



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

JUN 08 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Rusty Shaw, REM, CES, RSO
Health, Safety and Environmental
Compliance Manager
Denbury Onshore, LLC
5320 Legacy Drive
Plano, Texas 75024

Re: Consent Agreement and Final Order
In the Matter of Denbury Onshore, LLC, Olive Enhanced Oil Recovery Facility
Docket No. CAA-04-2011-1510(b)

Dear Mr. Shaw:

Enclosed please find a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.05(a) of the Consolidated Rules of Practice, as amended. Please refer to Section IV (Final Order), for the terms and instructions regarding Denbury Onshore, LLC's (Denbury's) final payment on the penalty due. Any questions regarding the processing of Denbury's penalty may be directed to to Mr. Bryson Lehman, Financial Management Office, at (513) 487-2123.

If you have any other questions, please contact Kevin Taylor of the South Air Enforcement Section at (404) 562-9134 or contact me at (404) 562-9589.

Sincerely,

A handwritten signature in black ink that reads "Beverly A. Spagg".

Beverly A. Spagg, Chief
Air Enforcement & EPCRA Branch
Air, Pesticides and Toxics
Management Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Denbury Onshore, LLC)
Olive Enhanced Oil Recovery Facility)
7969 Robert Jones Road)
Summit, Mississippi 39666)
)
Respondent)
_____)

Docket Number: CAA-04-2011-1510(b)

RECEIVED
EPA REGION 4
JUN -7 AM 8:13
MEMPHIS, TENN

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action/Jurisdictional Statements

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Denbury Onshore, LLC (hereinafter, "Respondent").
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.
3. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.
4. Respondent is a limited liability company doing business in the State of Mississippi.
5. Respondent is a "person" as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

6. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), authorizes EPA to promulgate emission standards for categories of sources of hazardous air pollutants (HAPs), listed in Section 112(b)(1) of the CAA. Those regulations have been promulgated at 40 C.F.R. Part 63, and regulate specific categories of stationary sources that emit (or have the potential to emit) one or more HAPs. The HAPs regulations contain general provisions in Subpart A and special provisions for specific categories in the Subparts to Part 63.
7. The requirements of 40 C.F.R. Part 63, Subpart HH, promulgated under Section 112(d) of the CAA, 42 U.S.C. § 7412, establish national emission standards for HAPs for the source category, Oil and Natural Gas Production and Natural Gas Transmission and Storage.
8. In accordance with Title V of the CAA, EPA promulgated minimum elements required by the CAA for State operating permit programs and the corresponding standards and procedures by which the EPA would approve, oversee, and withdraw approval of State operating permit programs, at 40 C.F.R. Part 70.
9. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$32,500 for each day of violation of the CAA that occurred between March 15, 2004, and January 12, 2009. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed.
10. Consistent with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the requisite joint determination was made by EPA and the United States Department of Justice.

II. Factual Allegations

11. Respondent operates an enhanced oil recovery facility at 7969 Robert Jones Road, Summit, Mississippi 39666.
12. On April 22, 2009, EPA and the Mississippi Department of Environmental Quality conducted an on-site inspection of Respondent's facility.
13. On July 14, 2009, EPA issued an information request letter to the Respondent, pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a).
14. The Respondent responded to the information request on August 10, 2009.
15. Respondent violated 40 C.F.R. §§ 63.9(b)(2) and 63.775(b)(1) when it did not submit the initial notification for an existing affected source by June 17, 2000.
16. Respondent violated 40 C.F.R. §§ 63.9(h) and 63.775(d) when it did not submit the notification of compliance status report (NOCSR) by December 14, 2002.

17. Respondent violated 40 C.F.R. § 63.760(f)(1) when it did not implement the provisions of the Subpart HH regulations by June 17, 2002.
18. Respondent violated 40 C.F.R. § 63.11(b)(6)(ii) when it did not maintain and record a net heating value for the gas stream venting to a non-assisted flare of greater than 200 BTU/scf.
19. Respondent violated 40 C.F.R. § 70.5 when it did not timely apply for a Title V permit as a major source of HAPs under the Subpart HH regulations.
20. Respondent violated 40 CFR § 63.11(a)(5) when it did not monitor the presence of the flare's pilot flame with a thermocouple or other equivalent device.

