



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 22 2010

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

John Moore  
Senior Attorney  
Murphy Oil USA, Inc.  
200 Peach Street  
El Dorado, Arkansas 17730

SUBJ: Murphy Oil USA, Inc.  
Consent Agreement and Final Order  
Docket No. RCRA-UST-04-2010-0003(b)

Dear Mr. Moore:

Enclosed, please find a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rules of Practice, 40 C.F.R. § 22.6. Please make note of the provisions in Section V of the CAFO, with respect to the certification required by paragraph 34 therein. This certification is due to EPA within 30 days from your receipt of the enclosed CAFO.

Also, enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Murphy Oil USA, Inc., on notice of its potential duty to disclose to the Securities Exchange Commission (SEC) any environmental actions taken by the United State Environmental Protection Agency.

. Should you have any questions, please do not hesitate to call me at (404) 562-9581.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Dilts".

Adam Dilts  
Associate Regional Counsel

Enclosures (2)

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

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	Docket No.: RCRA-UST-04-2010-0003(b)
	)	
Murphy Oil USA, Incorporated	)	Proceeding under Section 9006
200 Peach Street	)	of the Resource Conservation
El Dorado, Arkansas 71730	)	and Recovery Act, as amended
	)	42 U.S.C. § 6991e
RESPONDENT.	)	
	)	

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EPA REGION 4  
2010 JUN 22 PM 1:41  
HEARING CLERK

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6991 *et seq.*, and the Oil Pollution and Hazardous Substance Control Act of 1978, 143 N.C. Gen. Stat. § 143-215.75 *et seq.* This action is for alleged violations of RCRA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and the regulations promulgated pursuant thereto, set forth at Title 40 of the Code of Federal Regulations (40 C.F.R.), Part 280, and the North Carolina Rules for Underground Storage Tank Management, 15A N.C. Admin. Code 2N.0101 *et seq.*

2. *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, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. §§ 22.13 and 22.18(b)(2).

3. 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 CAFO, and Respondent hereby agrees to comply with the terms of this CAFO.

**II. THE PARTIES**

4. Complainant is the Director, RCRA Division, Region 4, United States Environmental Protection Agency (EPA). Complainant is authorized to issue the instant CAFO pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and applicable delegations of authority.

5. Respondent is Murphy Oil USA, Incorporated (Respondent). Respondent is incorporated under the laws of the State of Delaware and authorized to do business in the State of North Carolina. Respondent owns and operates an underground storage tank (UST) system located at 2336 U.S. Highway 19 in Murphy, North Carolina (facility).

### III. PRELIMINARY STATEMENTS

6. Section 9003 of RCRA, 42 U.S.C. § 6991*b*, requires the Administrator to develop and promulgate release detection, prevention and corrective action regulations applicable to all owners and operators of USTs as may be necessary to protect human health and the environment. These regulations became effective on December 22, 1988, and are found at 40 C.F.R. Part 280.

7. Pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991*c*, the State of North Carolina (the State) received final authorization from EPA on April 26, 2001, to carry out certain portions of the State UST program as set forth at 40 C.F.R. § 282.83, in lieu of the federal UST program. The North Carolina Department of Environment and Natural Resources (NCDENR) is charged with the statutory duty of enforcing the laws of the State of North Carolina relating to management of USTs. The requirements of the authorized state program are found at 143 N.C. Gen. Stat. § 143-215.75 *et seq.*, and 15A N.C. Admin. Code 2N.0101 *et seq.*

8. Although EPA has granted the State of North Carolina authority to enforce the State's UST program in lieu of the federal program, EPA retains jurisdiction and authority to initiate independent UST enforcement actions in North Carolina pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991*e*. This authority is exercised by EPA in the manner set forth in the Memorandum of Agreement between EPA and the State.

9. Pursuant to Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991*e*(a)(2), Complainant has given notice of this action to the State of North Carolina prior to issuing this CAFO.

### IV. ALLEGATIONS AND DETERMINATIONS

10. Respondent is a "person" as defined in 40 C.F.R. § 280.12 and 15A N.C. Admin. Code 2N.0203

11. Respondent is an "owner" and "operator" of "underground storage tanks" used as a "petroleum UST system" as those terms are defined in 40 C.F.R. § 280.12 and 15A N.C. Admin. Code 2N.0203

12. Gasoline is a "regulated substance" as defined in 40 C.F.R. § 280.12 and 15A N.C. Admin. Code 2N.0203.

13. Pursuant to 40 C.F.R. § 280.41(a) and 15A N.C. Admin. Code 2N.0502, owners and operators of petroleum UST systems must provide release detection that monitors tanks at least every thirty (30) days for potential releases.

