



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUG 08 2017

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

Thorsten Metelmann  
Senior Vice President  
Ventura Foods, LLC  
3900 Vanderbilt Road  
Birmingham, Alabama 35217

Re: Expedited Settlement Agreement  
NRC No.: 1142139  
Docket No. CWA-04-2016-5008

Dear Mr. Metelmann:

This letter is to notify Ventura Foods, LLC that the Expedited Settlement Agreement (ESA) for the above-referenced matter has been signed by the U.S. Environmental Protection Agency and became effective on the date of filing with the Regional Hearing Clerk, as required by 40 C.F.R. §§ 22.6 and 22.31, as indicated on the Certificate of Service. The ESA is binding on the EPA and Ventura Foods, LLC. A copy of the ESA is enclosed.

Pursuant to the ESA, Ventura Foods, LLC shall submit the payment of \$3,500 within thirty (30) days of receipt of this letter. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express) payable to the "Oil Spill Liability Trust Fund." If paying by check, Respondent shall submit a cashier's check or certified check. The check shall bear the notation "OSLTF - 311" and Respondent shall reference the title and docket number of this case on the face of the check. The payment shall be made in one of the forms stated in Enclosure A. For additional payment information, see the EPA's payments webpage <http://www2.epa.gov/financial/makepayment>.

Pursuant to 40 C.F.R. § 22.31(c), you shall send a separate copy of the check or the other instrument of payment that you use and a written statement that the payment is being made in accordance with this ESA, to the persons at the following addresses:

Ms. Patricia Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

**And to:**

William Joyner  
Oil Pollution Coordinator  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

If you have any questions, please contact William Joyner at (404) 562-8795.

Sincerely,



Larry Lamberth  
Chief, Enforcement and Compliance Branch  
Resource Conservation and Restoration Division

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION 4  
 61 FORSYTH STREET, ATLANTA, GEORGIA 30303

OIL SPILL EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO.: CWA-04-2016-5008(b)

On March 5, 2016, at 3900 Vanderbilt Road, Birmingham, Alabama, Ventura Foods, LLC (Respondent) discharged approximately 1,500 gallons of oil in violation of the Clean Water Act (CWA) § 311(b)(3), 33 U.S.C. § 1321(b)(3), as described on the attached "Findings and Alleged Violations Form" (Form), which is hereby incorporated by reference.

The United States Environmental Protection Agency finds that Respondent's conduct is subject to the discharge prohibition of CWA § 311(b)(3), 33 U.S.C. § 1321(b)(3) in conjunction with 40 C.F.R. § 110.3. Respondent admits being subject to CWA § 311(b)(3), and that the EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent neither admits nor denies the allegations in the Form.

The EPA is authorized to enter into this Expedited Settlement Agreement (ESA) under the authority vested in the Administrator of the EPA CWA § 311(b)(6)(B)(i), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 22.13(b) and § 22.18(b)(2)-(3). The parties enter into this ESA in order to settle the civil violation described in the Form for a penalty of \$3,500. Respondent consents to the assessment of this penalty.

This ESA 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, and it has taken corrective actions that will prevent future spills. Respondent, also by signature on this ESA, agrees to pay the penalty assessed within thirty (30) calendar days of receiving written notice that the ESA has been executed and effective. **Do not enclose payment.** The EPA will provide instructions in writing on the procedures for making the penalty payment to the "Oil Spill Liability Trust Fund" with a copy of the Final Order.

After the parties sign this ESA and Respondent pays the civil penalty, the EPA will take no further action against Respondent for the violations described in the Form. However, the EPA does not waive any rights to take any enforcement action for any other violations by Respondent of CWA § 311(b)(3) or any other federal statute or regulations.

Upon signing and returning this ESA to the EPA, Respondent waives any right to judicial review under CWA § 311(b)(6)(G), 7.16.15

33 U.S.C. § 1321(b)(6)(G), any right to appeal or request a hearing to contest any fact or allegation, and consents to the EPA's approval of the ESA without further notice. Failure by Respondent to pay the penalty assessed by this ESA 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 CWA § 311(b)(6)(H), 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

This ESA is binding on the parties signing below. Each person signing this ESA certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA is effective upon the EPA's filing of the ESA with the Regional Hearing Clerk. If Respondent does not sign and return this ESA as presented within thirty (30) calendar days of the date of its receipt, the proposed ESA will be withdrawn without prejudice to the EPA's ability to file any other enforcement action for the noncompliance identified in the Form.

