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EPA REGION VI

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TX

IN THE MATTER OF:

Oilfield Solutions  
2614 S County Road 1257  
Midland Texas 79706

RESPONDENT

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Consent Agreement and Final Order  
USEPA Docket No. RCRA-06-2019-0914

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**CONSENT AGREEMENT AND FINAL ORDER**

**I.**

**PRELIMINARY STATEMENT**

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, Oilfield Solutions ("Respondent" or "OSI") and concerns the facility located at 2614 S. County Road 1257, Midland Texas ("the OSI Facility").
2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).
3. For the purpose of this CAFO, Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Respondent waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims in the CAFO.

5. The CAFO resolves only those violations which are alleged herein.
6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.

## **II.** **JURISDICTION**

7. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

## **III.** **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

9. Respondent is authorized to do business in the State of Texas.
10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 30 TEX.ADMIN.CODE § 3.2(25)<sup>1</sup>, [40 C.F.R. § 260.10].

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<sup>1</sup> On December 26, 1984, the State of Texas received final authorization for its base Hazardous Waste Management Program (49 FR 48300). Subsequent revisions have been made to the Texas Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this CAFO are to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated November 2014, incorporated by reference under 40 C.F.R. § 272.2201(c)(1)(i) effective on February 26, 2016. 80 Fed. Reg. 80672 (December 28, 2015); 40 C.F.R. § 272.2201: Texas State-Administered Program: Final

11. Respondent owns or operates the OSI Facility.
12. The OSI Facility is an Organic Chemical Manufacturer.
13. During the period from August 2018 to December 2018, EPA conducted a RCRA record review of the OSI Facility's activities as a generator of hazardous waste including a review of the information voluntarily provided to EPA by Respondent (the "Investigation").
14. During the Investigation, EPA discovered that Respondent, at a minimum, generated and offered for transport and treatment, hazardous waste having the characteristics of:
  - a. D001 (Ignitability);
  - b. D002 (Corrosivity); and
  - c. P022 (Carbon disulfide).
15. The OSI Facility is a "facility" within the meaning of 30 TEX.ADMIN.CODE § 335.1(60), [40 C.F.R. § 260.10].
16. The waste streams identified in Paragraph 14 are "hazardous waste" as defined in 30 TEX.ADMIN.CODE § 335.1 (70), [40 C.F.R. §§ 261.21, 261.22, 261.24, and 261.33].
17. From the Investigation, EPA determined that Respondent generated the hazardous waste streams identified in Paragraph 14 in quantities that exceeded the threshold amount of 1000 kilograms per calendar month under 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R. Part 262], for the periods that such wastes remained onsite.
18. Respondent is a "generator" of "hazardous waste" as those terms are defined in 30 TEX ADMIN.CODE §§ 335.1(66) & (70), [40 C.F.R. § 260.10].

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Authorization. References and citations to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Texas' published version. The corresponding C.F.R. citations are also provided.

19. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in 30 TEX.ADMIN.CODE Chapter 335, Subchapter C, [40 C.F.R. Part 262].

**Claim 1: Notification Requirements**

20. The allegations in Paragraphs 1-19 are re-alleged and incorporated herein by reference.

21. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with EPA or the authorized state a notification stating the location and general description of such activity and the identified characteristic or listed hazardous waste handled by such person. No identified characteristic or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless notification has been given as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

22. Respondent did not file with EPA or the authorized state, Texas, an adequate and timely notification of its hazardous waste activities at the Oilfield Solutions facility in 2016, 2017, or 2018 in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

**Claim 2: Failure to make Adequate Hazardous Waste Determinations**

23. The allegations in Paragraphs 1-19 are realleged and incorporated by reference.

24. Pursuant to 30 TEX.ADMIN.CODE § 335.62, [40 C.F.R. § 262.11(c)], a person who generates a solid waste, as defined in 30 TEX.ADMIN.CODE § 335.1, [40 C.F.R. § 261.2] must determine if the solid waste is a hazardous waste either by applying the required test method or by applying its knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.