14. Pursuant to 40 C.F.R. § 280.45(b) and 15A N.C. Admin. Code 2N.0506, the results of any UST release detection monitoring must be maintained for at least one year.

15. Pursuant to 40 C.F.R. § 280.50(c) and 15A N.C. Admin. Code 2N.0601, owners and operators of petroleum UST systems must report to the implementing agency suspected releases within 24 hours of a monitoring result from a release detection method that indicates a release may have occurred.

16. Pursuant to 40 C.F.R. § 280.12 and 15A N.C. Admin. Code 2N.0203(b)(1), the North Carolina Division of Waste Management, a Division of NCDENR, is the “implementing agency” for the UST program in North Carolina.

17. On September 22, 2009, a duly designated representative of EPA conducted an announced compliance inspection of Respondent’s petroleum UST system located at 2336 U.S. Highway 19, in Murphy, North Carolina.

18. At the time of the inspection, EPA’s inspector noted that Respondent was using a Gilbarco Environmental Management Console (interstitial monitoring) as the method of release detection for the petroleum UST system at the facility.

19. At the time of the inspection, EPA’s inspector noted that the interstitial monitoring record book maintained at the facility documented a “fuel alarm” status for the annular space sensor (L1) of the regular gasoline tank #1 (Sensor L1) for the months of October 2008 through December 2008.

20. A “fuel alarm” (L1) status indicates that a release may have occurred or that water may have entered the UST system interstice.

21. At the time of the inspection, EPA’s inspector noted that the facility’s interstitial monitoring record book documented that the status for Sensor A1 return to “normal” status in January 2009.

22. At the time of the inspection, EPA’s inspector noted that Respondent had failed to notify the implementing agency within 24 hours of the fuel alarm status for Sensor L1 at the facility.

23. Complainant alleges that Respondent violated 40 C.F.R. § 280.50(c) and 15A N.C. Admin. Code 2N.0601, by failing to report that a release may have occurred from the facility’s petroleum UST system as indicated by the fuel alarm status for Sensor L1 for the months of October 2008 through December 2008.

## V. TERMS OF AGREEMENT

Based on the foregoing, the parties agree to the following:

24. Within thirty (30) calendar days of receipt of a final copy of this CAFO, Respondent shall submit to EPA a certification signed by a responsible corporate representative stating that the facility is in compliance with 40 C.F.R. § 280.50(c) and 15A N.C. Admin. Code 2N.0601. This certification shall read as follows:

“I certify under penalty of law that, to the best of my knowledge and belief, the USTs located at 2336 U.S. Highway 19, Murphy, North Carolina, which were the subject of Consent Agreement and Final Order, Docket No. RCRA-04-2010-0003(b) (CAFO), are in compliance with the UST system release detection requirements of 40 C.F.R. § 280.50(c) and 15A N.C. Admin. Code 2N.0601.

All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

This certification shall be sent to EPA care of William E. Truman at the address below:

William E. Truman  
Chief, Underground Storage Tank Section  
U.S. Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

25. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.

26. Pursuant to 40 C.F.R. § 22.18(b)(2), Respondent neither admits nor denies the factual allegations set forth above.

27. Pursuant to 40 C.F.R. § 22.18(b)(2), Respondent waives any right to contest the EPA allegations and its right to appeal the CAFO.

28. Respondent waives its right to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on any issue related to the Paperwork Reduction Act.

29. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8, to be served with and reply to any memorandum or communication addressed to EPA officials, or to

be present during any discussion with EPA officials, where the purpose of such discussion, memorandum or communication is to persuade such officials to accept and issue this CAFO.

30. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of RCRA Subtitle I.

31. The parties agree that compliance with the terms of this CAFO shall resolve the violations of RCRA Subtitle I alleged herein.

32. The parties agree that they will pay their own costs and attorney's fees.

#### VI. Civil Penalty

33. Respondent consents to the assessment of and agrees to pay the civil penalty set forth below.

34. Pursuant to Section 9006 of RCRA, and 40 C.F.R. § 22.8, given the nature of the violation and taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, Respondent shall pay a civil penalty in the amount of **two thousand, nine hundred, fifteen dollars (\$2,915)**.

