



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

AUG 21 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert J. Payne
President
P & L Foods, Inc.
5614 Second Street West
Lehigh Acres, Florida 33971

Re: Oil Spill Expedited Spill Settlement Agreement
P & L Foods, Inc.
NRC No.: 982379
Docket No. CWA-04-5000(b)

Dear Mr. Payne:

This letter is to notify you 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 you. A copy of the ESA is enclosed.

Pursuant to the ESA, you shall submit the payment of \$500 within thirty (30) days of the receipt of this letter. The payment shall be made in one of the forms stated in Enclosure A. For additional payment information see EPA's payments webpage <http://www2.epa.gov/financial/makepayment>.

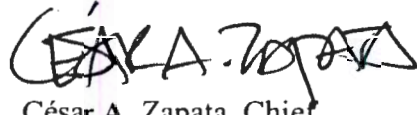
If paying by check, you shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the persons at the following addresses:

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

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

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

Sincerely,

A handwritten signature in black ink that reads "CÉSAR A. ZAPATA". The signature is stylized with a large initial "C" and a prominent "Z".

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

cc: USCG



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

OIL SPILL EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO.: CWA-04-5000(b)

On July 11, 2011 at 5614 Second Street West, Lehigh Acres, Lee County, Florida, P & L Foods, Inc. (Respondent) discharged approximately 100 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 \$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 at a cost of \$20,000, 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".

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 § 1321(b)(6)(G), 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 § 1321(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): Robert J Payne
 Title (print): President
 Signature: [Handwritten Signature]

APPROVED BY THE EPA:

César A. Zapata Date AUG 19, 2014
 César A. Zapata
 Chief, RCRA and OPA Enforcement and Compliance Branch
 RCRA Division

IT IS SO ORDERED:

Susan B. Schub Date 2014 AUG 21
 Susan B. Schub
 Regional Judicial Officer

RECEIVED
 EPA REGION IV
 AUG 21 AM 8:32
 HEARING CLERK

Findings and Alleged Violations Form
Expedited Oil Spill Agreement

1. P & L Foods, Inc. (Respondent) is a corporation organized under the laws of the State of Florida with a place of business located at 5614 Second Street West, Lehigh Acres, Lee County, Florida. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7) (Act).

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 5614 Second Street West, Lehigh Acres, Florida ("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 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 caused a film or sheen on the water's surface.

5. July 11, 2011, Respondent discharged approximately 100 gallons of 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 onshore facility into or upon the storm water canal that leads to Harns Marsh. The EPA obtained this information through the Respondent's response to EPA's CWA, Section 308, Information Request letter.

6. The storm water canal that leads to Harns Marsh flows into the Orange River, which flows into the Caloosahatchee River. The Caloosahatchee 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 July 11, 2011 discharge of oil from its facility caused a film or sheen on the water's surface in and/or upon the storm water canal that leads to Harns Marsh, which eventually flows to the Caloosahatchee River 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 July 11, 2011 discharge of oil from its onshore facility into or upon the storm water canal that leads to Harns Marsh, which eventually flows to the Caloosahatchee River, 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.

Docket No. CWA-04-2014-5000(b)

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of P & L Foods, Inc., Docket No. CWA-04-2014-5000(b) (filed with the Regional Hearing Clerk on 8-21, 2014) was served on 8-21, 2014 in the manner specified to each of the person set forth below:

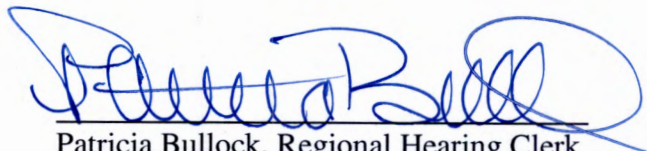
Mr. Peter M. Garda
P & L Foods, Inc.
5614 Second Street W.
Lehigh Acres, Florida 33971

CERTIFIED MAIL
Return Receipt Requested

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

Via EPA's Internal Mail and PDF

Date: 8-21-14



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

ENCLOSURE A

COLLECTION INFORMATION

Payments by Mail:

To make a payment to EPA by mail, send a check to the EPA lockbox listed below.

Address Format for U.S. Postal Service:

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

Address Format for Common Carriers (Fedex, DHL, UPS):

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

Wire Transfers:

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, New York 10045

Field Tag 4200 of the Fedwire message should read: D 68010727 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, Maryland 20737

US Treasury Contact Information:

John Schmid: 202-874-7026

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.