



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

MAR 20 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anthony B. Capps, President
Carolina Tank Lines, Inc.
3255 Maple Avenue
Burlington, North Carolina 27215-7000

Re: Carolina Tank Lines, Inc.
Consent Agreement and Final Order, Docket Number: CWA-04-2012-5127(b)

Dear Mr. Capps:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and payment of the civil penalty is to be paid in accordance with the following schedule, calculated from the effective date:

- \$3,618.93 within thirty (30) calendar days of the effective date of this CA/FO
- \$3,618.93 on or before April 15, 2012
- \$3,618.93 on or before July 15, 2012
- \$3,618.93 on or before October 15, 2012
- \$3,618.93 on or before January 15, 2013
- \$3,618.93 on or before April 15, 2013
- \$3,618.93 on or before July 15, 2013
- \$3,618.93 on or before October 15, 2013

As a reminder, copies of all payments should be submitted to both of the following individuals:

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:

Doug McCurry, Chief
North Section, RCRA & OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

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 Carolina Tank Lines, Inc. 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 feel free to contact Naeha Dixit, Assistant Regional Counsel, at (404) 562-9441.

Sincerely,

A handwritten signature in black ink, appearing to read "CESAR ZAPATA", with a horizontal line extending to the right.

César Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

RECEIVED
EPA REGION IV

2012 MAR 20 AM 6:56

HEARING CLERK

IN THE MATTER OF)

Carolina Tank Lines, Inc.)
3255 Maple Avenue)
Burlington, North Carolina 27215-7000)

Respondent)

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

Docket No. CWA-04-2012-5127(b))

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, Carolina Tank Lines, Inc., is a privately held company based in Burlington, North Carolina and incorporated in North Carolina. 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 a tanker truck (facility), which was an "onshore facility" (as defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10)) at the time relevant to this CAFO.

3. The facility was located at the time relevant to this CAFO at 1473 East North Carolina Highway 47, one mile east of Denton, North Carolina, Davidson County, near Tom's Creek.

4. Tom's Creek 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, 33 U.S.C. § 1321.

5. 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.

6. 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:

7. On or about April 21, 2010, Respondent discharged approximately 150 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 Tom's Creek and/or its adjoining shorelines.

8. Respondent's April 21, 2010, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Tom's Creek and/or its adjoining shoreline and caused a sludge or emulsion to be deposited beneath the surface of the water or upon its adjoining shorelines, 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, 33 U.S.C. § 1321(b)(3).

Waiver of Rights

9. 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

10. Respondent consents to the assessment of a civil penalty of Twenty-Eight Thousand Seven Hundred Dollars (\$28,700).

Payment Terms

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

11. Respondent shall pay the amount of TWENTY-EIGHT THOUSAND SEVEN HUNDRED DOLLARS (\$28,700.00), plus interest of 1.00% per annum, which is to be paid in accordance with the following schedule:

- \$3,618.93 within thirty (30) calendar days of the effective date of this CAFO
- \$3,618.93 on or before April 15, 2012
- \$3,618.93 on or before July 15, 2012
- \$3,618.93 on or before October 15, 2012
- \$3,618.93 on or before January 15, 2013
- \$3,618.93 on or before April 15, 2013
- \$3,618.93 on or before July 15, 2013
- \$3,618.93 on or before October 15, 2013

If Respondent fails to make a scheduled payment for 30 days after the due date, all subsequent payments become immediately due and payable on the 31st day from such due date.

12. 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

The 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.

13. Respondent shall submit copies of each 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:

Doug McCurry, Chief
North 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

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

15. 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

16. 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.

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

18. 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.

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

20. 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.

21. 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:

Naeha Dixit
Assistant Regional Counsel
Office of Environmental Accountability
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9441
dixit.naeha@epa.gov

22. 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:

Anthony B. Capps, President
Carolina Tank Lines, Inc.
3255 Maple Avenue
Burlington, North Carolina 27215-7000
336-226-7039 ext. 212
tonycapps@carolinatanklines.com

Effective Date

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

In the matter of Carolina Tank Lines, Inc., Docket No. CWA-04-2012-5127(b):

CONSENTED AND AGREED TO:

CAROLINA TANK LINES, INC.

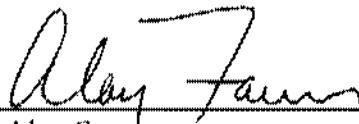
Date: 1/6/2012



Anthony B. Capps
President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3/13/2012



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
Carolina Tank Lines, Inc.)	FINAL ORDER
3255 Maple Avenue)	UNDER 40 C.F.R. § 22.13(b)
Burlington, North Carolina 27215-7000)	
)	
Respondent)	Docket No. CWA-04-2012-5127(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.

Carolina Tank Lines, Inc., the Respondent, is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2012-5127(b).

Date: 3/14/2012

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 Carolina Tank Lines, Inc., Docket No. CWA-04-2012-5127(b), on the parties listed below in the manner indicated:

Naeha Dixit
Assistant 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)

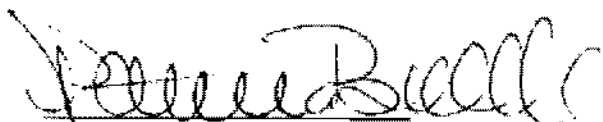
Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(Via EPA's electronic mail)

Anthony B. Capps
President
Carolina Tank Lines, Inc.
3255 Maple Avenue
Burlington, North Carolina 27215-7000

(Via Certified Mail)

Dated this 20 day of March, 2012.



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