



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

SEP - 4 2007

Ref: 8ENF-L

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jack A. Canon, Registered Agent
Samson Resources Company
2 West Second Street
Tulsa, OK 74103-3103

Re: Administrative Complaint and Notice of
Opportunity for Hearing
Docket No. **CWA-08-2007-0016**

Dear Mr. Canon:

Enclosed is an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") that the U.S. Environmental Protection Agency, Region 8 ("EPA") is issuing to Samson Resources Company ("Samson") under the authority of section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(g). In the Complaint, EPA alleges that Samson has violated sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, and their implementing regulations by discharging pollutants into waters of the United States without a permit. The violation that EPA is alleging is specifically set out in the Complaint. The Complaint proposes that a penalty of \$9,900.00 be assessed against Samson for this violation.

By law, Samson has the right to request a hearing regarding the violation alleged in the Complaint and the appropriateness of the proposed administrative civil penalty. Please pay particular attention to the section of the Complaint entitled "Notice of Opportunity to Request a Hearing." If Samson wishes to request a hearing, it must file within thirty (30) days of receipt of the enclosed Complaint, a written Answer with the EPA Regional Hearing Clerk at the address set forth in the Complaint. The written request must follow the requirements of the Consolidated Rules of Practice at 40 C.F.R. Part 22, a copy of which is enclosed. Note that should Samson fail to request a hearing within thirty (30) days of receipt of the Complaint, the right to such a hearing will be waived and the proposed civil penalty may be assessed against Samson without further proceedings.



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If Samson wishes to settle this matter without further legal action, it may waive the right to a hearing and, within thirty days of receipt of this letter, pay the proposed penalty to "Treasurer, United States of America," at the address set forth in the Complaint.

Enclosed is a copy of "U.S. EPA Small Business Resources," which can assist Samson with complying with federal environmental laws. Also enclosed is an SEC Disclosure Notice.

Whether or not Samson requests a hearing, it may confer informally with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference. If such a mutually satisfactory settlement can be reached, it will be formalized by the issuance of a Consent Agreement signed by Samson and the delegated official in EPA Region 8. The issuance of such a consent agreement shall constitute a waiver by Samson of its right to a hearing on, and to a judicial appeal of, the agreed upon civil penalty.

A request for an informal conference with EPA does not extend the thirty day period within which Samson must request or waive the right to a hearing, and the two procedures can be pursued simultaneously.

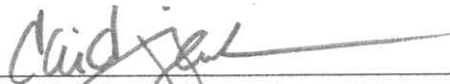
Samson has the right to be represented by an attorney at any stage in the proceedings, including any informal discussions with EPA, but it is not required. If Samson wishes to discuss settlement or technical questions, please contact Tim Russ, Environmental Scientist, at (303)312-6479. Legal questions, including any communications from an attorney, should be directed to Wendy Silver, Enforcement Attorney, at (303) 312-6637.

We urge your prompt attention to this matter.

Sincerely,



Darcy O'Connor, Unit Chief
NPDES Enforcement Unit
Office of Enforcement, Compliance, and
Environmental Justice



David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 SEP -4 AM 10:51

IN THE MATTER OF:)	ADMINISTRATIVE COMPLAINT
)	AND NOTICE OF OPPORTUNITY
Samson Resources Company)	FOR HEARING
Two West Second Street)	Proceeding to Assess Class I
Tulsa, OK 74103-3103)	Administrative Penalty Under
)	Clean Water Act, Section 309(g)
Respondent.)	
_____)	Docket No. CWA-08-2007-0016

REGION VIII
HEARING CLERK

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued pursuant to section 309(g) of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.13. Section 309(g) of the Act authorizes the Administrator of the United States Environmental Protection Agency (“EPA”) to make findings and to assess civil penalties for violations of section 301 of the CWA, 33 U.S.C. § 1311. This proceeding is subject to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22, a copy of which accompanies this Complaint.

2. The undersigned EPA officials have been properly delegated the authority to issue this Complaint.

STATUTORY FRAMEWORK

3. Section 301(a) of the Act, 33 U.S.C. § 1311(a), among other things, prohibits the discharge of any pollutant into waters of the United States except as in compliance with a permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342.

4. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (“NPDES”) program, under which EPA and, upon receiving authorization from EPA, states may permit discharges of pollutants into navigable waters, subject to specific terms and conditions.
5. Pursuant to section 402 of the Act, 33 U.S.C. § 1342, and 40 C.F.R. Part 122, EPA is authorized to implement the NPDES program for discharges on Southern Ute Tribal lands.
6. Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), authorizes the assessment of a Class I civil penalty of up to \$11,000.00 per violation of section 301 of the Act, 33 U.S.C. § 1311, up to a maximum for all violations of \$32,500.00.

GENERAL ALLEGATIONS

7. Respondent Samson Resources Company (“Samson”) is and was at all relevant times an Oklahoma corporation doing business in the State of Colorado and registered with the Colorado Secretary of State. Samson is and was at all relevant times doing business on Southern Ute Tribal lands.
8. At all times relevant to this action, Respondent owned and operated the coal bed methane natural gas well Southern Ute 22-33#2, a separator, a 400 barrel water storage tank, and a water transfer pump (the “Facility”), located within the exterior boundaries of the Southern Ute Tribal lands. The Facility is located in the SE 1/4 of the NE 1/4 of section 33, T33N, R7W in La Plata County, Colorado.
9. On or about March 23, 2006, approximately 205 barrels (8,610 gallons) of produced water from the Southern Ute 22-33#2 overflowed the Facility’s water storage tank, eroded

through the secondary containment dike, and flowed into an unnamed intermittent stream whose flow carried the produced water into the Los Pinos River.

10. Respondent reported the incident to the National Response Center (“NRC”) on March 28, 2006. The report states that the Southern Ute 22-33#2 well “flowed an unanticipated and unusual volume of produced water thereby overflowing the storage tank. The spilled water filled the secondary containment to overflowing. The overflowing water eroded the secondary containment allowing the contents in the secondary containment to be released.” The report further states that 205 barrels of produced water were released and identifies the Los Pinos River as the affected area and affected medium.

11. Analytical data provided to EPA by Respondent show that produced water from the Southern Ute 22-33#2 well contained elevated levels of alkalinity/bicarbonate, sodium, and chloride.

12. Respondent is, and was at all relevant times, a “person” within the meaning of the definition set forth in section 502(5) of the Act, 33 U.S.C. § 1362(5).

13. The produced water from the Southern Ute 22-33#2 well constitutes a “pollutant” as defined by section 502(6) of the Act, 33 U.S.C. § 1362(6).

14. The water storage tank at the Facility constitutes a “point source” as defined by section 502(14) of the Act, 33 U.S.C. 1362(14), and 40 C.F.R. § 122.2.

15. Respondent’s activities as described in paragraphs 9 and 10, above, constitute the “discharge of a pollutant” within the meaning of the definition set forth in section 502(12) of the Act, 33 U.S.C. § 1362(12).

16. The Los Pinos River is a “water of the United States” within the meaning of 33 C.F.R. § 328.3(a), and therefore a “navigable water” within the meaning of the definition set forth in section 502(7) of the Act, 33 U.S.C. § 1362(7).

DESCRIPTION OF VIOLATION

17. Respondent did not apply for or receive a section 402 permit from EPA authorizing the discharge of pollutants described in paragraphs 9 and 10, above, prior to their discharge, as required under sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

18. The discharge of pollutants from a point source by Respondent into waters of the United States described in paragraphs 9 and 10, above, was carried out without the required permit issued by EPA pursuant to section 402 of the Act, 33 U.S.C. § 1342, and, therefore, constitutes a violation of sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

19. Respondent is subject to the provisions of the Act, 33 U.S.C. § 1251 *et seq.*, including section 309(g) of the Act, 33 U.S.C. § 1319(g).

20. Pursuant to Section 309(g) of the Act, 33 U.S.C. §1319(g), EPA has consulted with James Martin, Executive Director, Colorado Department of Public Health and Environment, regarding assessment of this administrative penalty by furnishing a copy of this complaint and inviting him to comment on behalf of the State of Colorado.

NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

21. Based on the foregoing allegations and pursuant to the authority of section 309(g) of the Act, 33 U.S.C. §1319(g), EPA Region 8 hereby proposes that a penalty of \$9,900.00 be assessed against Respondent for the violations alleged above, as explained below:

Nature, Circumstances, Extent, and Gravity of Violations

The March 23, 2006 discharge from Samson Resources Company's Southern Ute 22-33#2 well involved a larger than anticipated flow of produced water to the water storage tank at the site, which led to approximately 8,610 gallons of produced water, containing sodium chloride, to be discharged from the storage tank, travel down-gradient to a flowing unnamed intermittent stream, and be conducted by the stream into the Los Pinos River. Sodium chloride is harmful to freshwater aquatic species and to plants that are not saline tolerant.

Prior Compliance History

This Complaint is the first enforcement action the EPA Region 8 has pursued against Respondent for non-compliance with the CWA.

Degree of Culpability

Respondent could have prevented the discharge of a pollutant into the Los Pinos River if the remedial actions that were taken to address the spill had been implemented previously. The remedial actions involved construction of a retention area down-gradient from the well site to prevent produced water from reaching the unnamed stream, and additional rebuilding of the containment dike.

Economic Benefit

An analysis by EPA determined the economic benefit associated with the violation to be negligible.

Ability to Pay

The proposed penalty was not reduced based upon the statutory factor of an inability to pay. However, EPA will consider any new information that Respondent may present regarding Respondent's ability to pay the penalty proposed in this Complaint.

Other Matters That Justice May Require

At this time, EPA has not made any adjustment to the proposed penalty based on this statutory factor.

22. As required by section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), prior to assessing a civil penalty, EPA will provide public notice of the proposed penalty and a reasonable opportunity for the public to comment on the matter and, if a hearing is held, to be heard and present evidence.

23. If there is a hearing on this matter, it would be before the Regional Judicial Officer ("RJO") for EPA Region 8, who will be responsible for deciding whether EPA's proposed penalty is appropriate. The RJO is not bound by the penalty proposed by EPA and may assess a penalty above the proposed amount, up to the \$11,000 per violation authorized by the Act

24. EPA may issue the Final Order Assessing Administrative Penalties thirty days after Respondent's receipt of this Notice, unless Respondent, within that time, requests a hearing on this Notice pursuant to the following section.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

25. As provided in section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 22.15(c), Respondent has the right to request a hearing in this matter. If Respondent (1) contests any material fact upon which the Complaint is based, (2) contends that the amount of

penalty proposed in the Complaint is inappropriate, or (3) contends that it is entitled to judgment as a matter of law, it must file a written answer in accordance with 40 C.F.R. § 22.15 within thirty days after service of the Complaint.

26. Respondent's answer must (1) clearly admit, deny, or explain each of the factual allegations contained in the Complaint, (2) state the circumstances or arguments which are alleged to constitute grounds of defense, (3) state the facts intended to be placed at issue, (4) state the basis for opposing any proposed relief, and (5) specifically request a hearing, if desired.

40 C.F.R. § 22.15(b). Failure to admit, deny, or explain any factual allegation contained in the Complaint constitutes an admission of the allegation. 40 C.F.R. § 22.15(c).

27. Respondent's answer, an original and one copy, must be filed with:

Regional Hearing Clerk
U.S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, Colorado 80202-1129

A copy of the answer and all other documents filed in this action must be served on:

Wendy Silver
Senior Attorney
U.S. EPA, Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129

28. Be aware that should Respondent request a hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment.

IF RESPONDENT FAILS TO REQUEST A HEARING, IT WILL WAIVE ITS RIGHT TO CONTEST ANY OF THE ALLEGATIONS SET FORTH IN THE COMPLAINT.

IF RESPONDENT FAILS TO FILE A WRITTEN ANSWER WITHIN THE THIRTY (30) DAY LIMIT, A DEFAULT JUDGMENT MAY BE ENTERED PURSUANT TO 40 C.F.R. § 22.17. THIS JUDGMENT MAY IMPOSE THE FULL PENALTY PROPOSED IN THE COMPLAINT.

