

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF:

West Virginia Oil Gathering Corp.
P.O. Box 430
Frazeyburg, OH 43822-0430

Respondent.

West Virginia Oil Gathering Corp.
Facility in Looneyville,
Roane County, WV 45251

Facility.

CWA SECTION 311 CLASS I
CONSENT AGREEMENT
AND FINAL ORDER
UNDER 40 CFR § 22.13(b)

Docket No. CWA-03-2012-193

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

2012 AUG -2 PM 4: 12

RECEIVED

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"), as amended 33 U.S.C. § 1321(b)(6)(B)(i), 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 III, who has in turn delegated them to the Director of the Region's Hazardous Site Cleanup Division ("Complainant").

CONSENT AGREEMENT

Stipulations

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate and admit:

2. Respondent is a corporation duly organized and existing under the laws of West Virginia with a place of business located at 9320 Blackrun Road, Nashport, Ohio, and a mailing

address of Post Office Box 430, Frazeyburg, Ohio, 43822-0430. The Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7), and 40 C.F.R. § 112.2.

3. Respondent is the owner and operator of the West Virginia Oil Gathering Facility, an oil gathering and transport facility (hereinafter, “the Facility”), which is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2. The Facility is located in Looneyville, Roane County, West Virginia.

4. Section 311(b)(3) of the Act prohibits the discharge of oil or a hazardous substance 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. 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 violate applicable water quality standards or 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.

6. On or about January 20, 2012, approximately fifteen (15) barrels of crude oil were released from Respondent’s crude oil gathering pipeline at the Facility (the “discharge”). WVOG attributed the discharge to failure of a three-inch pipe that occurred as a result of damage to a 25 foot section of the pipe that was not enclosed in the four-inch casing.

7. Approximately (5) barrels of the discharged crude oil entered the waters of Sycamore Creek, and approximately ten (10) barrels of the oil reached the adjoining shoreline of Sycamore Creek.

8. Sycamore Creek flows into Henry Fork Creek, which is a tributary to the Little Kanawha River, which is a tributary to the Ohio River, a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

9. Respondent's discharge of crude oil on or about January 20, 2012, from its Facility caused a sheen upon or discoloration of the surface of Sycamore Creek, and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, which implements Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4).

10. Respondent's discharge of oil from its Facility into or upon Sycamore Creek and the adjoining shoreline, in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, on or about January 20, 2012, violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

Waiver of Rights

11. Respondent admits the jurisdictional allegations contained herein and waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act 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

12. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$6,874.00.

Payment Terms

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

13. Within thirty days of the effective date of the Final Order, the Respondent shall pay the amount of \$6,874.00 by means of a cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF - 311." If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell at (513) 487-2044

If the Respondent sends payment by a private delivery service, the payment shall be addressed to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Attn: Heather Russell (513) 487-2044

If paying by EFT, the Respondent shall transfer \$6,874.00 to:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
Swift Address FRNYUS33
33 Liberty Street
New York, NY 10045

If paying by EFT, field tag 4200 of the Fedwire message shall read: (D 68010727 Environmental Protection Agency).

If paying through the Department of Treasury's Online Payment system, please access www.pay.gov, enter sfo 1.1 in the search field. Open the form and complete the required fields and make a payment of \$6,874.00. Note that the type of payment is "civil penalty," the case number "CWA-03-2012-193" should be included in the "Court Order # or Bill #" field, and 3 should be included as the Region number.

14. If paying by check, the Respondent shall note on the penalty payment check the title and docket number of this case. The Respondent shall submit a copy of the check (or, in the case of an EFT transfer, a copy of the EFT confirmation) to the following person:

Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

The Respondent must also provide a copy of its check to the attorney representing EPA in this matter at the following address:

James F. Van Orden
Assistant Regional Counsel (3RC42)
U.S. Environmental Protection Agency – Region III
1650 Arch Street
Philadelphia, PA 19103-2029
(215) 814-2693

15. 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 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

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

17. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 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. Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations of the Act and facts stipulated to herein.

18. The provisions of the Final Order shall be binding upon Respondent, and its successors or assigns. The undersigned officer of Respondent represents and warrants that he or she has the authority to bind WVOG, and its successors or assigns to this Consent Agreement.

19. Each party to this action shall bear its own costs and attorney's fees.

WEST VIRGINIA OIL GATHERING CORP.

Date: 7-6-12

Michael P. McKee
[Signature]

MICHAEL P. MCKEE - GENERAL
Name/Title, Authorized MANAGER
Representative of Respondent

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date:

July 25, 2012



**Ronald J. Borsellino, Director
Hazardous Site Cleanup Division**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF

West Virginia Oil Gathering Corp.
P.O. Box 430
Frazeyburg, OH 43822-0430

Respondent.

**CWA SECTION 311 CLASS I
CONSENT AGREEMENT
AND FINAL ORDER
UNDER 40 CFR § 22.13(b)**

Docket No. CWA-03-2012-193

West Virginia Oil Gathering Corp.
Facility in Looneyville,
Roane County, WV 45251

Facility.

FINAL ORDER

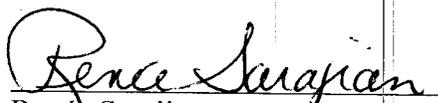
1. Pursuant to Section 311(b)(6) of the Clean Water Act, as amended, 33 U.S.C. § 1321(b)(6), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits," codified at 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the Consent Agreement.

Effective Date

2. This Final Order shall become effective on the date it is filed with the Regional Hearing Clerk.

Date:

7/31/12


Renee Sarajian
Regional Judicial Officer