UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF **Superior Crude Gathering, Inc.** **San Patricio County, Texas** Respondent.	**CWA SECTION 311** **ADMINISTRATIVE ORDER** Docket No. CWA-06-06-10

I. JURISDICTION AND GENERAL PROVISIONS

1. This Order is issued pursuant to the authority vested in the U. S. Environmental Protection Agency ("EPA") by Sections 311(c), (e) and (m) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1321 (c), (e) and (m) and Section 308 of the CWA, 33 U.S.C. § 1318.

2. This Order pertains to a substantial threat of a discharge of oil from an onshore bulk oil storage facility located in San Patricio County, Texas (the "Ingleside Facility"). This Order requires Superior Crude Gathering, Inc. ("Respondent") to conduct the actions described below to abate or mitigate an imminent and substantial threat to the public health or welfare of the United States that may be presented by the substantial threat of a discharge of oil from the above listed facilities into or upon the navigable waters or adjoining shorelines of the United States.

3. EPA has notified the Texas Commission on Environmental Quality (TCEQ), Texas General Land Office, and the Texas Railroad Commision of this action pursuant to Section 311(e)(1)(B) of the CWA, 33 U.S.C. § 1321(e)(1)(B).

4. The Oil Pollution Prevention Regulations (40 CFR Part 112) establish procedures to prevent the discharge of oil from non-transportation onshore facilities into or upon the navigable

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waters or adjoining shorelines of the United States pursuant to the authority in Section 311(j) of the CWA, 33 U.S.C. § 1321(j). Owners or operators of onshore facilities that, due to their location, could reasonably be expected to discharge oil in "harmful quantities" into or upon the navigable waters or adjoining shorelines of the U.S. must prepare and fully implement a Spill Prevention Control and Countermeasure Plan ("SPCC Plan") 40 CFR § 112.3(a).

II. FINDINGS OF FACT

INGLESIDE FACILITY

5. Superior Crude Gathering, Inc. (Respondent) operates an onshore bulk oil storage facility located at 1472 FM 2725, Ingleside, San Patricio County, Texas, (the Ingleside Facility).

6. The Ingleside Facility is located adjacent to an unnamed fresh water lake/wetland, which is adjacent to and hydrologically connected to Redfish Bay approximately one half mile to the Northeast of the facility.

7. Superior Crude Gathering Ingleside Facility's primary oil storage consists of three (one 100,000 barrel and two 55,000 barrel) tanks leased from the closed Falcon Refinery. Additional storage consists of two tank batteries used for truck unloading before going to the primary storage. Superior has operational control of 8,866,200 gallons of above ground storage capacity at this location. Superior transfers this oil to barges for shipment to refineries.

8. On April 21, 2008, the Ingleside Facility was inspected for compliance with SPCC and FRP requirements and numerous violations were identified. Despite repeated notifications from EPA staff, Superior Crude has still not resolved many of the outstanding violations.

9. On February 9, 2010, the Ingleside Facility's Tank 13 released approximately 22,000 bbl of crude oil into its secondary containment. In an attempt to contain the remaining 30,000 bbl of oil in the tank, Superior Crude transferred the remaining oil from Tank 13 into

Tank 15. On February 10, 2010, Tank 15 released oil into its containment. The released oil in each containment area migrated to other surrounding containment areas and out of secondary containment. The oil then flowed down-gradient into a wetland. A total of 2,200 barrels have been recovered from the wetland.

III. CONCLUSIONS OF LAW

10. The Superior Crude Gathering, Inc. Ingleside Facility is an "onshore facility" as defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(b)(10), AND 40 C.F.R. § 112.2.

11. Respondent is a "person" as defined by Section 502(5) of the CWA, 22 U.S.C. § 1362(5).

12. In light of the proximity of the oil storage at these facilities to Red Fish Bay, the recent spills, and the significant level of non-compliance with SPCC and FRP requirements, there exists a substantial threat of a "discharge" as defined in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321, and 40 C.F.R. Part 110.1, into or upon the navigable waters or adjoining shorelines of the United States.

13. The quantity of oil which these facilities may discharge is a harmful quantity within the meaning of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3) and 40 C.F.R. § 110.0(b).

14. The substantial threat of a discharge may cause an imminent and substantial threat to public health or welfare of the United States, including fish, shellfish, wildlife, public and private property, shoreline, beaches, habitat, and/or living and nonliving natural resources.