APPROVED BY RESPONDENT:



Name (print): Thorsten Metelmann

Title (print): SVP Manufacturing

Signature: [Handwritten Signature]

APPROVED BY THE EPA:

[Handwritten Signature] Date 08/03/17

Larry L. Lamberth  
 Chief, Enforcement and Compliance Branch  
 Resource Conservation and Restoration Division

FINAL ORDER  
 IT IS SO ORDERED:

[Handwritten Signature] Date August 7, 2017  
 Tanya Floyd  
 Regional Judicial Officer

2017 AUG 8 AM 7:25  
 REGIONAL JUDICIAL OFFICER  
 TANYA FLOYD

## ENCLOSURE 1 OIL SPILL FORM

Name of Company: Ventura Foods, LLC

Please answer the following questions concerning the oil spill that occurred on or about March 5, 2016 at Ventura Foods, LLC in or near Birmingham, Alabama and return this form to the EPA with the Expedited Settlement Agreement (ESA):

1. State the total amount of money that Respondent has spent to clean up the oil spill prior to the date on which Respondent signed the Expedited Spill Agreement (ESA). \$ 113,000.<sup>00</sup>
2. State the volume\* of oil that was recovered during the cleanup. This number should only include the pure product that was recovered, and not the oil mixed with contaminated media such as soil, water, sediment and/or debris.  
0
3. State the volume\* of oil that was recovered during the cleanup that was mixed with each of the following media:
  - a. Volume\* of soil contaminated with oil N/A
  - b. Volume\* of surface water contaminated with oil 28,500 gallons - all oil spilled was recovered
  - c. Volume\* of river/creek/wetland sediment contaminated with oil N/A
  - d. Volume\* of debris (oil absorbing booms, pads, and vegetation) contaminated with oil  
N/A

\*When providing the volume, please indicate if the measurement is in gallons or in cubic feet. If material was discarded in roll off container(s), you may state the number of containers used and the volume in cubic feet of each container.

Thorsten Metelman  
Name of Person Providing Information

[Signature]  
Signature

SVP Manufacturing  
Title

217 898 2273  
Phone Number

**RETURN THIS COMPLETED OIL SPILL FORM TO THE EPA WITH THE SIGNED ESA**

**Findings and Alleged Violations Form**  
**Expedited Oil Spill Agreement**

1. Ventura Foods, LLC (Respondent) is a Limited Liability Company organized under the laws of the State of Delaware with a place of business located at 3900 Vanderbilt Road, Birmingham, Alabama. Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act (CWA), 33 U.S.C. § 1321(a)(7).
2. Respondent is the owner or operator of an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), which is located at 3900 Vanderbilt Road, Birmingham, Alabama. (“facility”).
3. 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.
4. For purposes of Section 311(b)(3) and (b)(4) of the CWA, 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 the United States Environmental Protection Agency (“EPA”) has determined may be harmful to the public health, 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 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.
5. On or about March 5, 2016, Respondent discharged approximately 1,500 of gallons of food-grade oil, as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its facility into or upon Village Creek and/or adjoining shorelines. The EPA obtained this information from Respondent’s response to the EPA’s CWA Section 308 Information Request.
6. Village Creek flows into the Black Warrior River, which flows into Mobile Bay. Mobile Bay is a “navigable water of the United States”, as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1 and is subject to the jurisdiction of Section 311 of the CWA.
7. Respondent’s discharge of oil on or about March 5, 2016 from its facility, caused a film or sheen upon or discoloration of the surface of the Black Warrior River, which eventually flows to Mobile Bay 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 CWA, 33 U.S.C. § 1321(b)(3) and (b)(4).
8. Respondent’s discharge of oil on or about March 5, 2016 from its facility into or upon Village Creek, and/or adjoining shorelines, which eventually flows to Mobile Bay, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3. Respondent therefore violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3). Pursuant to Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i) and 40 C.F.R. § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per violation, up to a maximum of \$37,500.

## ENCLOSURE A

### COLLECTION INFORMATION

**Address for payment by certified or cashier's check sent by U.S. Postal Services:**

U.S. Environmental Protection Agency  
P. O. Box 979077  
St. Louis, MO63197-9000

**Address for payment by certified or cashier's check sent by non-U.S. Postal express mail:**

U.S. Bank  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

**Electronic Funds Transfer payment:**

Wire transfers to EPA can be done through the Federal Reserve Bank of New York using the following information:

ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Beneficiary: US Environmental Protection Agency

**Automated Clearinghouse Payments (also known as REX or remittance express);**

Automated Clearinghouse payments to EPA can be made through the US Treasury using the following information:

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury Facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Remittance Express (REX): 1-866-234-5681

**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:

<https://www.pay.gov/paygov/>

Open form and complete required fields.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Venture Foods LLC, Docket Number: CWA-04-2016-5008(b), and have served the parties listed below in the manner indicated:

Teresa Mann  
Assistant Regional Counsel  
Office of RCRA, OPA and UST Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Quantindra Smith  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Thorsten Metelmann  
Senior Vice President  
Ventura Foods, LLC  
3900 Vanderbilt Road  
Birmingham, Alabama 35217

(Via Certified Mail - Return Receipt Requested)

Date: 8-8-17



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511