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REGION 6

REGIONAL HEADQUARTERS
EPA REGION VI
IN THE MATTER OF

**Summit Oil and Gas
Bay Jaque Barge Loading Facility
Lafourche Parish, LA**

Respondent

**CWA SECTION 311 CLASS I
CONSENT AGREEMENT
AND FINAL ORDER**

UNDER 40 CFR § 22.13(b)

Docket No. **CWA-06-2014-4815**

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"), 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 CFR §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6, who has in turn delegated them to the Director of the Superfund Division of EPA, Region 6, who has, by his concurrence, re-delegated the authority to act as Complainant to the Associate Director Prevention and Response Branch in Region 6, Delegation No. R6-2-51, dated February 13, 2008 ("Complainant").

CONSENT AGREEMENT

Stipulations

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

2. Section 311(j)(1)(C) of the Act, 33 USC § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil from onshore or offshore vessels and from onshore or offshore facilities, and to contain such discharges."

3. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore and offshore facilities.

4. Through Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to DOI, responsibility for spill prevention and control, contingency planning, and equipment inspection activities associated with offshore facilities. Subsequently, pursuant to section 2(i) of E.O. 12777, the Secretary of the Interior re-delegated, and the Administrator of EPA agreed to assume (MOU published as Appendix B to 40 CFR Part 112), responsibility for non-transportation-related offshore facilities located landward of the coast line.

5. EPA promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 *et seq.*, which established certain procedures, methods and other requirements upon each owner and operator of a non-transportation-related onshore or off-shore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as

EPA has determined in 40 CFR § 110.3 may be harmful to the public health or welfare or the environment of the United States (“harmful quantity”).

6. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 USC § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. Respondent is a firm conducting business in the State of Louisiana, with a place of business located at 1934 N 10th St. suite B Covington , LA 70433 and is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 CFR § 112.2.

8. Respondent is the owner within the meaning of Section 311(a)(6) of the Act, 33 USC § 1321(a)(6), and 40 CFR § 112.2 of an oil production facility, Bay Jaque Barge Loading Facility, located in Lafourche Parish, Louisiana (“the facility”). The approximate coordinates of the facility are 29.2617° N and -90.2226° W. Drainage from the facility travels to the Bay Jaque; thence, the Gulf of Mexico.

9. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons. Facility capacity is approximately 101,924 gallons.

10. The Bay Jaque and the Gulf of Mexico are navigable waters of the United States within the meaning of 40 CFR § 112.2.

11. Respondent is engaged in drilling, producing, gathering, storing, processing, refining,

transferring, distributing, using or consuming oil or oil products located at the facility.

12. The facility is a non-transportation-related facility within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

13. The facility is an offshore facility within the meaning of Section 311(a)(10) of the Act, 33 USC § 1321(a)(11), 40 CFR § 112.2, and 40 CFR § 112 Appendix B.

14. The facility is therefore a non-transportation-related offshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity ("an SPCC-regulated facility").

15. Pursuant to Section 311(j)(1)(C) of the Act, E.O. 12777, and 40 CFR § 112.1 Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

16. The facility began operating on or prior to November 10, 2011.

Allegations

17. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing, and implement that plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

18. On February 4, 2014 EPA inspected the facility and found that Respondent had failed to fully implement its SPCC plan for the facility. Respondent failed to fully implement such an SPCC plan for the facility as follows:

- a. Facility failed to discuss details in plan regarding discharge prevention measures, including procedures for routine handling of products and discharge or drainage controls and countermeasures for discharge discovery, response and clean up in accordance with 40 CFR § 112.7(a)(3)(ii)- 112.7(a)(3)(iv).
- b. Facility failed to discuss in plan and implement the appropriate

containment and/or diversionary structures or equipment to prevent a discharge. The entire containment system, including walls and floors, must be capable of containing oil and must be constructed so that any discharge from a primary containment system. Specifically, the facility did not include secondary containment for 400 bbl produced water, tanks were not able to drain properly and therefore not able to reach containment, the PE needs to have a detailed description of the plywood used for the curbing system and how that complies to the regulation and there needs to be detailed calculations to show how much the drainage gravity feed system would hold and therefore not in accordance with 40 CFR § 112.7(c).

