



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 06 2012

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Kevan Stanley
President
IND-Oil, Inc.
P.O. Box 843
Waynesboro, Mississippi 39367

Re: IND-Oil, Inc. Consent Agreement and Final Order (CA/FO)
Docket Number: RCRA-04-2012-4008(b)

Dear Mr. Stanley:

A copy of the executed Consent Agreement and Final Order (CA/FO) filed with the Regional Hearing Clerk (RHC) in the above-referenced matter is enclosed. The CA/FO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts IND-Oil, Inc. on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-8530.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Busó".

Roberto X. Busó
Assistant Regional Counsel
Office of Environmental Accountability

Enclosures

cc: James I. Palmer, Jr.
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC
1200 Jefferson Avenue, Suite 205
Oxford, Mississippi 38655

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	Docket Number: RCRA-04-2012-4008(b)
)	
IND-Oil, Inc.)	Proceeding under Section 3008(a) of the
713 ½ Court Street)	Resource Conservation and Recovery Act,
Waynesboro, Mississippi 39367)	42 U.S.C. § 6928(a)
)	
)	
EPA ID No.: MSR 000 100 321)	
)	
)	
Respondent)	
)	

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EPA REGION IV
2012 SEP -6 PM 3:08
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action ordering compliance with the requirements of Mississippi Code Annotated (Miss. Code Ann.) §§ 17-17-1 *et seq.*, and 42-17-1 *et seq.*, as amended (Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921 *et seq.*). This action seeks civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of Miss. Code Ann. and the regulations promulgated pursuant thereto, set forth in the Mississippi Hazardous Waste Management Regulations (MHWMR), Part 279 (Title 40 of the Code of Federal Regulations (40 C.F.R.), Part 279).
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. The parties have conferred solely for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), the parties have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is IND-Oil, Inc., a corporation incorporated under the laws of the State of Mississippi (State or Mississippi) and doing business in the State, located at 713 ½ Court Street, Waynesboro, Mississippi 39367.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), Mississippi has received final authorization from the EPA to carry out a recycled used oil management program in lieu of the federal program set forth in RCRA. The requirements of the Mississippi authorized program, including the recycled used oil management requirements, are found at Miss. Code Ann. §§ 17-17-1 *et seq.*, and 49-17-1 *et seq.*, as amended, and MHWMR Parts 260 through 270, 273 and 279.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). The EPA exercises this authority in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As Mississippi's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized Mississippi program; however, for ease of reference, the federal citations will follow in parentheses.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Pursuant to MHWMR Part 260 (40 C.F.R. § 260.10), the term "person" means an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.
12. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.1), the term "used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.
13. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.1), the term "used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

14. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.1), the term “used oil transporter” means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities.
15. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.1), the term “used oil transfer facility” means any transportation related facility, including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to MHWMR Part 279 (40 C.F.R. § 279.20(b)(2)).
16. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.45(g)(1)), containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words “Used Oil.”
17. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.45(e)), existing aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.
18. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.45(a)), used oil transfer facilities are prohibited from storing used oil on site for more than 35 days unless the used oil transfer facility complies with Subpart F of 40 C.F.R. Part 279.
19. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.46(a) and (d)), used oil transporters must keep records of each used oil shipment accepted for transport, and must maintain such records for at least three (3) years.
20. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.44(a) and (d)), used oil transporters must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 parts per million, and must maintain records of such analyses for at least three (3) years.
21. Pursuant to MHWMR Part 279 (40 C.F.R. § 279.45(h)), used oil transfer facilities must respond to releases of used oil in a manner that includes the proper clean-up and management of the released used oil.

IV. ALLEGATIONS AND DETERMINATIONS

22. Respondent is a “person” within the meaning of MHWMR Part 260 (40 C.F.R. § 260.10).
23. On February 5, 2009, representatives of the EPA and the Mississippi Department of Environmental Quality (MDEQ) jointly performed a RCRA compliance evaluation inspection (CEI) of the Respondent’s facility located at 713 ½ Court Street, Waynesboro, Mississippi 39367. The findings of the CEI were documented in a RCRA inspection report dated March 25, 2009.
24. At all times relevant to this CA/FO, Respondent was a used oil transporter, and owner and operator of a used oil transfer facility as those terms are defined in MHWMR Part 279 (40 C.F.R. § 279.1). Respondent shut down its business operations and removed all oil from the facility effective August 15, 2011.
25. At the time of the CEI, Respondent was storing used oil in a 1,000-gallon aboveground storage tank that was labeled with the words “waste oil.”

