

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
WCC ENERGY GROUP, LLC and)	
SAMMY GARRARD)	
)	
Defendants.)	

COMPLAINT

The United States of America, acting at the request of the United States Coast Guard, files this Complaint and alleges the following:

NATURE OF THE ACTION

1. This is a civil action against WCC Energy Group, LLC (“Defendant WCC”) and Sammy Garrard (“Defendant Garrard”) (collectively “Defendants”) seeking civil penalties and injunctive relief for violations of Section 311 of the Clean Water Act (“CWA”), 33 U.S.C. § 1321.

2. This Complaint addresses Defendants’ unlawful discharges of oil from an oil production facility (the “Frog Lake Facility” or “Facility”) in August 2017. The Facility is located in the Frog Lake area of the Atchafalaya River Basin in Iberville Parish, Louisiana.

3. The Frog Lake Facility consists of, among other things, three oil wells, a production and storage barge, and a 1.25-mile-long transfer line to transport oil from the barge to a low-water load-out point.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to Section 311(b)(7)(E) and (n) of the CWA, 33 U.S.C. § 1321(b) and (n); Section 311(e)(2) of the CWA, 33 U.S.C. § 1321(e)(2); and 28 U.S.C. §§ 1331, 1345, and 1355.

5. Authority to bring this action on behalf of the United States is vested in the United States Department of Justice by, *inter alia*, 28 U.S.C. §§ 516, 519.

6. Venue is proper in the Middle District of Louisiana pursuant to Section 311(b)(7)(E) and (e)(2) of the CWA, 33 U.S.C. § 1321(b)(7)(E) and (e)(2); and 28 U.S.C. §§ 1391 and 1395, because the claims arose in this district and Defendants reside, are located, and are doing business in this district.

THE PARTIES

7. Plaintiff United States of America is acting at the request of the Coast Guard.

8. The Coast Guard served as the lead federal agency that discovered the violations at issue in this Complaint.

9. Defendant WCC is a limited liability company with headquarters located in Kenner, Louisiana. Defendant WCC is an owner and operator of the Frog Lake Facility.

10. Defendant Garrard works in the oil and gas industry in Louisiana. He was an operator and person in charge of the Frog Lake Facility during the time period relevant to this Complaint, including from October 2016 to at least August 25, 2017. He resides in Livingston Parish, Louisiana.

STATUTORY BACKGROUND

11. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the “discharge of oil or any hazardous substances (i) into or upon the navigable waters of the United States [or]

adjoining shorelines . . . in such quantities as may be harmful”

12. Pursuant to Section 311(b)(7)(A) of the CWA, 33 U.S.C. § 1321(b)(7)(A), “[a]ny person who is the owner, operator, or person in charge of any . . . offshore facility . . . from which oil . . . is discharged in violation of paragraph (3), shall be subject to a civil penalty in an amount up to [\$46,192] per day of discharge or an amount up to [\$1,848] per barrel of oil . . . discharged.” *See also* 83 Fed. Reg. 1193 (Jan. 10, 2018) (presenting these inflation-adjusted penalty amounts effective after January 15, 2018, for violations that occur after November 2, 2015).

13. Civil penalties can be increased to a minimum of \$184,767 per discharge and up to \$5,543 per barrel of oil discharged pursuant to Section 311(b)(7)(D) of the CWA, 33 U.S.C. § 1321(b)(7)(D), if the violation results from “gross negligence or willful misconduct.” *See also* 83 Fed. Reg. 1193 (Jan. 10, 2018) (presenting these inflation-adjusted penalty amounts effective after January 15, 2018, for violations that occur after November 2, 2015).

14. Section 311(e) of the CWA, 33 U.S.C. § 1321(e), provides the United States authority to address an “imminent and substantial threat to the public health or welfare of the United States . . . because of an actual or threatened discharge of oil or a hazardous substance from a vessel or facility in violation of subsection (b).”

15. Section 311(e)(1)(A) of the CWA, 33 U.S.C. § 1321(e)(1)(A), authorizes the Attorney General to secure “any relief from any person . . . as may be necessary to abate such endangerment.” District courts have “jurisdiction to grant any relief under this subsection that the public interest and the equities of the case may require.” 33 U.S.C. § 1321(e)(2).

16. Enforcement of Section 311 of the CWA supports the national objective to prevent and deter oil spills and “to restore and maintain the chemical, physical, and biological

integrity of the Nation's waters." 33 U.S.C. §§ 1251(a), 1321(b)(1).

FACTS

Background

17. The Frog Lake Facility is located in the Frog Lake area of the Atchafalaya River Basin in Iberville Parish, Louisiana.

18. The Frog Lake Facility's transfer line transports oil from the Facility's barge to the Facility's low-water load out point. The low-water load out point is located in an area of Frog Lake where the waterway is continuously deep enough to allow access by oil transfer vessels, even during the low-water months of the year.

19. The Frog Lake Facility's barge continuously floats on bayou waters and collects and stores oil from the Facility's oil wells.

20. Defendant WCC is the owner and an operator of the Frog Lake Facility, including the oil wells, transfer line, and the barge.

21. Defendant Garrard worked for Defendant WCC from October 2016 to at least August 25, 2017. During that time period, Defendant Garrard was the on-site manager of the operations at the Frog Lake Facility and was an operator and person in charge of the Facility, including the oil wells, transfer line, and the barge.

