



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAR 03 2009

4WD-ROECB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. P. Lindsey Nichols
Vice President – Eastern Region
Vinland Energy
104 Nami Plaza, Suite 1
London, Kentucky 40741

2009-03-03 11:03
EPA REGION 4
ATLANTA, GA

SUBJ: Consent Agreement and Final Order:
Docket No. CWA-04-2009-5011

Dear Mr. Nichols:

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, Vinland Energy) and the EPA docket number CWA-04-2009-5011, and shall be sent depending upon your preferred method of payment identified in Enclosure A.

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

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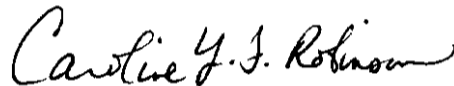
At the same time, Respondent shall send separate copy of each check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

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

Mel Rechtman at:
U.S. EPA - Region 4
RCRA/OPA Enforcement & Compliance Branch
RCRA Division
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

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

Sincerely,



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

Enclosures:

Expedited Settlement Agreement
Payment Information

cc: USCG

St. Louis, MO 63101

Contact: Natalie Pearson 314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US 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
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-04-2009-5011

On: November 16, 2008 Time: 17:30
At: or near the Lewis Heirs Well 7B in Bell County, Kentucky, Vinland Energy (Respondent) discharged approximately 20 barrels 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.

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.

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 CFR § 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.

After this Expedited Spill Settlement Agreement becomes effective, 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.

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 CFR §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 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.

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 \$25,000.00, 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.

APPROVED BY RESPONDENT:

Name (print): Barb Causey
Title (print): Production Mgr
Signature: Barb Causey

APPROVED BY EPA:

Caroline Y. F. Robinson Date 2/27/09
Caroline Y. F. Robinson, Chief
RCRA/OPA Enforcement & Compliance Branch
RCRA Division

IT IS SO ORDERED:

Susan B. Schub Date 3/2/09
Susan B. Schub
Regional Judicial Officer

2009 MAR 3 AM 7:48
REGIONAL HEARING CLERK
EPA REGION 4

Docket No. CWA-04-2009-5011

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Vinland energy, Docket No. CWA-04-2009-5011 (filed with the Regional Hearing Clerk on MAR 03 2009, 2009) was served on MAR 03 2009, 2009 in the manner specified to each of the person set forth below:

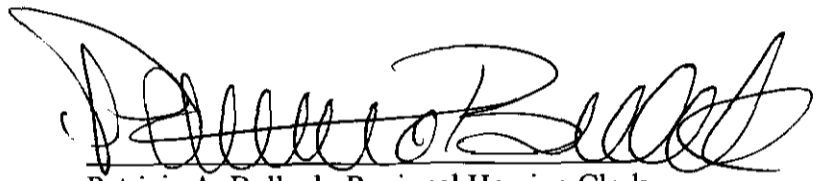
P. Lindsey Nichols, Vice President
Vinland Energy
104 Nami Plazas, Suite 1
London, Kentucky 40741

CERTIFIED MAIL
Return Receipt Requested

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

Via EPA's Internal Mail

Date: 3-3-09



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

ALLEGED CIVIL VIOLATION - DOCKET NO. CWA-04-2009-5011

1. Vinland Energy, Respondent, is a corporation organized under the laws of Kentucky with a place of business located at 104 Nami Plaza, Suite 1, London, Kentucky 40741. 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 an above ground storage tank located at or near the Lewis Heirs Well #7B in Bell County, Kentucky (“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 November 16, 2008, Respondent discharged an estimated 20 barrels 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 unnamed tributary of Four Mile Creek which flows into the Cumberland River and adjoining shorelines.

6. The unnamed tributary of Four Mile Creek which flows into the Cumberland 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 November 16, 2008, discharge of oil from its facility caused a sheen upon or discoloration of the surface or the adjoining shoreline of the unnamed tributary of Four 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.