35. **Full Payment of the civil penalty specified in paragraph 34 herein must be received by EPA no later than thirty (30) calendar days from the effective date of this CAFO.**

36. Payment shall be made by cashier's or certified check payable to: **Treasurer, United States of America**. The facility name and the docket number for this matter shall be referenced on the face of the check. Payment shall be tendered to:

United States Environmental Protection Agency  
Fines and Penalties - Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101  
Contact: Natelie Pearson at (314) 418-4087  
(314) 418-1028

If paying by ACH, the Respondent shall remit payment to:

PNC Bank  
808 17<sup>th</sup> Street NW  
Washington, DC 20074  
Contact: Jesse White, (301) 887-6548  
ABA: 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account Number: 310006  
CTX Format

37. Respondent shall submit a copy of the payment to:

Patricia A. Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

and to:

William E. Truman  
Chief, Underground Storage Tank Section  
U.S. Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

38. If payment is not received by the due date specified above, interest shall begin to accrue at the current U.S. Treasury rate, and handling charges and late-payment penalties will begin to accrue as set forth in 31 U.S.C. § 3717 and 40 C.F.R. § 13.11(b) and (c), and Respondent will be deemed in violation of this CAFO. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- (a) **Interest.** Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate.
- (b) **Monthly Handling Charge.** Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent thirty (30) calendar day period over which an unpaid balance remains.

39. If Respondent fails to meet the payment requirements of Paragraphs 34 and 35, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day Respondent is late. This stipulated payment is in addition to charges that accrue or may accrue under paragraph 38 herein.

## VII. RESERVATION OF RIGHTS

40. Notwithstanding any other provision of this CAFO, an enforcement action may be brought pursuant to Section 9003(h) of RCRA, 42 U.S.C. § 6991b(h), or other statutory authority, should EPA find that the release of regulated substances from a UST may have occurred and implementation of any corrective action is needed to address such release.

41. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.

42. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions, including the right to pursue criminal enforcement or the right to initiate an action for imminent and substantial endangerment, available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which this CAFO is based, or for Respondent's violation of any applicable provisions of law. Compliance with this CAFO shall not be a defense against any action subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of the Respondent to comply with such laws and regulations.

43. Except as expressly provided herein, nothing in this CAFO shall constitute a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to Respondent's management of the USTs located at its facility.

44. This CAFO may be amended or modified only by written agreement executed by both EPA and Respondent.

45. The provisions of this CAFO shall be deemed satisfied when Respondent has fully fulfilled the payment and certification obligations required by this CAFO.

46. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.



### VIII. PARTIES BOUND

47. This CAFO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CAFO.

48. 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 CAFO.

49. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CAFO and to execute and legally bind Respondent to it.

### IX. SERVICE OF DOCUMENTS

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

Adam Dilts, Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

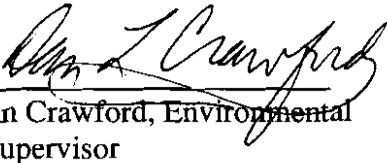
51. A copy of any documents that Complainant files in this action shall be sent to the following person who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

John Moore, Senior Attorney  
Murphy Oil USA, Inc.  
200 Peach Street  
El Dorado, Arkansas 71730

### X. SEVERABILITY

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

**Murphy Oil USA, Respondent**

jm By: 

Dan Crawford, Environmental  
Supervisor  
Murphy Oil USA, Inc.  
200 Peach Street  
El Dorado, Arkansas 17730

Dated: 6/14/10

**U.S. Environmental Protection Agency, Complainant**

By: 

G. Alan Farmer, Director  
RCRA Division  
U.S. EPA, Region 4

Dated: 6/16/10

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), in the Matter of Murphy Oil USA, Inc., Docket Number: RCRA-UST-04-2010-0003(b), on the parties listed below in the manner indicated:

Adam Dilts, Associate Regional Counsel  
U.S. Environmental Protection Agency  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's internal mail)

John Moore, Senior Attorney  
Murphy Oil USA, Inc.  
200 Peach Street  
El Dorado, Arkansas 17730

(Via Certified Mail- Return Receipt  
Requested)

Date 6-22-10



Patricia Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511

RESPONDENT. )  
 )  
 )

**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* (Consolidated Rules of Practice), 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 matters under RCRA Subtitle I pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 22<sup>nd</sup> day of June, 2010

BY: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer