

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-10-2022-0205
)	
BAKER PETROLITE LLC,)	CONSENT AGREEMENT
)	
Kenai, Alaska,)	
)	
Respondent.)	
)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928.

1.2. The State of Alaska has not been authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, to carry out a hazardous waste program in lieu of the Federal program. Pursuant to Section 3008(a) of RCRA, EPA may enforce the federal hazardous waste program in the State of Alaska.

1.3. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Baker Petrolite LLC (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violation of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

A. Statutory and Regulatory Background

3.1. 40 C.F.R. § 260.10 defines a “person” as an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

3.2. 40 C.F.R. § 260.10 defines “facility” to mean all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

3.3. 40 C.F.R. § 260.10 defines “owner” as the person who owns a facility or part of a facility.

3.4. 40 C.F.R. § 260.10 defines “operator” as the person responsible for the overall operation of a facility.

3.5. 40 C.F.R. § 260.10 defines “generator” to mean any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.

3.6. 40 C.F.R. § 261.2(a)(1), defines “solid waste” as any discarded material that is not excluded under 40 C.F.R. § 261.4(a) or that is not excluded by a variance granted under 40 C.F.R. §§260.30 and 260.31 or that is not excluded by a non-waste determination under 40 C.F.R. §§260.30 and 260.34. “Discarded material” is defined at 40 C.F.R. § 261.2(a)(2)(i) to mean any material which is abandoned.

3.7. 40 CFR § 261.3 defines “hazardous waste” as a “solid waste” as defined in 40 C.F.R. § 261.2 that has not been excluded from regulation as a hazardous waste under § 261.4(b) and which meets any of the criteria identified in 40 C.F.R. § 261.3(a)(2).

3.8. Respondent provides support activities for oil and gas operations as a chemical distribution corporation doing business in and organized under the laws of the State of Alaska.

3.9. Respondent is a “person” as that term is defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15).

3.10. At all times relevant to the allegations set forth herein, Respondent has been the “owner” and “operator” of the Baker Petrolite LLC facility located in Kenai, Alaska (the “Facility”), as those terms are defined at 40 C.F.R. § 260.10.

3.11. Respondent produced hazardous waste at the Facility between March 5, 2017, and July 22, 2020, as that term is defined at 40 CFR § 261.3.

3.12. Respondent is a “generator” as that term is defined at 40 C.F.R. § 260.10.

3.13. At all times relevant to the allegations set forth herein, Respondent’s Facility was not a permitted treatment, storage, disposal facility, nor an interim status facility under Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 1: Storage and Treatment of Hazardous Waste Without a Permit or Interim Status

3.14. Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.1(c) require that any person who treats, stores, or disposes of hazardous waste have a permit or interim status.

3.15. The owner and operator of a facility which treats, stores, or disposes of hazardous waste must meet the applicable standards in 40 C.F.R. Part 264.

3.16. 40 C.F.R. §262.16 provides that a small quantity generator (“SQG”) may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all the conditions for exemption listed in that section are met.

3.17. 40 C.F.R. §262.17 provides that a large quantity generator (“LQG”) may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all of the conditions specified in that section are met.

Count 1a: Failure to Conduct Weekly Inspections

3.18. 40 C.F.R. §262.16(b)(2)(iv) provides that, at least weekly, a SQG must inspect central accumulation areas and must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

3.19. 40 C.F.R. § 262.17(a)(1)(v) provides that, at least weekly, a LQG must inspect central accumulation areas and must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

3.20. Between December 21, 2016, and December 19, 2018, Respondent was an SQG of hazardous waste, as determined pursuant to the provisions of 40 C.F.R. § 262.13.

3.21. Between December 20, 2018, and May 27, 2019, Respondent was an LQG of hazardous waste, as determined pursuant to the provisions of 40 C.F.R. § 262.13.

3.22. Between May 28, 2019, and June 21, 2020, Respondent was a SQG of hazardous waste, as determined pursuant to the provisions of 40 C.F.R. § 262.13.

3.23. Respondent failed to conduct weekly inspections for 16 weeks between March 5, 2017 and July 22, 2020.

3.24. Respondent failed to meet the conditions of 40 C.F.R. § 262.16(b)(2)(iv) and 40 C.F.R. § 262.17(a)(1)(v).

Count 1b: Failure to Comply with Satellite Accumulation Requirements

3.25. 40 C.F.R. § 262.15(a) provides that a generator may accumulate as much as 55 gallons of non-acute hazardous waste and/or either one quart of liquid acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter or 1 kg (2.2 lbs) of solid acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter in containers at or near any point of generation

where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, provided that all of the conditions for exemption in this section are met.

3.26. 40 C.F.R. § 262.15(a)(4) requires that a container holding hazardous waste must be closed at all times during accumulation, except when adding, removing, or consolidating waste or when temporary venting of a container is necessary.

3.27. On July 22, 2020, EPA conducted an inspection at the Facility's transfer room and observed a 55-gallon satellite accumulation container with an unlatched funnel lid.

3.28. Respondent violated the conditions of 40 C.F.R. § 262.15(a)(4).

3.29. By failing to comply with the aforementioned conditions for an exemption to the requirement to obtain a permit, and operating a treatment, storage, or disposal facility without a permit or interim status, Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.

3.30. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$109,024 per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$15,874 (the “Assessed Penalty”).

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following electronic mail addresses:

Regional Hearing Clerk	Matthew Quarterman
U.S. Environmental Protection Agency	U.S. Environmental Protection Agency
Region 10	Region 10
R10_RHC@epa.gov	Quarterman.Matthew@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become

immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order attached hereto, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order attached hereto.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.10. The Assessed Penalty, including any additional costs incurred under Paragraph 4.8 represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.15. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

4.16. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

8.31.22

FOR RESPONDENT:



ALBERTO RAMIREZ, Vice President
Baker Petrolite LLC

DATED:

FOR COMPLAINANT:

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-10-2022-0205
)	
BAKER PETROLITE LLC,)	FINAL ORDER
)	
Kenai, Alaska,)	
)	
Respondent.)	
)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has re delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violation alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall 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 does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this _____ day of _____, 2022.

RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Baker Petrolite LLC, Docket No.: RCRA-10-2022-0205** was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered via electronic mail to:

Lena Freij
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
freij.lena@epa.gov

Alberto Ramirez
Vice President
Baker Petrolite LLC
alberto.ramirez@bakerhughes.com

Joseph Dawley
Director, Legal Sustainability and HSE Law
Baker Hughes Company
joseph.dawley@bakerhughes.com

DATED this _____ day of _____, 2022.

Regional Hearing Clerk
EPA Region 10