



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

November 12, 2020

10:11 AM

Received by

EPA Region VIII

Hearing Clerk

DOCKET NO.: CWA-08-2021-0004

IN THE MATTER OF:

RIO MESA RESOURCES, INC.

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Expedited Penalty Action and Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Expedited Penalty Action and Consent Agreement, effective immediately upon filing this Expedited Penalty Action and Consent Agreement and Final Order.

SO ORDERED THIS 12TH DAY OF NOVEMBER, 2020.

KATHERIN
HALL

Digitally signed by
KATHERIN HALL
Date: 2020.11.12 10:09:23
-07'00'

Katherin E. Hall
Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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In the Matter of:

EXPEDITED PENALTY ACTION
AND CONSENT AGREEMENT

Rio Mesa Resources, Inc.

Docket No.: CWA-08-2021-0004

On October 10, 2019, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection of the Getty Amoco #29 and Carney 4-5 production facilities located near Rangely, Colorado. This facility is owned and/or operated by Rio Mesa Resources, Inc. (Respondent). The purpose of the inspection was to determine compliance with the Spill Prevention Control and Countermeasure regulations promulgated at 40 C.F.R. Part 112, Subparts A-C, under Section 311(j) of the Clean Water Act (Act), 33 U.S.C. § 1321(j). As a result of the inspection, the EPA has found that Respondent, a "person" as defined in section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7), violated the regulations as described in attached Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, Proposed Penalty Form (Violations Form), which is hereby incorporated by reference.

Respondent and the undersigned EPA Complainant enter into this Expedited Penalty Action and Consent Agreement (Consent Agreement) to settle Respondent's federal civil penalty liability for the violations set forth in the Violations Form for a penalty payment of \$1,750.00. This Consent Agreement and any final order by an EPA Regional Judicial Officer ratifying this Consent Agreement (Final Order) will commence and conclude this action pursuant to Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the violations set forth in the Violations Form have been corrected.

Respondent consents to the assessment of a penalty in the amount specified above. Respondent agrees that it shall, within 30 calendar days of the date of issuance of the Final Order, make payment in this amount by any of the methods provided on the website https://www.epa.gov/financial/makepayment, a printout of which is attached and entitled "Payment Instructions." The payment shall also indicate it is payable to "Oil Spill Liability Trust Fund-311" and be identified with the docket number that appears on the Final Order. Within 24 hours of payment, the Respondent shall also send proof of payment to each of the following at the respective email addresses indicated below:

Darla Hohman, Environmental Scientist
Enforcement and Compliance Assistance Division (8ENF-RO-O)
Region 8, U.S. Environmental Protection Agency
Hohman.darla@epa.gov

and

Melissa Haniewicz, Regional Hearing Clerk
Region 8, U.S. Environmental Protection Agency
Haniewicz.melissa@epa.gov

The term "proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer and any other information required to demonstrate that payment has been made according to EPA requirements.

Consistent with Section 162(f) of the Internal Revenue Code, 26 U.S.C. §162(f), Respondent will not deduct penalties paid under this Consent Agreement for federal tax purposes.

This Consent Agreement and the accompanying Final Order resolve only the federal civil penalty claims for the specific violations alleged in the Violations Form. In addition, this settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, the EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations, to enforce the provisions of this Consent Agreement and the Final Order following its filing with the Regional Hearing Clerk. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the EPA or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

Respondent neither admits nor denies the allegations set forth in the Violations Form, but Respondent admits that the EPA has jurisdiction over this matter under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and 40 C.F.R. Part 22. For the purposes of this proceeding, Respondent waives any right to contest the allegations in the Violations Form and its right to appeal the proposed Final Order that would ratify this Consent Agreement. Moreover, Respondent agrees to bear its own costs and attorney's fees related to this Consent Agreement. Complainant and Respondent consent to service of this Consent Agreement and the Final Order by e-mail at the following valid e-mail addresses: livingston.peggy@epa.gov (for Complainant) and hayespetro@centurytel.net (for Respondent).

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to it.

SIGNATURE BY RESPONDENT:

Signature Michael G Hayes Date 8/21/20

Name and Title (print): Michael G Hayes President

Mailing Address: Rio Mesa Resources Inc.
PO Box 984, Rangely CO 81648

Email Address: hayespetroleum@gmail.com

Telephone: 970-675-8491 office
970-620-2257 cell 2

SIGNATURE BY EPA/COMPLAINANT:

FRANCISCA CHAMBUS Digitally signed by FRANCISCA CHAMBUS
Date: 2020.11.10 11:38:42 -07'00'

Date _____

Janice Pearson, Chief
RCRA and OPA Enforcement Branch
Region 8, U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202
pearson.janice@epa.gov
303-312-6354

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) and (c), the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

Respondent is hereby ORDERED to comply with all terms of this Consent Agreement, effective upon the date of signature of this Final Order.

Regional Judicial Officer

Date



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

August 13, 2020

Ref: 8ENF-RO-O

SENT VIA EMAIL
DIGITAL READ RECEIPT REQUESTED

Mr. Mike Hayes, Registered Agent
Rio Mesa Resources, Inc.
PO Box 984
Rangely, Colorado 81648
hayespetro@centurytel.net

Re: Expedited Settlement Offer for Violations of Spill Prevention Control and Countermeasure Regulations for Rio Mesa Resources

Dear Mr. Hayes:

On October 10, 2019, Region 8 of the U.S. Environmental Protection Agency conducted an inspection at the Getty Amoco #29 and Carney 4-5 production facilities near Rangely, Colorado. These facilities are owned and/or operated by Rio Mesa Resources, Inc. (Rio Mesa). The purpose of the inspection was to evaluate Rio Mesa's compliance with the Spill Prevention Control and Countermeasure (SPCC) regulations promulgated at 40 CFR Part 112, Subparts A-C, under Section 311(j) of the Clean Water Act (Act), 33 U.S.C. §1321(j).

The inspection revealed that Rio Mesa did not have an SPCC plan, as required by the SPCC regulations. The apparent violation is outlined in the enclosed SPCC Inspection Findings, Alleged Violations, and Proposed Penalty Form (Violations Form).

The EPA has authority under Section 311(b) of the Act to take enforcement actions, including seeking civil penalties, for the alleged violation outlined in the Violations Form. At this time, rather than undertake a more traditional enforcement action for civil penalties, the EPA is offering Rio Mesa the opportunity to enter into the enclosed Expedited Settlement Agreement (ESA), provided Rio Mesa (1) develops an adequate SPCC plan the deficiencies cited in the inspection report and in the Violations Form and (2) agrees to pay an administrative civil penalty of \$1,750.00.

It is important for all deficiencies identified in the Violations Form and inspection report to be corrected promptly. Before the EPA agrees to enter into the ESA, you will need to submit evidence, including photographs, demonstrating all such deficiencies have been corrected, and a complete SPCC plan. Please note that by signing the ESA, Rio Mesa will certify all violations alleged in the Violations Form have been corrected.

If you intend to enter into this ESA, please sign and return it, together with documentation of the deficiencies having been corrected, within 30 days of your receipt of this letter to:

Darla Hohman (8ENF-RO-O)
U.S. EPA Region 8
RCRA/OPA Enforcement Branch
hohman.darla@epa.gov

Please note that because many employees in the EPA's Denver office are telecommuting due to the COVID-19 outbreak, we are requesting that you communicate with our office by telephone and email. We have access to EPA telephones and email.

Although the ESA will commit the Rio Mesa Resources to pay a civil administrative penalty, you do not need to make that payment at the time you return the signed ESA to the EPA. After the EPA representative signs the ESA, we will then ask the Regional Judicial Officer to issue a Final Order approving the ESA. You will subsequently be notified of the issuance of the Final Order, and your penalty will be due 30 days after the Final Order is signed. The mechanics for payment are set forth in the Expedited Settlement Agreement Payment Instructions accompanying the ESA.

Entering into the enclosed ESA and paying the penalty will resolve Rio Mesa's liability for federal civil penalties for the violations alleged in the Violations Form up to October 10, 2019.. In other words, for the violations alleged in the Violations Form, up to that date, there will be no additional federal civil penalties. As with any settlement of administrative civil penalties, regardless of whether you enter into the ESA, the EPA reserves its rights to issue an administrative compliance order, to seek a court injunction directing compliance, and/or to pursue criminal sanctions in the event any such actions are appropriate.

Please keep in mind that this letter and the enclosures are a settlement offer from the EPA. If you do not accept this offer and the EPA initiates a formal enforcement action for a penalty, this offer would not be admissible, under Rule 408 of the Federal Rules of Evidence and 40 C.F.R. § 22.22(a)(1).

This offer is open for a period of 30 days from your receipt of this letter. The EPA may, at its discretion, grant up to a 90-day extension for you to come into compliance with the SPCC regulations, but only if you demonstrate that it is technically infeasible or impracticable to achieve compliance within 30 days. You must submit a request for an extension to Darla Hohman at the above address within 14 days of your receipt of this letter. If the EPA grants the extension request, you will receive an approval letter. You must correct the violations within the approved time frame. If you do not return the signed ESA and documentation of corrective action within the allotted time, this offer will be automatically withdrawn, and the EPA may pursue a more formal enforcement action for penalties. This could potentially involve a longer process and result in a greater penalty. Under the Act, the EPA is authorized to seek substantially greater civil penalties per day of violation. 33 U.S.C. §1321(b)(7)(C); 40 C.F.R. Part 19. In addition, the EPA may take further action if you sign the ESA but do not pay the penalty.

The EPA acknowledges that the COVID-19 pandemic may be impacting your business. We will consider nationwide public health developments and your specific circumstances in determining an appropriate timeline for settlement in this case ensuring that the Agency receives the information it needs to timely confirm your company's compliance with the SPCC regulations.

The EPA encourages expeditious settlements and is committed to settling this matter fairly and expeditiously. If you have any questions, please do not hesitate to call me at 303-312-6354 or pearson.janice@epa.gov. If you have any technical questions or comments, please contact Darla Hohman at 303-312-6263 or Hohman.darla@epa.gov. If you are represented by an attorney in this matter, please ask the attorney to contact Peggy Livingston, Senior Assistant Regional Counsel, at 303-312-6858 or livingston.peggy@epa.gov.

We look forward to hearing from you.

Sincerely,

Janice Pearson

Digitally signed by Janice
Pearson
Date: 2020.08.13 15:11:05 -06'00'

Janice Pearson, Chief
RCRA/OPA Enforcement Branch

Enclosures:
Violations Form
Expedited Settlement Agreement
Payment Instructions

**Spill Prevention Control and Countermeasure Inspection
Findings, Alleged Violations, and Proposed Penalty Form**

These Findings, Alleged Violations and Penalties are issued by EPA under the authority vested in the Administrator of the EPA by Section 311(b)(6)(B)(1) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name Rio Mesa Resources	Docket Number
Facility Name Carney 4-5 and Getty Amoco 29	Date 10-10-19
Address Rio Mesa County	Facility ID Number
City Rangely	Inspector's Name Darla Hohman
State CO	EPA Approving Official
Zip Code 	Enforcement Contact Darla Hohman
Contact Mike Hayes	
Total Storage Capacity 17,200	



**Summary of Findings
(Production Facilities)**

GENERAL TOPICS: 40 C.F.R 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

-
- Failure to have or implement a Spill Prevention Control and Countermeasure Plan 112.3 (\$1,750) \$1,750
 - Plan or sections of the hybrid plan are not certified by a professional engineer 112.3(d) (\$500)
 - Certification lacks one or more required elements 112.3(d)(1) (\$125)
 - Plan not maintained on site (if manned at least four hrs/day) or not available for review 112.3(e)(1) (\$350)
 - No evidence of five-year review of plan by owner/operator 112.5(b) (\$100)
 - No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential 112.5(a) (\$100)
 - Amendment(s) not certified by a professional engineer 112.5(c) (\$175)
 - No management approval of plan 112.7 (\$500)
 - Plan does not follow sequence of the rule and/or cross-reference not provided 112.7 (\$175)
 - Plan does not discuss additional procedures/methods/equipment not yet fully operational 112.7 (\$100)

