



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

DEC 04 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard L. Cornelius
Vice-President
Jetta Operating Appalachia, LLC
777 Taylor Street, Suite PI
Fort Worth, Texas 76102

RE: Jetta Operating Appalachia, LLC
Consent Agreement and Final Order - Docket No. RCRA-04-2012-5134(b)

Dear Mr. Cornelius:

Enclosed is a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO 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 document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Jetta Operating Appalachia, LLC on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the U.S. Environmental Protection Agency.

If you have any questions, please feel free to contact Roberto Busó, Associate Regional Counsel, at (404) 562-8530.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Alan Farmer".

G. Alan Farmer
Director
RCRA Division

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

RECEIVED
EPA REGION IV
2012 DEC -4 PM 4:30
HEARING CLERK

IN THE MATTER OF	)	CWA SECTION 311 CLASS II
	)	CONSENT AGREEMENT AND
Jetta Operating Appalachia, LLC	)	FINAL ORDER
P.O. Box 1269	)	UNDER 40 C.F.R. § 22.13(b)
Hazard, Kentucky 41702)	
)	
Respondent	)	Docket No. CWA-04-2012- 5134(b)
_____)	

I. LEGAL AUTHORITY

1. 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)(ii) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(ii), 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 the EPA, Region 4, who has in turn delegated these authorities to the Director, RCRA Division, pursuant to EPA Region 4 Clean Water Act Delegation 2-52-A (“Complainant”).

II. CONSENT AGREEMENT

2. Complainant and Respondent have conferred 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), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (“CAFO”), and Respondent hereby agrees to comply with the terms of this CAFO. For purposes of this CAFO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

III. STIPULATIONS

3. Respondent, Jetta Operating Appalachia, LLC, is a limited liability company organized under the laws of the State of Texas, doing business in the State of Kentucky. Respondent is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. Respondent is the “operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a petroleum production and holdover facility located at Narrow Branch, Yeaddiss, Leslie County, Kentucky (“Facility”). The Facility includes a below ground crude oil pipeline that runs parallel Narrow Branch Road in Yeaddiss, Kentucky, pursuant to a pipeline right of way agreement. An above ground valve standpipe is attached to the pipeline and is located approximately 15 feet from Narrow Branch Road, in the pipeline right of way.

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

6. Narrow Branch stream runs parallel to Narrow Branch Road. Narrow Branch stream flows into Trace Fork stream, which flows into Cutshin Creek.

7. Narrow Branch stream, Trace Fork stream and Cutshin Creek are navigable waters as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1, and are therefore subject to the jurisdiction of Section 311 of the CWA, 33 U.S.C. § 1321.

8. 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 as may be harmful.

9. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), the criteria for determining the quantities of oil that may be harmful and thereby prohibited under Section 311(b)(3), 33 U.S.C. § 1321(b)(3), are codified at 40 C.F.R. § 110.3 to include discharges of oil that 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.

IV. ALLEGATIONS

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

10. On or about November 8, 2011, Respondent discharged approximately 163 barrels of oil, as defined by Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), from its Facility into or upon a navigable water and its adjoining shorelines. The discharge occurred when crude oil was allowed to flow through the valve attached to the pipeline. The pipeline valve standpipe had previously been struck by a vehicle that had trespassed into the pipeline right of way.

11. The discharge described above caused a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines, 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, 33 U.S.C. § 1321(b)(3).

12. Accordingly, Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

V. WAIVER OF RIGHTS

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

VI. PENALTY

14. Respondent consents to the payment of a civil penalty of THIRTY SEVEN THOUSAND DOLLARS (\$37,000).

15. By executing this CAFO, Respondent certifies that all violations alleged herein, which are neither admitted nor denied, have been corrected.

VII. PAYMENT TERMS

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

16. No later than thirty (30) days after the effective date of the Final Order, Respondent shall pay the penalty by means of a corporate cashier's or certified check, by electronic funds transfer ("EFT"), or on-line. If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency." The check shall bear the notation "OSLTF – 311," along with the title and docket number of this case.

If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx or UPS, the payment shall be sent to:

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

If Respondent sends payment by wire transfer, the wire transfer 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"

Respondent may also elect the On Line Payment Option, available through the Department of Treasury. This payment option can be accessed at www.pay.gov. Enter "sfo 1.1" in the search field and then open the form and complete required fields.

17. Respondent shall submit copies of the check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

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

and to:

Doug McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

18. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

19. 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, reasonable 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, but the Respondent's agreement thereto shall not constitute an admission of the non-jurisdictional allegations by the Respondent.

VIII. GENERAL PROVISIONS

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

21. Complainant reserves the right, pursuant to 40 C.F.R. § 22.45(c)(4)(iii), to withdraw from this Consent Agreement and proposed Final Order within 15 days of receipt of a commenter's petition requesting, pursuant to 40 C.F.R. § 22.45(c)(4)(ii), that the Regional Administrator set aside the Consent Agreement and proposed Final Order on the basis that material evidence was not considered.

22. 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.

23. Payment of the penalty pursuant to this CAFO resolves only Respondent's alleged liability for federal civil penalties for the facts and violations alleged hereinabove, which the Respondent has neither admitted nor denied.

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

25. 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 this proceeding:

Roberto X. Busó
Assistant Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-8530
buso.roberto@epa.gov

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


Richard L. Cornelius
Jetta Operating Appalachia, LLC
777 Taylor Street, Suite PI
Fort Worth, Texas 76102
(817) 335-1179
RCornelius@JettaOperating.com

IX. EFFECTIVE DATE

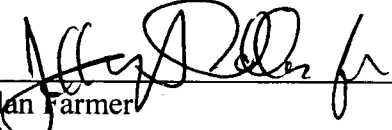
27. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

By: JETTA OPERATING COMPANY., INC
FOR: *JETTA OPERATING APPALACHIA, LLC*

Date: 8/6/2012 
Richard Cornelius
Vice President

By: U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/20/2012 
Alan Farmer
Director
RCRA Division


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF	)	CWA SECTION 311 CLASS II
	)	CONSENT AGREEMENT AND
Jetta Operating Appalachia, LLC	)	FINAL ORDER
P.O. Box 1269	)	UNDER 40 C.F.R. § 22.13(b)
Hazard, Kentucky 41702)	
)	
Respondent	)	Docket No. CWA-04-2012-5134(b)
_____)	

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. 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 20th day of November, 2012.

BY: 
Gwendolyn Keyes Fleming
Regional Administrator

CERTIFICATE OF SERVICE

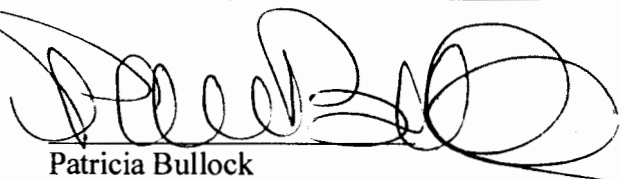
I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Jetta Operating Appalachia, LLC, Docket No. CWA-04-2012-5134(b), on the parties listed below in the manner indicated:

Roberto Busó (Via EPA's internal mail)
Assistant Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Quantindra Smith (Via EPA's internal mail)
RCRA & OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Richard L. Cornelius (Via Certified Mail)
Jetta Operating Appalachia, LLC
777 Taylor Street, Suite PI
Fort Worth, Texas 76102
(817)335-1179

Dated this 4 day of December, 2012.



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

