



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 18 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Phil Vasser, President
El Toro Production Co., Inc.
118 N. Pearl Street #202
Natchez, Mississippi 39120-3275

SUBJ: Consent Agreement and Final Order:
Docket No. CWA-04-2013-5002(b)

Dear Mr. Vasser:

Enclosed is a copy of the Consent Agreement and Final Order for the above referenced matter. This CAFO became effective on the date of filing with the Regional Hearing Clerk as required by 40 C.F.R. §§ 22.6 and 22.31, and as indicated on the Certificate of Service.

The United States Environmental Protection Agency hereby notifies you that the Expedited Settlement Agreement (ESA) has been executed by both parties and is binding on the EPA and you. Upon receipt of your assessed penalty of \$5000.00, the EPA will take no further action against you for the violations cited in the ESA. Your copy of the executed ESA is enclosed.

You must submit your payment within thirty (30) days of your receipt of this letter by either electronic funds transfer, certified or cashier's check made payable to "Environmental Protection Agency." The check and a letter accompanying the check shall reference the name of the responsible party (Oil Spill Liability Trust Fund-311, El Toro Production Co, Inc.) and the EPA docket number CWA-04-2013-5002(b), and shall be sent depending upon your preferred method of payment identified in Enclosure A.

At the same time, you shall send a separate copy of each check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

Ms. Patricia Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960

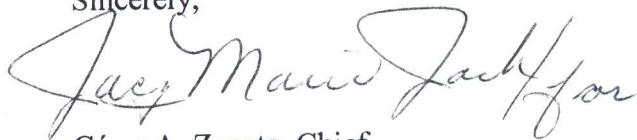
Ms. Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303

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

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

If you have any questions, please contact Quantindra Smith at (404) 562-8564.

Sincerely,

A handwritten signature in black ink, appearing to read "César A. Zapata". The signature is fluid and cursive, with the first name being the most prominent.

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

Enclosures

cc: USCG



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
61 FORSYTH STREET, ATLANTA, GEORGIA 30303
EXPEDITED OIL SPILL SETTLEMENT AGREEMENT**

DOCKET NO.: CWA-04-2013-5002(b)

On June 13, 2012 at 11:00 a.m., El Toro Production Company, Inc. (Respondent), discharged an estimated 3,024 gallons of oil from the Berry Tank Battery, located at Highway 24, Fort Adams, Wilkinson County, Mississippi, in violation 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 (EPA) finds the Respondent's conduct is subject to the discharge prohibition of CWA § 311(b)(3), as described in that statute and further described by 40 C.F.R. § 110.3, and that the Respondent has violated CWA § 311(b)(3), as described in the Form. The Respondent admits being subject to CWA § 311(b)(3), and that the EPA has jurisdiction over the Respondent and the 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 by the CWA § 311(b)(6)(B)(i), amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 22.13(b). The parties enter into this ESA in order to settle the civil violation described in the Form for a penalty of \$5,000.00. 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 at a cost of \$148,596.04, and it has taken corrective actions that will prevent future spills. The Respondent also by signature on this ESA agrees to payment of the penalty assessed within thirty (30) 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.

Upon signing and returning this ESA to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to CWA § 311, and consents to the EPA's approval of the ESA without further notice.

After this ESA becomes effective and the assessed penalty is paid, the EPA will take no further action against the Respondent for the violation of CWA § 311(b)(3) of the Act described in the Form. However, the EPA does not waive any rights to take any enforcement action for any other past, present, or future violation by the Respondent of the CWA § 311(b)(3) or of any other federal statute or regulation.

This ESA is binding on the parties signing below, and effective upon the EPA's filing of the document with the Regional Hearing Clerk. If the Respondent does not sign and return this ESA as presented within fifteen (15) days of the date of its receipt, the proposed ESA is withdrawn without prejudice to the EPA's ability to file any other enforcement action for the violation identified in the Form.

APPROVED BY RESPONDENT:

Name (print): P. W. VASSER

Title (print): PRESIDENT

Signature:

APPROVED BY THE EPA:

Date 9/4/13

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

IT IS SO ORDERED:

Date 9/4/13

Susan B. Schub
Regional Judicial Officer

RECEIVED
EPA REGION IV
2013 SEP 18 AM 7:07
HEARING CLERK

Findings and Alleged Violations Form

1. El Toro Production Company, Inc., Respondent, is a corporation organized under the laws of the state of Mississippi, with a place of business located at 118 N. Pearl Street #202, Natchez, Mississippi 39120-3275. Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act, 33 U.S.C. § 1321(a)(7) (Act).
2. Respondent is the owner of the Berry Tank Battery (“facility”), an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), located at Highway 24, Fort Adams, Wilkinson County, Mississippi.
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 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 cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.
5. On June 13, 2012, Respondent discharged 3,024 gallons of oil (72 barrels) 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 onshore facility into an unnamed tributary of Clark Creek, which discharges to the Mississippi River. EPA obtained this information through El Toro’s response to the EPA’s Information Request issued to it pursuant to Section 308 of the Act.
6. The Mississippi River 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 June 13, 2012 discharge of oil from its facility caused a film or sheen upon or discoloration of the surface of the tributary of Clark 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 CWA, 33 U.S.C. § 1321(b)(3) and (b)(4).
8. Respondent’s June 13, 2012 discharge of oil from its facility into an unnamed tributary of Clark Creek, which discharges to the Mississippi River in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3 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.

CHECK PAYMENTS:

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

WIRE TRANSFERS:

Wire transfers 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
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

OVERNIGHT MAIL:

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

Contact: Natalie Pearson (314) 425-1818

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving U.S. currency
US Treasury REX / ACH Receiver
5700 Rivertech Court
Riverdale, Maryland 20737
Contacts: John Schmid 202-874-7028 or
Remittance Express 1-866-234-5681
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 310006
CTX Format

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:

www.pay.gov

Enter sfo 1.1 in the search field

Open form and complete required fields.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of El Toro Production Co., Inc., Docket No. CWA-04-2013-5002(b) (filed with the Regional Hearing Clerk on 9-18, 2013) was served on 9-18, 2013 in the manner specified to each of the person set forth below:

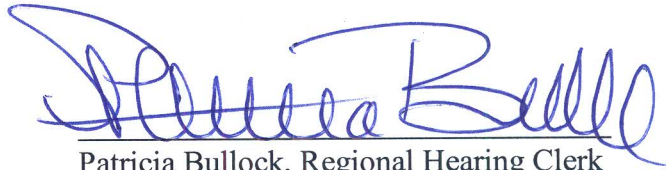
Mr. Phil Vasser, President
El Toro Production Co., Inc
118 N. Pearl Street #202
Natchez, Mississippi 39120-3275

CERTIFIED MAIL
Return Receipt Requested

Quantindra Smith
RCRA & OPA Enforcement & Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

EPA's Internal Mail and PDF

Date: 9-18-13



Patricia Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511