15. The actions required by this Order may be necessary to protect the public health and welfare of the United States, including fish, shellfish, wildlife, public and private property, shoreline, beaches, habitat, and/or living and nonliving natural resources.

16. The actions required by this Order are in accordance with the National Contingency

Plan ("NCP") and are authorized by EPA pursuant to the authority granted in Section 311(c) and 311(e) of the CWA, 33 U.S.C. § 1321(c) and 1321(e), as delegated by the President in Executive Order 12777.

IV. ORDER

17. Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW set forth above, EPA hereby orders Respondent to comply with all requirements of this Order and the Oil Pollution Prevention Regulations at 40 CFR Part 112, promulgated under Section 311 of the federal Clean Water Act, 33 U.S.C. 1321, and shall specifically perform all of the following actions on each of Tanks 13, 15, and/or 16 before placing that Tank back in service or adding oil to it:

A. Conduct a full American Petroleum Institute (API) 653 internal/external (out-of-service) inspection, conducted by a third party, properly certified API 653 tank inspector;

B. Utilizing the above inspection findings, conduct an engineering assessment of tank integrity to determine suitability for service. This assessment must be conducted by a registered P.E. experienced in tank construction and operation.

C. Demonstrate that the secondary containment for each Tank in question has been brought in to compliance with 40 CFR Part 112 and National Fire Protection Association's NFPA 30 requirements. This must be accomplished with an evaluation and certification to that fact by a registered P.E.

D. Submit detailed evidence including copies of reports and certifications to EPA to demonstrate the above requirements have been completed.

E. Receive written or verbal approval from EPA prior to placing each Tank back in service.

In addition to items A-E above, the Respondent shall complete and submit to EPA upon completion, and by no later than June 1, 2010, an updated SPCC Plan and FRP that fully conforms with the Oil Pollution Prevention regulations, and addresses all the deficiencies noted in the "ACKNOWLEDGEMENT AND RECORD OF SPCC INSPECTION AND PLAN REVIEW" and the "FACILITY RESPONSE PLAN CHECKLIST" form

generated at the April 21, 2008 EPA inspection attached hereto, as well as the specific items listed in F and G below:

F. Assess and report the causes of failure for Tanks 13 and 15.

G. Evaluate and provide a report on the condition of the cathodic protection system in place for Tanks at the Ingleside Facility. This evaluation should be conducted by a firm certified by the National Association of Corrosion Engineers (NACE).

18. Respondent shall immediately take all appropriate action to abate or minimize any discharge or substantial threat of a discharge if any incident during the actions conducted pursuant to this Order causes or may cause, either a substantial threat of a discharge, or an a discharge of oil or hazardous substances from the Facility.

V. MODIFICATIONS

19. If Respondent seeks permission to deviate from this Order, Respondent shall submit a written request to EPA for approval, outlining the proposed modification and its basis. Such written request will be submitted to:

Chris Ruhl (6SF-P)
On-Scene Coordinator
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202

Such written request may be submitted by fax to Mr. Ruhl at (214) 665-7447.

20. Respondent shall immediately take all appropriate action to abate or minimize any discharge or substantial threat of a discharge if any incident during the actions conducted pursuant to this Order causes or may cause, either a substantial threat of a discharge or discharge of oil or hazardous substances from the Facility. In addition, Respondent shall immediately notify Mr. Ruhl at (214) 789-9587 and shall notify the National Response Center at telephone number (800) 424-8802.

VI. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE

21. Violation of, or failure to comply with any of the provisions of the foregoing Order, may subject Respondent to civil penalties of up to $37,500 per day of violation or, in the event of a discharge, an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund pursuant to Section 311(b)(7) of the Act, 33 U.S.C. § 1321(b)(7) AND 40 C.F.R. Part 19.

22. If Respondent is unable to comply with the requirements of this Order by the due dates specified above, Respondent shall notify EPA On-Scene Coordinator Chris Ruhl at (214) 789-9587, within 24 hours of becoming aware of such inability and no later than the due date specified above.

23. Nothing in this Order shall be construed to relieve Respondent of the requirements of the CWA or any other applicable requirements under federal, state or local law. EPA reserves the right to take, direct, or order all actions as necessary as authorized by law for any violation of this Order, and for the future or past violations of the CWA.

VI. EFFECTIVE DATE

24. This order shall be effective upon receipt by the Respondent.

Sam Coleman

Date: 17 Feb 10

Samuel Coleman, P.E.
Director
Superfund Division
U.S. EPA Region 6
Dallas, TX 75202