

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY 08 JAN -8 AM 9 30  
REGION 6

REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of §  
§  
Bobby Rowe Energy, Inc., §  
an Oklahoma corporation, §  
§ DOCKET NO. CWA-06-2007-1835  
§  
Respondent §  
§  
Facility No. OKU000616 §

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the United States Environmental Protection Agency ("EPA") pursuant to Section 309(g) of the Clean Water Act (herein "the Act"), 33 U.S.C. § 1319(g). This CAFO is issued in accordance with 40 C.F.R. § 22.18, as described in the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits."

2. On May 25, 2007, EPA Region 6 issued to Respondent an Administrative Complaint ("Complaint") under Section 309(g) of the Act, 33 U.S.C. § 1319(g), which proposed to assess a civil penalty against Respondent, and gave notice of Respondent's opportunity to request a hearing on the proposed administrative penalty assessment.

3. The Parties agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public's interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged in the Complaint.

4. Respondent admits the jurisdictional allegations of the Complaint; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or the Findings of Fact and Conclusions of Law contained in this CAFO.

5. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in the Complaint and this CAFO and waives its right to appeal the Final Order set forth herein.

6. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method set forth below.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. Bobby Rowe Energy, Inc. (herein "Respondent") is a corporation which was incorporated under the laws of the State of Oklahoma, and as such, is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

8. At all times relevant to this action, Respondent owned or operated an oil field facility located in the Northwest Quarter of Section 11, Township 14 North, Range 11 East, Beggs, Okmulgee County, Oklahoma ("the facility") and was therefore an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

9. The Complaint specified findings of fact and conclusions of law that are hereby incorporated by reference and alleged, among other things, that at the relevant times: Respondent was a "person" that "owned or operated" a facility that was a "point source" subject to a "discharge" of "pollutants" to identified "waters of the United States" within the meaning of

Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2; Respondent and the facility were subject to the provisions of the Act, 33 U.S.C. § 1251 et seq., and the National Pollutant Discharge Elimination System (“NPDES”) program; and Respondent violated Section 301 of the Act, 33 U.S.C. § 1311, by discharging pollutants, specifically oil field brine, to waters of the United States as specified in the Complaint.

10. With the issuance of the Complaint, the Oklahoma Corporation Commission was notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against Respondent.

11. EPA notified the public of the Complaint via the internet and afforded the public thirty days to comment on the Complaint and proposed penalty. At the expiration of the notice period, EPA had received no comments from the public.

### III. TERMS OF SETTLEMENT

#### A. PENALTY PROVISIONS

12. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of fourteen thousand four hundred dollars (\$14,400) to settle the violations as alleged in the Complaint, in accordance with 40 C.F.R. § 22.18(c). The following table displays the monthly installment plan for payment of the penalty:

Payment	Payment Amount	Payment Due	Balance
1	\$1,200	Within 30 days after effective date of CAFO	\$13,200
2	\$1,200	Within 60 days after effective date of CAFO	\$12,000
3	\$1,200	Within 90 days after effective date of CAFO	\$10,800
4	\$1,200	Within 120 days after effective date of CAFO	\$9,600
5	\$1,200	Within 150 days after effective date of CAFO	\$8,400
6	\$1,200	Within 180 days after effective date of CAFO	\$7,200
7	\$1,200	Within 210 days after effective date of CAFO	\$6,000
8	\$1,200	Within 240 days after effective date of CAFO	\$4,800
9	\$1,200	Within 270 days after effective date of CAFO	\$3,600
10	\$1,200	Within 300 days after effective date of CAFO	\$2,400
11	\$1,200	Within 330 days after effective date of CAFO	\$1,200
12	\$1,200	Within 360 days after effective date of CAFO	\$0.00

13. Payments shall be made in accordance with the above schedule with the first payment being made within thirty days after the effective date of this CAFO by mailing cashier's checks or certified checks, payable to "Treasurer of the United States," to the following address:

Regional Hearing Clerk  
U.S. EPA, Region 6  
P.O. Box 371099M  
Pittsburgh, PA 15251

"In the Matter of Bobby Rowe Energy, Inc., Docket No. CWA-06-2007-1835" should be clearly marked on each check to ensure credit for payment.

