



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

2011 DEC -1 PM 12:39

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2011-0080

IN THE MATTER OF:)
)
WHITING OIL AND GAS CORP.) FINAL ORDER
)
RESPONDENT)

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the 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 Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 1st DAY OF December, 2011.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 DEC -1 PM 12: 39

Docket No.: SDWA-08-2011-0080

FILED
EPA REGION VIII
HEARINGS CLERK

In the Matter of:

Whiting Oil and Gas Corporation

Respondent.

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CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent Whiting Oil and Gas Corporation (Whiting), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. On September 28, 2011, EPA issued a Proposed Penalty Complaint and Notice of Opportunity for Hearing (Complaint) to Whiting for certain violations of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq. EPA alleged that Whiting violated its Underground Injection Control permit by reporting to EPA inaccurate injection pressure measurements at one of its Class II injection wells. The well, the Hendrickson 42-28, is located in McLean County, North Dakota within the exterior boundary of the Fort Berthold Indian Reservation.
2. Whiting admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

3. Whiting waives its right to a hearing before any tribunal and to contest any issue of law or fact set forth in the Complaint or this Consent Agreement.
4. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA, and Whiting, its successors or assigns. Any change in the ownership or corporate status of Whiting, including, but not limited to, any transfer of assets or real or personal property, shall not alter Whiting's responsibilities under this agreement. This Consent Agreement settles all the violations alleged in the Complaint and contains all terms of the settlement agreed to by the parties.
5. Whiting consents and agrees to pay a civil penalty in the amount of **one hundred twenty thousand dollars (\$120,000.00)**, in the manner described below in this paragraph:
 - a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date of the deposit ticket issued by the bank or finance center described below. Payments must be received by 11:00 AM. Eastern Standard Time to be considered as received that day.
 - b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for this amount, payable to "Treasurer, United States of America," to:

**US CHECKS BY REGULAR
US POSTAL SERVICE MAIL:**

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental
Protection Agency "

**FEDERAL EXPRESS, AIRBORNE,
OR OTHER COMMERCIAL CARRIERS:**

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

ON LINE PAYMENT:

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Open form and complete required fields.

A copy of the check shall be sent simultaneously to:

Sarah Roberts
Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and to:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

- c. In the event payment is not received by the specified due date, interest accrues from the date of the Final Order, not the payment due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).
- d. In addition to the accrual of interest specified in subsection (c) of this paragraph, a handling charge of fifteen dollars (\$15.00) shall be assessed on the 31st day from the date of the Final Order, and each subsequent 30-day period that the penalty, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within ninety (90) days of the due date (i.e., the 121st day from the date the Final Order is signed). Payments are first applied to handling charges, 6% penalty interest, and

late interest. The remainder is then applied to the outstanding principal amount.

- e. Whiting agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
6. EPA finds this penalty amount is reasonable, taking into consideration the statutory factors in section 1423(c)(4)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(4)(B), with the facts and circumstances of the case.
7. Nothing in this Consent Agreement shall relieve Whiting of the duty to comply with the SDWA and its implementing regulations.
8. Failure by Whiting to comply with any of the terms of this Consent Agreement shall constitute a breach of the Consent Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this agreement and for such other relief as may be appropriate in federal district court.
9. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Whiting's failure to perform pursuant to the terms of this Consent Agreement.
10. The undersigned representative of Whiting certifies that he is fully authorized to enter into and bind Whiting to the terms and conditions of this Consent Agreement.
11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
12. Each party shall bear its own costs and attorneys fees in connection with this matter.

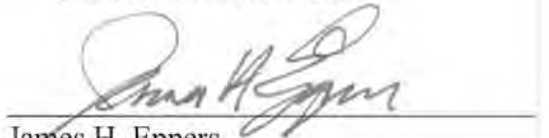
13. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8

Date: 11/30/11

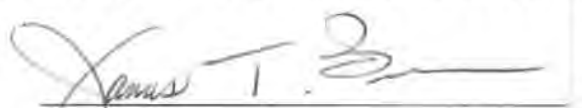
By: 
A. Michael Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Date: NOV 29 2011

By: 
James H. Eppers
Enforcement Attorney
Office of Enforcement, Compliance
and Environmental Justice

WHITING OIL AND GAS CORPORATION

Date: 11/28/2011

By: 
James T. Brown
President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **WHITING OIL AND GAS CORPORATION, DOCKET NO.: SDWA-08-2011-0080** was filed with the Regional Hearing Clerk on December 1, 2011.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, James Eppers, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on December 1, 2011, to:

Stephen A. Bain
Welborn, Sullivan, Meck & Tooley, P.C.
1125 17th Street, Suite 2200
Denver, CO 80202

E-mailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

December 1, 2011



Tina Artemis
Paralegal/Regional Hearing Clerk