III. Consent Agreement

21. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraphs 1 through 10 above, but Respondent neither admits nor denies the factual allegations set forth in paragraphs 11 through 20 above.
22. As provided in 40 C.F.R. § 22.18(b)(2), Respondent waives any right to contest the allegations listed above and its right to appeal the proposed final order accompanying this consent agreement.
23. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.
24. Respondent certifies that, to the best of its knowledge, information and belief, as of the date of its execution of this CAFO, it is in full compliance with all the relevant requirements of 40 C.F.R. Part 63, Subparts A and HH, promulgated under Section 112(d) of the CAA, 42 U.S.C. § 7412.
25. Compliance with this CAFO shall resolve the alleged violations contained herein, and EPA hereby releases Respondent from liability for the violations alleged herein regarding Title V, and 40 C.F.R. Part 63, Subparts A and HH. This CAFO shall not otherwise affect any liability of Respondent, if any, to the United States. Other than as expressed herein, EPA does not waive any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO. Respondent reserves its rights and defenses regarding liability in any proceedings other than a proceeding by Complainant to enforce this CAFO.
26. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

IV. Final Order

27. Respondent shall pay a civil penalty of TWO HUNDRED THIRTY-SEVEN THOUSAND SIX HUNDRED THIRTY NINE (\$237,639) which shall be paid within thirty (30) days from the effective date of the CAFO.
28. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall reference on its face the name of the Respondent and the Docket Number of the CAFO.

OR

Respondent shall pay by wire transfer to the Federal Reserve Bank of New York with the following wire transfer content:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
TIN: 52-0852695
33 Liberty St.
New York NY 10045

Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency"

29. At the time of payment, Respondent shall send a separate copy of the check or send a copy of the wire transfer authorization form and transaction record, together with a transmittal letter which shall state that the payment is for the civil penalty owed pursuant to the Consent Agreement and Final Order in the Matter of the Denbury Onshore, LLC, Olive Enhanced Oil Recovery Facility, Docket No. CAA-04-2011-1510(b), to the following persons at the following addresses:

Regional Hearing Clerk	Ms. Saundi Wilson (OEA)
U.S. EPA - Region 4	U.S. EPA - Region 4
61 Forsyth Street, S.W.	61 Forsyth Street

Mr. Kevin Taylor
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

30. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim an expense or a deduction or a credit for the civil penalty payment made pursuant to paragraph 27.
31. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge may be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.
32. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
33. This CAFO shall be binding upon the Respondent, its successors and assigns.
34. The following person is authorized to receive service for EPA in this proceeding:

Mr. Kevin Taylor
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9746

35. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date

36. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Denbury Onshore, LLC

By: Barry Schneider (Signature) Date: 5-18-11
Name: Barry Schneider (Typed or Printed)
Title: Vice President - East Region (Typed or Printed)

U.S. Environmental Protection Agency

By: Carol G. Kamber for Date: 5/13/11
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
Region 4

APPROVED AND SO ORDERED this 7th day of June, 2011.

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

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 Denbury Onshore, LLC, Olive Enhanced Oil Recovery Facility, CAA-04-2011-1510(b), on the parties listed below in the manner indicated:

Kevin I. Taylor
Air, Pesticides, and Toxics
Management Division
61 Forsyth Street
Atlanta, GA 30303

(Via EPA's internal mail)

Michiko Kono
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, GA 30303

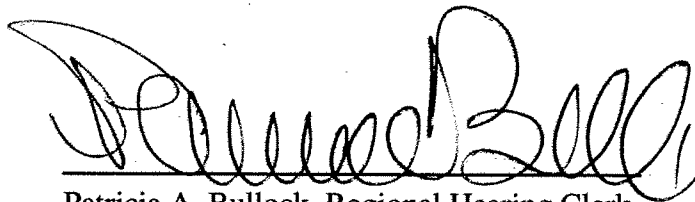
(Via EPA's internal mail)

Mr. Rusty Shaw, REM, CES, RSO
Health, Safety and Environmental
Compliance Manager
Denbury Onshore, LLC
5320 Legacy Drive
Plano, Texas 75024

(United Parcel Service with Electronic Confirmation Requested)

Date:

6-8-11



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 6/2/11
(Name) (Date)
in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: Denbury Onshore LLC / Olive Facility, Summit MS
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 237,639
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2011-1570(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|