

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

RECEIVED  
EPA REGION 4  
2008 AUG 21 AM 10:22  
RECORDING CLERK

IN THE MATTER OF	)	
	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
Colonial Pipeline Company	)	FINAL ORDER
	)	UNDER 40 C.F.R. § 22.13(b)
	)	
	)	
Respondent.	)	Docket No. CWA-04-2008-5135(b)
_____	)	

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 ("CWA"), 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 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division ("Complainant").

**CONSENT AGREEMENT**

**Stipulations**

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

1. Respondent, Colonial Pipeline Company, is a corporation organized under the laws of Delaware and registered to do business in the State of Georgia. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 110.1.

2. Respondent is the owner and operator, within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 110.1, of a refined petroleum pipeline (“the facility”) located at Patrick Mill Rd., Winder, Barrow County, Georgia.

3. The facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

4. Williamson Creek is a navigable water subject to the jurisdiction of Section 311 of the CWA as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

5. 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.

6. 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 have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that (1) violate applicable water quality standards or (2) cause a film or a 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.

7. Respondent admits the jurisdictional statements contained herein.

#### **Allegations**

Complainant alleges, and Respondent neither admits nor denies, that:

8. On or about May 29, 2007, Respondent discharged five barrels 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 facility into or upon Williamson Creek and/or its adjoining shorelines.

9. Respondent's May 29, 2007, discharge of oil from its facility caused a sheen upon or discoloration of the surface of the Williamson Creek and/or its adjoining shoreline, and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R § 110.3, in violation of Section 311(b)(3) of the CWA.

**Waiver of Rights**

10. Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this Consent Agreement or the Final Order.

**Penalty**

12. Complainant proposes, and Respondent consents to, the assessment of a civil penalty of Two Thousand and Six Hundred Dollars (\$2,600.00).

**Payment Terms**

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

13. . No later than 30 days after the effective date of the Final Order, Respondent shall pay the amount of \$2,600 by means of a corporate cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF - 311". If Respondent sends payment by the U.S. Postal Service, address payment to:

US Environmental Protection Agency  
Fines and Penalties  
P.O. Box 979077  
St. Louis, MO 63197-9000

If Respondent sends payment by wire transfer, address payment as follows:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

If Respondent sends payment by overnight mail, address the payment to the U.S. Bank as follows:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: Natalie Pearson 314-418-4087

If Respondent sends payment by remittance express l, the payment shall be addressed to the ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact - Jesse White 301-887-6548  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006

CTX Format

If Respondent sends an online payment, follow the instructions at the website [www.pay.gov](http://www.pay.gov) and enter sfo 1.1 in the search field. Open form and complete required fields.

14. If paying by check, Respondent shall note on the penalty payment check the title and docket number of this case. Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following people:

Patricia Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 4  
SNAFC  
61 Forsyth Street, SW  
Atlanta, GA 30303

Frank Ney, Acting Chief  
South Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. Environmental Protection Agency  
Region 4  
SNAFC  
61 Forsyth Street, SW  
Atlanta, GA 30303

15. Respondent's failure 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 U.S.C. § 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

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

17. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 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.

18. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to this Consent Agreement.

19. The following attorney represents EPA in this matter and is authorized to receive service for EPA in the proceeding:

Melissa Allen Heath  
Associate Regional Counsel  
United States Environmental Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center,  
61 Forsyth Street, SW  
Atlanta, Georgia 30303  
(404) 562-8381  
[Heath.Melissa@epa.gov](mailto:Heath.Melissa@epa.gov)

20. The following attorney represents Respondent in this matter and is authorized to receive service for Respondent in the proceeding:

Robert Hogfoss  
Hunton & Williams, LLP  
Bank of America Plaza, St 4100

600 Peachtree Street, N.E.  
Atlanta, Georgia 30308  
(404) 888-4042  
[rhogfoss@hunton.com](mailto:rhogfoss@hunton.com)

**Effective Date**

21. This Consent Agreement and Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

For

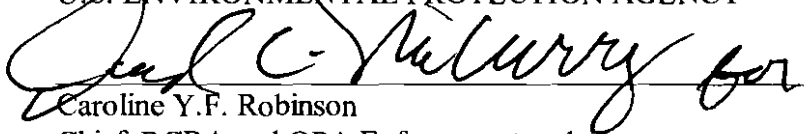
COLONIAL PIPELINE COMPANY

By:  Date: 8/3/08

Doug A. Belden  
General Manager  
Colonial Pipeline Company

For

U.S. ENVIRONMENTAL PROTECTION AGENCY

 Date: 8/7/08

Caroline Y.F. Robinson  
Chief, RCRA and OPA Enforcement and  
Compliance Branch  
RCRA Division

Colonial Pipeline Company )  
 )  
 )  
 )  
 Respondent. )  
 )  
 )  
 )

FINAL ORDER  
UNDER 40 C.F.R. § 22.13(b)  
  
Docket No. CWA-04-2008-5135(b)

---

**FINAL ORDER**

Pursuant to Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 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 and the Revocation/Termination or Suspension of Permits,” codified at 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties and Allegations by Complainant are adopted as Findings in this Final Order.

Colonial Pipeline Company, Respondent, is ordered to comply with the terms of the Consent Agreement, Docket No. CWA-04-2008-5135 (b).

Date: Aug. 20, 2008

Susan Schub  
Susan Schub  
Regional Judicial Officer



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the matter of Colonial Pipeline Company, Docket No. CWA-04-2008-5135(b) on the parties listed below in the manner indicated:

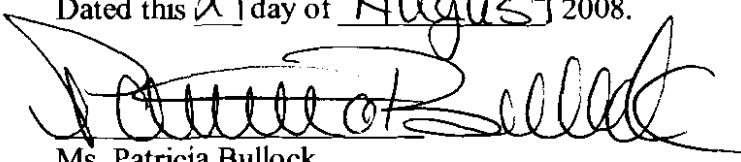
Melissa Allen Heath  
Associate Regional Counsel  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303  
(Via EPA's internal mail)

Jacq Marie Jack  
RCRA & OPA Enforcement and Compliance Branch  
U.S. EPA, Region 4  
61 Forsyth St., S.W.  
Atlanta, Georgia 30303  
(Via EPA's internal mail)

Laura Garner  
RCRA & OPA Enforcement and Compliance Branch  
U.S. EPA, Region 4  
61 Forsyth St., S.W.  
Atlanta, Georgia 30303  
(Via EPA's internal mail)

Robert Hogfoss, Esq.  
Hunton & Williams, LLP  
Bank of America Plaza, Suite 4100  
600 Peachtree Street, N.E.  
Atlanta, Georgia 30308  
(Via U.S. certified mail)

Dated this 21 day of August 2008.

  
Ms. Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA – Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960