AGREEMENT

2. 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 (CA/FO), and hereby

agree to comply with the terms of this CA/FO. For purposes of this CA/FO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

III. STIPULATIONS

3. Respondent, Shriners Hospitals for Children is a 501(c)(3) nonprofit hospital incorporated under the laws of the State of Colorado and doing business in the State of South Carolina. Respondent is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. At all times relevant to this CAFO, Respondent was an “owner and operator” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of two (2) 10,000-gallon underground storage tanks (USTs) which Respondent had used to store heating oil as backup fuel to power the boilers at its hospital for children located at 950 West Faris Road in Greenville, South Carolina (the Facility). On February 17, 2015, hospital personnel observed fuel oil discharging from a facility stormwater drain into an unnamed tributary which flows into Brushy Creek and thence into the Reedy River. A sheen of oil was observed in the unnamed tributary of Brushy Creek, Brushy Creek, the Reedy River, and along their respective shorelines to a point approximately 1.0 mile downstream from the location of the discharge.

5. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

6. Brushy Creek flows to the Reedy River, which is a tributary of the Saluda River. The Saluda River flows into the Congaree River, which flows into the Santee River, and thence to the Atlantic Ocean. The Reedy, Saluda, Congaree, and Santee Rivers are navigable waters as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1 and are therefore subject to the jurisdiction of Section 311 of the CWA, 33 U.S.C. § 1321.

7. Heating oil constitutes “oil” within the meaning of Section 311(a)(1) of the CWA, 42 U.S.C. § 1321(a)(1).

8. 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.

9. 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 and includes discharges of oil that, inter alia, cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.

IV. ALLEGATIONS

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

10. On or about February 17, 2015, Respondent discharged, within the meaning of “discharge” as defined in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2), approximately 114 barrels of “oil,” as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), from the Facility into or upon an unnamed tributary of Brushy Creek, Brush Creek and the Reedy River, and/or their adjoining shorelines.

11. Respondent’s February 17, 2015, discharge caused a sheen upon or discoloration of the surface of the unnamed tributary of Brushy Creek, Brushy Creek, and the Reedy River and their adjoining shorelines and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3.

12. Accordingly, Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

V. WAIVER OF RIGHTS

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

14. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.

15. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq.

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.

VI. PAYMENT OF CIVIL PENALTY

17. Respondent consents to the payment of a civil penalty of TWENTY-THREE THOUSAND ONE HUNDRED DOLLARS (\$23,100), which is to be paid within thirty (30) calendar days of the effective date of the Final Order.

18. Payment shall be made 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 the "Environmental Protection Agency" and bearing the notation "OSLTF – 311," and Respondent shall reference the title and docket number of this case on the face of the check.

- a. If 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

- b. If 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) 481-1028

- c. If 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

The Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency."

- d. If Respondent elects to use the On-Line Payment Option, available through the U.S. Department of the Treasury, Respondent should go to

www.pay.gov and enter “sfo 1.1” in the search field, and then open the form and complete required fields.

19. 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:

Winston G. Smith
UST and PCB/OPA Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region IV
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

20. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

21. 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, attorneys’ 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.

VII. GENERAL PROVISIONS

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

23. No change in ownership, partnership, corporate, or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

24. Compliance with this CA/FO resolves only Respondent's liability for federal civil penalties for the violation alleged herein. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein.

25. 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.

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

Gregory D. Luetscher, Esq.
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
Phone: (404) 562-9677
Luetscher.greg@epa.gov

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

Rita Bolt Barker, Esq.
Wyche, P.A.
44 East Camperdown Way
Greenville, South Carolina 29601-3512
Phone: (864) 242-8235
rbarker@wyche.com

28. By executing this CA/FO, Respondent certifies that all violations alleged herein, which are neither admitted nor denied, have been corrected.

VIII. SEVERABILITY

29. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstance is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

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

[SIGNATURES ON FOLLOWING PAGE]

IN THE MATTER OF SHRINERS HOSPITALS FOR CHILDREN, DOCKET NO. CWA-04-2017-5126

CONSENTED AND AGREED TO:

FOR: SHRINERS HOSPITALS FOR CHILDREN

Date: 8/30/17

BY: 

Jerry G. Gantt
President and Chairman, Board of Trustees

FOR: THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 09/20/17



Larry L. Lamberth
Chief, Enforcement and Compliance Branch
RCRD

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)

Shriners Hospitals for Children)
950 West Faris Road)
Greenville, SC 29605)

Respondent)
_____)

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

) Docket No. CWA-04-2017-5126
)

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 pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 20th day of September, 2017.

BY: Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and Final Order (CA/FO), in the Matter of Shriners Hospital for Children, Docket No. CWA-04-2017-5126 on the parties listed below in the manner indicated:

Gregory D. Luetscher, Esq.
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's Electronic Mail)

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

(Via EPA's Electronic Mail)

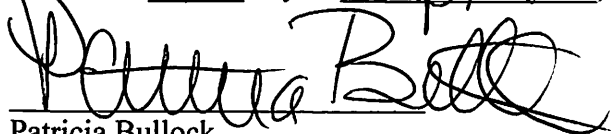
Winston G. Smith
Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(Via EPA's Electronic Mail)

Rita Bolt Barker, Esq.
Wyche, P.A.
44 East Camperdown Way
Greenville, South Carolina 29601-3512

(Via Certified Mail)

Dated this 21 day of September, 2017



Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303