25. EPA reviewed Respondent's records for the period from 2016, 2017, and 2018, and determined that Respondent failed to make adequate hazardous waste determinations on all of Respondent's solid waste streams at the Facility.
26. Respondent violated the requirements of RCRA and the regulations promulgated at 30 TEX.ADMIN.CODE § 335.62, [40 C.F.R. § 262.11] by failing to make the requisite hazardous waste determination on all solid waste streams generated by Respondent at the Oilfield Solutions Facility during the period from 2016, 2017, and 2018.

**Claim 3: Failure to Operate Within Declared Generator Status**

27. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.
28. During the Investigation, EPA learned that the Oilfield Solutions Facility declared its generator status as a conditionally exempt small quantity generator ("CESQG").
29. Pursuant to 30 TEX.ADMIN.CODE § 335.78(b), [40 C.F.R. § 261.5(b)], as long as a CESQG complies with the applicable requirement under 30 TEX.ADMIN.CODE §§ 335.78(e), (f), (g) and (j) and 40 C.F.R. §§ 261.5 (e), (f), (g) and (j), the generator's hazardous waste is not subject to regulation under 30 TEX.ADMIN.CODE, Chapter 335, Subchapters C-H and O; 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.
30. During portions of 2016, 2017, and 2018, the OSI Facility exceeded their declared CESQG status and operated in all instances as a large quantity generator in violation of one or more of the requirements for large quantity generators under 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R. § 262.34].

**Claim 4: Failure to Keep Required Records**

31. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.

32. Pursuant to 30 TEX.ADMIN.CODE § 335.70(a), [40 C.F.R. § 262.40(c)], a generator must keep records of any test results, waste analyses, training documents, land disposal restriction paperwork or other determinations made in accordance with 30 TEX.ADMIN.CODE § 335.62, [40 C.F.R. § 262.11] for at least three years from the date the waste was last sent to an on-site or off-site facility for treatment, storage, or disposal.
33. At all times relevant to this CAFO, the Oilfield Solutions Facility did not create and keep the requisite hazardous waste facility operation records made in violation of 30 TEX.ADMIN.CODE § 335.70(a), [40 C.F.R. § 262.40(c)].

**Claim 5: Storage of Hazardous Waste without a Permit**

34. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.
35. Pursuant to 30 TEX.ADMIN.CODE § 335.69, [40 C.F.R. § 262.34(a)], a generator of hazardous waste who accumulates its hazardous waste on site is exempted from the permit or interim status requirements of RCRA, provided the generator complies with the applicable requirements set forth at 30 TEX.ADMIN.CODE § 335.69, [40 C.F.R. § 262.34].
36. Pursuant to 30 TEX.ADMIN.CODE § 335.69(b), [40 C.F.R. § 262.34(b)], a generator of hazardous waste in quantities that exceed 1,000 kilograms per calendar month, who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. Parts 264, 265, 267, and the permit requirements of 270, unless the generator has been granted an extension to the 90-day period.
37. During the period of 2016, 2017, and 2018, the Oilfield Solutions Facility accumulated various amounts of hazardous waste on site, having the D001, D002, and P022 waste codes. Respondent was not granted an extension to the 90-day period, for the hazardous waste

described in Paragraph 36, pursuant to 30 TEX.ADMIN.CODE § 335.69(b), [40 C.F.R. § 262.34(b)].

38. For the time periods described in Paragraph 38, Respondent stored hazardous waste at the facility in violation of 30 TEX.ADMIN.CODE Subchapters C and F, [40 C.F.R. Parts 264, 265, 267, and 270].

**Claim 6: Failure to comply with the Land Disposal Restrictions**

39. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.

40. Pursuant to 30 TEX.ADMIN.CODE § 335.431 [40 C.F.R § 268], certain requirements associated with land disposal restrictions apply to persons that generate hazardous waste.

41. During the years 2016, 2017, and 2018, the facility generated hazardous waste, but failed to comply with the requirements associated with land disposal restrictions found in 40 C.F.R § 268.

**IV.  
COMPLIANCE ORDER**

42. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within 90 calendar days of the effective date of this CAFO,

Respondent shall provide in writing the following:

- a. Respondent shall certify that it has assessed all of its solid waste streams at the OSI Facility to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the OSI Facility in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting,



transporting, and disposing of hazardous waste; (d) preparing manifests; and (e) meeting the requirements associated with land disposal restrictions.