26. The EPA therefore alleges that Respondent violated MHWMR Part 279 (40 C.F.R. § 279.45(g)(1)) by failing to label the aforementioned 1,000-gallon aboveground storage tank with the words "Used Oil."
27. At the time of the CEI, Respondent was storing used oil in a 1,000-gallon aboveground storage tank that was not equipped with a secondary containment system.
28. The EPA therefore alleges that Respondent violated MHWMR Part 279 (40 C.F.R. § 279.45(e)) by failing to equip the aforementioned aboveground storage tank with a secondary containment system.
29. At the time of the CEI, Respondent stated that used oil stored at the facility was removed approximately once every nine (9) months.
30. The EPA therefore alleges that Respondent violated MHWMR Part 279 (40 C.F.R. § 279.45(a)) by storing used oil in excess of 35 days without complying with Subpart F of 40 C.F.R. Part 279.
31. Based upon information obtained by the EPA from Western Container Corporation in response to a Request for Information issued pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, Respondent accepted 13,172 gallons of used oil for transport between February 2006 and December 2009. For this period, Respondent provided the EPA with only one shipment record reflecting the acceptance of 660 gallons of used oil for transport.
32. The EPA therefore alleges that Respondent violated MHWMR Part 279 (40 C.F.R. § 279.46(a) and (d)) by failing to maintain records reflecting the acceptance of 12,512 gallons of used oil for transport.
33. For the used oil shipments discussed in Paragraph 31, Respondent failed to determine the total halogen content of the used oil being transported.
34. The EPA therefore alleges that Respondent violated MHWMR Part 279 (40 C.F.R. § 279.44(a) and (d)) by failing to determine the total halogen content of the used oil being transported.
35. At the time of the CEI, the EPA inspector observed a large area of soil stained with used oil. The area of stained soil extended from the discharge valve of a 4,000-gallon aboveground storage tank to a drainage ditch. Respondent informed the EPA inspector that the stain was the result of a release of used oil that occurred on or about December 25, 2008.
36. The EPA therefore alleges that Respondent violated MHWMR Part 279 (40 C.F.R. 279.45(h)) by failing to clean up and properly manage released used oil.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

37. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the paragraphs above pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
38. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
39. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
40. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
41. 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 the EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
42. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
43. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized Mississippi hazardous waste program.
44. The parties agree that compliance with the terms of this CA/FO shall resolve all of Respondent's liability for civil penalties for the violations alleged and facts stipulated to in this CA/FO.
45. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

46. Based on Respondent's ability to pay a civil penalty, Respondent consents to the payment of a civil penalty in the amount of ONE THOUSAND FIVE HUNDRED DOLLARS (US \$1,500.00), which is to be paid in accordance with the following schedule:

Payment shall be made <i>no later than</i>	Payment Amount
Thirty (30) calendar days following the effective date of this CA/FO.	U.S. \$1,500.00

47. 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). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If Respondent elects to send payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent elects to send payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
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"

If paying by ACH, Respondent shall remit payment to:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
Environmental Protection Agency
808 17th Street, N.W.
Washington, DC 20074
Contact: Jesse White, (301) 887-6548

48. Respondent shall submit a copy of the payment to the following addresses:

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

And to:

César A. Zapata , Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

49. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if it is not paid within thirty (30) calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- (a) Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- (b) Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar day period over which an unpaid balance remains.
- (c) Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (b) of this Paragraph.

50. Penalties paid pursuant to this CA/FO are not deductible for federal tax purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

51. This CA/FO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents and all persons, including independent contractors, contractors and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.

52. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

53. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

54. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.
55. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
56. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, storage, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.
57. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

58. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

59. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Roberto Busó
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-8530

60. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is authorized to receive service for the Respondent in this proceeding:

James I. Palmer, Jr.
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC
1200 Jefferson Avenue, Suite 205
Oxford, Mississippi 38655
(901) 680-7350

XI. SEVERABILITY

61. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

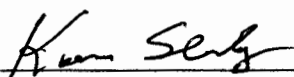
XII. EFFECTIVE DATE

62. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of IND-Oil, Inc., Docket No. RCRA -04-2012-4008(b)

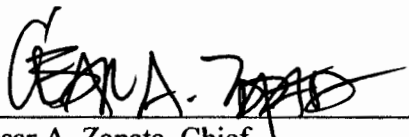
AGREED AND CONSENTED TO:

IND-Oil, Inc.

By: 
Kevan Stanley
President

Dated: 8-22-13

U.S. Environmental Protection Agency

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

Dated: 9/4/12

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	Docket Number: RCRA-04-2012-4008(b)
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IND-Oil, Inc.)	Proceeding under Section 3008(a) of the
713 ½ Court Street)	Resource Conservation and Recovery Act,
Waynesboro, Mississippi 39367)	42 U.S.C. § 6928(a)
)	
)	
EPA ID No.: MSR 000 100 321)	
)	
)	
Respondent)	
)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 6 day of September, 2012.

BY: Susan B. Schub
Susan B. Schub
Regional Judicial Officer
EPA Region 4

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 IND-Oil, Inc., Docket Number: RCRA-04-2012-4008(b), and have served copies on each of the parties listed below in the manner indicated:

Roberto Busó
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's internal mail)

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303-8960

(Via EPA's internal mail)

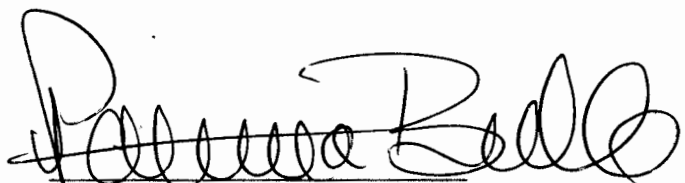
James I. Palmer, Jr.
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC
1200 Jefferson Avenue, Suite 205
Oxford, Mississippi 38655

(Via Certified Mail)

Kevan Stanley
President
IND-Oil, Inc.
P.O. Box 843
Waynesboro, Mississippi 39367

(Via Certified Mail)

Date: 9-6-12



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9686