22. The body of water and wetlands where the Frog Lake Facility is located is part of, a tributary of, or adjacent to the Atchafalaya River and the Atchafalaya River Basin.

The Frog Lake Facility's Transfer Line Oil Spill

23. On August 25, 2017, the local Coast Guard unit, Marine Safety Unit Baton Rouge, inspected the Frog Lake Facility.

24. During the August 25, 2017 inspection, Coast Guard pollution investigators

observed spilled oil directly below a portion of the transfer line near the low-water load-out point. The oil had spilled from the transfer line and heavy oil staining was present in the area.

25. On information and belief, the spill occurred at least one week earlier in August 2017, but Defendants failed to notify the National Response Center as required by Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5).

The Frog Lake Facility's Barge Deck Oil Spill

26. During the same August 25, 2017 inspection, Coast Guard pollution investigators observed an oil sheen in the water surrounding the Facility's barge. Investigators also observed oiled sorbent material on the barge deck and residual crude oil on the barge deck from leaking equipment that was spilling over the side of the barge.

27. On information and belief, the spill into the waterway began prior to the date of the inspection, but Defendants failed to notify the National Response Center as required by Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5).

28. Coast Guard investigators also observed poor operations at the Facility, including improper management and disposal of oily wastes and leaking equipment.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Civil Penalties for Oil Discharges in Violation of CWA Section 311(b), 33 U.S.C. § 1321(b)

29. The preceding paragraphs are incorporated herein.

30. Defendants are each a "person" within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

31. Defendant WCC is an "owner" and "operator" within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6).

32. Defendant Garrard is an “operator” and “person in charge” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6).

33. Defendants are the owner, operators, and person in charge of the Frog Lake Facility from which oil was discharged within the meaning of Section 311(a)(6) of the CWA. 33 U.S.C. § 1321(a)(6).

34. The Frog Lake Facility is an “offshore facility” within the meaning of Section 311(a)(11) of the CWA, 33 U.S.C. § 1321(a)(11).

35. The spilling of oil from the Frog Lake Facility constitutes “discharges” of oil within the meaning of Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2).

36. The discharges were of Louisiana crude oil, which is “oil” within the meaning of Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1).

37. The Frog Lake area into which oil spilled is a “navigable water of the United States” within the meaning of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

38. The Atchafalaya River Basin is a “navigable water of the United States” within the meaning of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

39. The Atchafalaya River is a “navigable water of the United States” within the meaning of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

40. Defendants’ oil discharges caused a sheen upon and discoloration of water surfaces and adjoining shorelines, or caused sludge or emulsion to be deposited beneath the surface of the waters and upon adjoining shorelines. Thus, the quantities discharged were in quantities “as may be harmful” within the meaning of Section 311(b)(3) and (4) of the CWA. 33 U.S.C. § 1321(b)(3), (4); 40 C.F.R. § 110.3.

41. Defendants’ oil discharges violated Section 311(b)(3) of the CWA, 33 U.S.C.

§ 1321(b)(3).

42. Defendants are each liable for civil penalties of up to \$46,192 per day per violation under Section 311(b)(7)(A) of the CWA, 33 U.S.C. § 1321(b)(7)(A), or, if it is proven that the violations resulted from gross negligence or willful misconduct, not less than \$184,767 per discharge and up to \$5,543 per barrel discharged under Section 311(b)(7)(D), 33 U.S.C. § 1321(b)(7)(D). *See also* 83 Fed. Reg. 1193 (Jan. 10, 2018) (presenting these inflation-adjusted penalty amounts effective after January 15, 2018, for violations that occur after November 2, 2015).

SECOND CAUSE OF ACTION

Injunctive Relief under CWA Section 311(e), 33 U.S.C. § 1321(e)

43. The preceding paragraphs are incorporated herein.

44. The United States seeks injunctive relief to prevent future discharges of oil by Defendants into the Atchafalaya River Basin or other navigable waters of the United States. The United States seeks injunctive relief pursuant to Section 311(e) of the CWA, 33 U.S.C. § 1321(e).

45. Defendants' history of improper operations, including operating with leaking equipment and improper management and disposal of oily wastes, and Defendants' continued involvement in the Louisiana oil and gas industry pose an imminent and substantial threat of additional oil spills and injuries to the environment and to the public health or welfare. Corrective measures imposed by the Court are needed to assure proper operations going forward.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Enter judgment that Defendants are liable to the United States for civil penalties pursuant to 311(b) of the Clean Water Act and assess civil penalties of up to \$46,192 per person

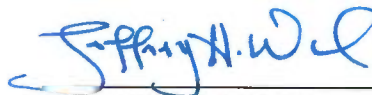
per day of violation for the Frog Lake Facility oil spills pursuant to Section 311(b)(7)(A), or if the violations resulted from gross negligence or willful misconduct, not less than \$184,767 per person per discharge and up to \$5,432 per person per barrel discharged pursuant to Section 311(b)(7)(D);

B. Enter judgment that Defendants are liable to the United States for all appropriate injunctive relief pursuant to Section 311(e) of the Clean Water Act and award injunctive relief against Defendants as appropriate;

C. Award the United States its costs of this action; and

D. Award the United States such other and further relief as the Court deems just and proper.

Respectfully submitted,



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