- b. Respondent shall certify that it has accurately and adequately complied with the RCRA Section 3010 notification requirements for the OSI Facility.
- c. Respondent shall provide, with its certification, a copy of Respondent's SOPs and waste determination documents as described in subparagraph "a" above.
- d. Respondent shall provide, with its certification, documentation that all OSI employees are properly trained in all areas applicable to Large Quantity Generator status to include RCRA, DOT, and OSHA trainings based upon job description and adjacency to operations involving hazardous waste to include direct handling, shipping, on-site transloading, and emergency response.
- e. Respondent shall submit, with its certification, documentation showing compliance with regulations pertaining to Large Quantity Generators for contingency planning including arrangements with local emergency authorities, and emergency procedures (40 C.F.R. § 265.37 and § 265.56).
- f. Respondent shall submit, with its certification, proof the facility contingency plan has been properly distributed (40 C.F.R. § 265.53).

43. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I



am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency  
Enforcement and Compliance Assurance Division  
Waste Enforcement Branch (ECDS)  
1201 Elm Street, Ste 500  
Dallas, TX 75270-2102  
Attn: Fred Deppe

Where required, notice shall be sent electronically by email or facsimile to Enforcement Officer Fred Deppe, at [deppe.fred@epa.gov](mailto:deppe.fred@epa.gov) or at 214-665-7591.

**V.**  
**TERMS OF SETTLEMENT**

A. Penalty Provisions

44. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of Three Hundred Eighteen Thousand, Five Hundred and Sixty Dollars (\$318,560.00).

45. The penalty shall be paid within ninety (90) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America.

46. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center

P.O. Box 979077  
St. Louis, MO 63197-9000

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

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

Wire Transfers should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

The case name and docket number (In the Matter of Oilfield Solutions, Docket No. RCRA-06-2019-0914) shall be clearly documented on or within the chosen method of payment to ensure proper credit.

47. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Ste 500  
Dallas, Texas 75270-2102

Mark Potts, Chief  
Waste Enforcement Branch (ECDS)  
Enforcement and Compliance Assurance Division  
U.S. EPA, Region 6  
1201 Elm Street, Ste 500  
Dallas, Texas 75270-2102  
Attention: Enforcement Officer Fred Deppe

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

48. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within ninety (90) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the ninety (90) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

#### **B. Costs**

49. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

**C. Termination and Satisfaction**

50. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 43. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

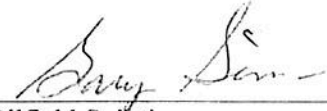
**D. Effective Date of Settlement**

51. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:**

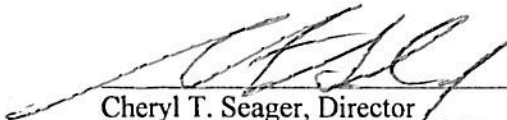
FOR THE RESPONDENT:

Date: August 14, 2019

  
\_\_\_\_\_  
Oilfield Solutions  
General Manager

FOR THE COMPLAINANT:

Date: \_\_\_\_\_

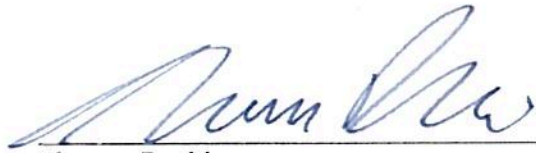
  
\_\_\_\_\_  
Cheryl T. Seager, Director  
Enforcement and Compliance  
Assurance Division

**FINAL ORDER**

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: \_\_\_\_\_

8/19/19



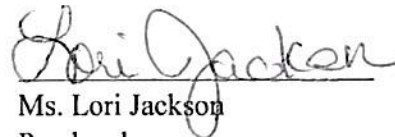
Thomas Rucki  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of August, 2019, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1202 Elm Street Ste 500, Dallas, Texas 75270-2102, and that a true and correct copy of the CAFO was sent to the following by the method below:

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED 70010360000366748360

Mr. Gary Sisson  
Oilfield Solutions  
2614 S County Road 1257  
Midland Texas 79706

  
Ms. Lori Jackson  
Paralegal