14. Respondent shall send simultaneous notice of payment, including a copy of each check, to each of the following:

- (a) Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733
- (b) Chief, Compliance Monitoring Section (6EN-WC)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733
- (c) Chief, Water Enforcement Legal Branch (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

15. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

16. 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 costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest 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 of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

17. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty-day period after the payment is due and an additional \$15.00 for each subsequent thirty-day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

18. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 20 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

19. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO, in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.

20. In the event a collection action is necessary, Respondent shall pay - in addition to any applicable penalty, fees, and interest described herein - all reasonable costs and expenses, including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for nonpayment of the amounts agreed hereunder, pursuant to

Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9). In any such collection action, the validity, amount, and appropriateness of the penalty, and the terms of this CAFO shall not be subject to review.

B. DISPUTE RESOLUTION

21. If the Respondent objects to any decision or directive of EPA, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within fifteen calendar days of receipt of EPA's decision or directive:

Associate Director, Water Enforcement Branch (6EN-W)  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Chief, Water Enforcement Legal Branch (6RC-EW)  
Assistant Regional Counsel  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

22. The Associate Director of the Water Enforcement Branch ("Associate Director"), or his designee, and the Respondent shall then have an additional fifteen calendar days from receipt by EPA of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Associate Director and the Respondent, the agreement shall be reduced to writing and signed by the Associate Director and the Respondent and incorporated by reference into this CAFO.

23. If no agreement is reached between the Associate Director and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and Enforcement Division ("Division Director") or his designee. The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to

writing and signed by the Division Director and Respondent and incorporated by reference into this CAFO. If the Division Director and the Respondent are unable to reach agreement within this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the CAFO.

C. NOTIFICATION

24. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

EPA: Mr. Matt Rudolph  
Water Enforcement Branch (6EN-WR)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Respondent: Mr. Stephen Rowe, Owner  
Bobby Rowe Energy, Inc.  
P.O. Box 240  
Beggs, OK 74421

D. MODIFICATION

25. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of EPA and Respondent, and such modification or amendment being filed with the Regional Hearing Clerk.



E. TERMINATION

26. At such time as Respondent believes that it has complied with all terms and conditions of this CAFO, Respondent may request that EPA advise whether this CAFO has been satisfied and terminated. EPA will respond to said request as expeditiously as possible. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and Respondent has been notified by the EPA in writing that this CAFO has been satisfied and terminated.

F. RETENTION OF ENFORCEMENT RIGHTS

27. The EPA does not waive any rights or remedies available to the United States or EPA for any violations by Respondent of Federal or State laws, regulations, or permitting conditions following the entry of this CAFO.

28. Notwithstanding any other provision of this CAFO, an enforcement action may be brought against the Respondent pursuant to Section 504 of the Act, 33 U.S.C. § 1364.

G. NO EPA LIABILITY

29. Neither EPA nor the United States Government shall be liable for any injuries or damages to persons or property resulting from acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns or contractors in carrying out activities pursuant to this CAFO, nor shall the EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out activities pursuant to this CAFO.

IV. GENERAL PROVISIONS

30. To execute this Agreement, Respondent shall forward this copy of the CAFO, with original signature, to:

Ms. Yerusha Beaver (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733


31. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.

32. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.


33. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.

34. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

In recognition and acceptance of the foregoing:

  
\_\_\_\_\_  
For Bobby Rowe Energy, Inc.

12-5-07  
Date:

  
\_\_\_\_\_  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

12.19.07  
Date:

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement 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 in the Complaint. 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. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date: January 7, 2008

Michael C. Ba  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the \_\_\_\_\_ day of JAN 08 2008, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Mr. Stephen Rowe, Owner  
Bobby Rowe Energy, Inc.  
P.O. Box 240  
Beggs, OK 74421

with a copy, first class postage prepaid, to:

Mr. Terry Grooms, District Manager  
Oklahoma Corporation Commission, District 1  
115 West 6th Street, Box 779  
Bristow, OK 74010

  
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