29. Should Respondent not request a hearing, EPA will issue a Final Order Assessing Administrative Penalties, and only members of the public who submit timely comments on this proposal will have an additional 30 days to petition EPA to set aside the Final Order Assessing Administrative Penalties and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order Assessing Administrative Penalties.

TERMS OF PAYMENT FOR QUICK RESOLUTION

30. If Respondent does not contest the findings and assessments set out above, this action may be resolved by paying the proposed penalty in full pursuant to 40 C.F.R. § 22.18. If such payment is made within thirty (30) calendar days of receipt of this Complaint, no Answer need be filed. For more time for payment, Respondent may file a statement agreeing to pay the penalty within thirty (30) days of receipt of the Complaint, then pay the money within sixty (60) days of such receipt. Penalty payment must be made by certified or cashier's check payable to "Treasurer, the United States of America," and remitted to:

U.S. Environmental Protection Agency
Regional Hearing Clerk
P.O. Box 360859
Pittsburgh, PA 15251

Copies of the check shall be sent to:

Tim Russ
U.S. Environmental Protection Agency (8ENF-W-NP)
1595 Wynkoop Street
Denver, CO 80202-1129

and

Wendy Silver
U.S. Environmental Protection Agency (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129

A transmittal letter identifying the case title and docket number must accompany the remittance and copies of the check.

31. Payment of the penalty in this manner shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing in this matter.

32. Neither assessment nor payment of an administrative civil penalty pursuant to section 309 of the Act, 33 U.S.C. § 1319, shall affect Respondent's continuing obligation to comply with the Clean Water Act or any other federal, state, or local law or regulations and any separate Compliance Order issued under section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

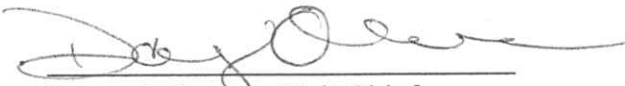
SETTLEMENT CONFERENCE

33. EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an answer and request for hearing as set out

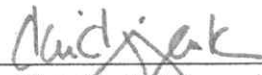
above. The settlement process, however, may be pursued simultaneously with the administrative litigation process. If a settlement can be reached, its terms will be expressed in a written consent agreement signed by the parties and incorporated into a final order by the Regional Judicial Officer. 40 C.F.R. § 22.18. To explore the possibility of settlement in this matter, contact Wendy Silver, Senior Attorney, at the address below. Ms. Silver can also be reached at (303) 312-6637.

United States Environmental Protection Agency, Region 8
Office of Enforcement, Compliance, and
Environmental Justice, Complainant.
1595 Wynkoop Street
Denver, CO 80202-1129


Date: 8/28/07

By: 
Darcy O'Connor, Unit Chief
NPDES Enforcement Unit

Date: 8.28.07

By: 
David J. Janik, Supervisory Attorney
Legal Enforcement Program

Date: 8/28/07

By: 
Wendy I. Silver, Senior Attorney
Legal Enforcement Program

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by certified mail, return receipt requested, a copy of the foregoing ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING, and a copy of the Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, to:

Jack A. Canon, Registered Agent
Samson Resources Company
Two West Second Street
Tulsa, OK 74103-3103

Certified Return Receipt No. 7006 3450 0002 1975 8766

I further certify that on the same date below I sent by certified mail, return receipt requested, a copy of this document to:

James B. Martin
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Certified Return Receipt No. 7006 3450 0002 1975 8773

The original and one copy were hand-delivered to:

Tina Artemis
Regional Hearing Clerk
U.S. Environmental Protection Agency (8RC)
1595 Wynkoop Street
Denver, CO 80202-1129

Date: 9/4/07

Judith M. McTernan

Enclosures:

1. Administrative Complaint and Notice of Opportunity for Hearing
2. Consolidated Rules of Civil Practice (40 C.F.R. Part 22)
3. U.S. EPA Small Business Resources Information Sheet
4. SEC Disclosure Notice

cc: James Martin, Colorado Department of Public Health and Environment
Clement Frost, Southern Ute Indian Tribe