- c. Facility failed to conduct inspections and tests in accordance with written procedure, failed to keep written records and tests signed by the appropriate supervisor or inspector, and failed to keep them with the SPCC Plan for a period of three years. Specifically, the plan does not have detailed description of the inspection procedures, inspection records have been developed but not signed in accordance with 40 CFR § 112.7(c).
- d. Facility failed to designate a person as accountable for discharge prevention at the facility that reports to facility management and failed to conduct discharge prevention briefings highlighting and describing known discharges as described or failures, malfunction components and any recent development precautionary measure in accordance with 40 CFR § 112.7(f)(1) and (f)(3).
- e. Facility failed to communicate in plan the correct description of loading/unloading rack drainage flow into a catchment basin or treatment facility designed to handle discharges, use a quick drainage system for tank car or tank loading/unloading racks. Specifically, the plan should be written to site specific information regarding the loading/unloading area and therefore not in accordance with in accordance with 40 CFR § 112.7(h).
- f. Facility failed to provide a detail discussion of conformance with applicable more stringent State rules, regulations, and guidelines and other effective discharge prevention and containment procedures listed. Specifically the plan should provide a detail discussion on conformance with applicable State rules and therefore not in accordance with 40 CFR § 112.7(j).
- g. Facility failed to discuss in plan use of oil drainage collection equipment to prevent and control small oil discharge around pumps, glands, valves

flanges expansion joints, hoses, drain lines and etc. Additionally, the facility failed to discuss in the plan a sump system that is adequately sized with sump and drain, facility failed to discuss in plan having a spare pump and failed implement to make regularly scheduled preventive maintenance inspections and testing program to assure reliable operation of liquid removal system and pump start-up device. Specifically, the plan states that the drainage goes to a sump that does not exist and the facility has not kept regularly scheduled preventive maintenance records for sump nor have they provided records from the samples and discharge records that should be recorded every time that the water is drained and therefore not in accordance with 40 CFR §112.11 (b) and 112.11(c).

- h. Facility failed to provide a detailed discussion and failed to provide records of inspection for separators and treaters equipped with drum valves which predominantly fail in the closed position and where pollution risk is high facility equipped to prevent discharges in accordance with 40 CFR § 112.11(d).
- i. Facility failed to discuss in plan written procedures maintained in the SPCC Plan and failed to provide inspections records for inspecting and testing pollution prevention equipment and systems in accordance with 40 CFR § 112.11(h).
- j. Facility failed to discuss in plan and to conduct testing and inspection of pollution prevention equipment and systems conducted on a scheduled periodic basis commensurate with the complexity, conditions, and circumstances of the facility and any other applicable regulation. Facility failed to conduct simulated discharges that are used for testing and inspecting human and equipment pollution control and countermeasure systems in accordance with 40 CFR § 112.11(i).
- k. Facility failed to discuss in plan the detail records that describe surface and surface well shut-in valves and devices in use at the facility for each well and how records are maintained regarding the method of activation or control, such as pressure differential, change in fluid or flow conditions, combination of pressure and flow or manual or remote control mechanisms in accordance with 40 CFR § 112.11(j).
- l. Facility failed to discuss in plan how sub-marine piping is maintained in good operating condition at all times. Piping periodically inspected or tested on a regular schedule for failures. Documentation of inspections or test kept at facility. Specifically, there was not a discussion in the plan of the required pressure test that should be conducted annually in accordance with 40 CFR § 112.11(p).

19. Respondent's failure to fully implement its SPCC plan for the facility violated 40 CFR § 112.3, and impacted its ability to prevent an oil spill.

Waiver of Rights

20. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. Respondent waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), 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

21. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$10,315.00**

Payment Terms

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

21. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **\$10,315.00** by means of a cashier's or certified check, or by electronic funds transfer (EFT). The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment to:

OPA Enforcement Coordinator
U. S. Environmental Protection Agency
Region 6 (6SF-PC)
1445 Ross Avenue
Dallas, Texas 75202-2733

- If you are paying by check, pay the check to "Environmental Protection Agency,"

noting on the check "OSTLF-311" and docket number CWA-06-2014-4815. If you use the U.S. Postal Service, address the payment to:

U.S. Environmental Protection Agency, Fines & Penalties
P.O. Box 979077, St. Louis, MO 63197-9000

- If you use a private delivery service, address the payment to:

U.S. Bank
1005 Convention Plaza, Mail Station SL-MO-C2GL
St. Louis, MO 63101

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

Lorena Vaughn
Regional Hearing Clerk (6RC)
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

22. 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 USC §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

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

24. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §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 and facts stipulated to and alleged herein.

Summit Oil and Gas

Date: 7/30/14

Fred Litchliter *By direction*
Fred Litchliter
Operations Manager

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/6/14

J. Chris Peterson
Ronnie D. Crossland
Associate Director
Prevention & Response Branch
Superfund Division

FINAL ORDER

Pursuant to Section 311(b)(6) of the Act, 33 USC §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, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," codified at 40 CFR Part 22, the forgoing 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.

The Respondent is ordered to comply with the terms of the Consent Agreement.

Date: _____

8/11/14



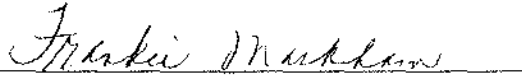
Carl Edlund, P.E.
Director
Superfund Division

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on 8-12, 2014, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Copy by certified mail,
return receipt requested:
7012 3460 0002 4060 8069

NAME: Mr. Fred Litchliter
ADDRESS: 19341 North 10th Street, Ste B
Covington, LA 70433



Frankie Markham
OPA Enforcement Administrative Assistant