- Plan does not discuss alternative environmental protection to SPCC requirements 112.7(a)(2) (\$225)
- Plan has inadequate or no facility diagram 112.7(a)(3) (\$100)
- Inadequate or no listing of type of oil and storage capacity layout of containers 112.7(a)(3)(i) (\$75)
- Inadequate or no discharge prevention measures 112.7(a)(3)(ii) (\$75)
- Inadequate or no description of drainage controls 112.7(a)(3)(iii) (\$75)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup 112.7(a)(3)(iv) (\$75)
- Recovered materials not disposed of in accordance with legal requirements 112.7(a)(3)(v) (\$75)
- No contact list & phone numbers for response & reporting discharges 112.7(a)(3)(vi) (\$75)
- Plan has inadequate or no information and procedures for reporting a discharge 112.7(a)(4) (\$125)
- Plan has inadequate or no description and procedures to use when a discharge may occur 112.7(a)(5) (\$175)
- Inadequate or no prediction of equipment failure which could result in discharges 112.7(b) (\$175)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment 112.7 (c) (\$450)
- Inadequate containment or drainage for Loading Area- 112.7(c) (\$450)
- If claiming impracticability of containment and appropriate diversionary structures:**
- Impracticability has not been clearly denoted and demonstrated in plan 112.7(d) (\$125)
- No contingency plan 112.7(d)(1) (\$175)
- No written commitment of manpower, equipment, and materials 112.7(d)(2) (\$175)
- No periodic integrity and leak testing 112.7(d) (\$175)
- Plan has no or inadequate discussion of general requirements not already specified 112.7(j) (\$100)
- Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e) (\$175)

QUALIFIED FACILITY REQUIREMENTS: 40 C.F.R. 112.6

- Qualified Facility: No Self certification 112.6(a) (\$500)
- Qualified Facility: Self certification lacks required elements 112.6(a) (\$125)
- Qualified Facility: Technical amendments not certified 112.6(b) (\$175)
- Qualified Facility: Qualified Facility Plan includes alternative measures not certified by licensed Professional Engineer 112.6(b) \$175
- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE 112.6(d) (\$400)

WRITTEN PROCEDURES AND INSPECTION RECORDS: 40 C.F.R. 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112.7(e) (\$100)
- Inspections and tests required are not in accordance with written procedures developed for the facility 112.7(e) (\$100)
- The plan has inadequate or no discussion of written procedures for inspection records 112.7(a)(1) (\$100)
- No Inspection records were available for review 112.7(e) (\$225)
(Written procedures and/or a record of inspections and/or customary business records)
- Inspection records are not signed by appropriate supervisor or inspector 112.7(e) (\$100)
- Inspection records are not maintained for three years 112.7(e) (\$100)

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

- No training on the operation and maintenance of equipment to prevent discharges and/or facility operations 112.7(f)(1) (\$100)
- No training on discharge procedure protocols 112.7(f)(1) (\$100)
- No training on the applicable pollution control laws, rules and regulations, and/or SPCC plan 112.7(f)(1) (\$100)
- No designated person accountable for spill prevention 112.7(f)(2) (\$100)
- Spill prevention briefings are not scheduled and conducted at least once per year per 112.7(f)(3) (\$100)
- Plan has inadequate or no discussion of personnel and spill prevention procedures 112.7(a)(1) (\$100)

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING: 40 C.F.R. 112.7(c) and/or (h-j)

- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin treatment system, or quick drainage system 112.7(h)(1) (\$850)
- Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck 112.7(h)(1) (\$525)
- There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before complete disconnect from transfer lines- 112.7(h)(2) (\$350)
- There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck- 112.7(h)(3) (\$175)
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack 112.7(a)(1) (\$100)

QUALIFIED OIL OPERATIONAL EQUIPMENT: 40 C.F.R. 112.7(k)

- Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge 112.7(k)(2)(i) (\$175)
- Failure to provide an oil spill contingency plan 112.7(k)(2)(ii)(A) (\$175)
- No written commitment of manpower, equipment, and materials 112.7(k)(2)(ii)(B) (\$175)

OIL PRODUCTION FACILITY DRAINAGE: 40 C.F.R. 112.9(b)

- Drains for the secondary containment systems at tank batteries **and** separation **and** central treating areas are not closed and sealed at all times except when uncontaminated rainwater is being drained 112.9(b)(1) (\$700)
- Prior to the drainage of diked areas, rainwater is not inspected, valves opened and resealed under responsible supervision and records kept of such events 112.9(b)(1) (\$525)
- Accumulated oil on the rainwater is not removed and returned to storage or disposed of in accordance with legally approved methods 112.9(b)(1) (\$350)
- Field drainage system (e.g. drainage ditches and road ditches), oil traps, sumps, and/or skimmers are not regularly inspected and/or oil is not promptly removed 112.9(b)(2) (\$350)
- Inadequate or no records maintained for drainage events 112.9 (\$100)
- Plan has inadequate or no discussion of facility drainage 112.9 (\$100)

BULK STORAGE CONTAINERS: 40 C.F.R. 112.7(i) and 112.9(c)

- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$100)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$350)
- Container material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature 112.9(c)(1) (\$525)
- Size of secondary containment appears to be inadequate for containers and treating facilities 112.9(c)(2) (\$850)
- Drainage from undiked areas are not safely confined in a catchment basin or holding pond 112.9(c)(2) (\$450)
- Secondary containment materials are not sufficiently impervious to contain oil 112.9(c)(2) (\$425)
- Excessive vegetation which affects the integrity 112.9(c)(2) (\$175)
- Walls of containment system slightly eroded or have low areas which impact the containment sizing/ capacity requirements 112.9(c)(2) (\$350)
- Visual inspections of containers, foundation and supports are not conducted periodically for deterioration and maintenance needs 112.9(c)(3) (\$525)
- Tank battery installations are not in accordance with good engineering practice because none of the following are present 112.9(c)(4) (\$525)
 - (1) Adequate tank capacity to prevent tank overfill 112.9(c)(4)(i), or
 - (2) Overflow equalizing lines between the tanks 112.9(c)(4)(ii), or
 - (3) Vacuum protection to prevent tank collapse 112.9(c)(4)(ii), or
 - (4) High level alarms to generate and transmit and alarm signal where facilities are part of a computer control system- 112.9(c)(4)(iv).
- Plan has inadequate or no discussion of bulk storage tanks- 112.7(a)(1) (\$100)

CERTIFICATE OF SERVICE

The undersigned certifies that the attached **EXPEDITED PENALTY ACTION AND CONSENT AGREEMENT** and the **FINAL ORDER** in the matter of **RIO MESA RESOURCES, INC.; DOCKET NO.: CWA-08-2021-0004** was filed with the Regional Hearing Clerk on November 12, 2020.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Peggy Livingston, Enforcement Attorney, and sent via certified receipt email on November 12, 2020, to:

Respondent

Michael G. Hayes
Rio Mesa Resources, Inc.
Tracy@colocpa.com
Hayespetro@centurytel.net

EPA Financial Center

Jessica Chalifoux
U. S. Environmental Protection Agency
Cincinnati Finance Center
Chalifoux.Jessica@epa.gov

November 12, 2020

MELISSA
HANIEWICZ

Digitally signed by
MELISSA HANIEWICZ
Date: 2020.11.12
11:58:37 -07'00'

Melissa Haniewicz
Regional Hearing Clerk