

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 NOV -8 PM 3:39

Docket No. SDWA-08-2007-0083

EPA REGION VIII
HEARINGS CLERK

In the Matter of:)
)
VON Engineering, Inc.) CONSENT AGREEMENT
a Michigan Corporation,)
)
and)
)
Smith Energy Limited Partnership – 1988)
a Michigan Partnership,)
)
Respondents)

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondents, VON Engineering, Inc. and Smith Energy Ltd. Partnership – 1988, by their undersigned representatives, hereby consent and agree as follows:

1. On September 12, 2007, Complainant issued a Complaint alleging certain violations of the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26. The Complaint proposed a civil penalty for the violation alleged therein.
2. Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint.
3. Respondents waive their right to a hearing before any tribunal, 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 upon Respondents and Respondents' heirs, successors or assigns. Any change in ownership or corporate status of Respondents, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondents' responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.
5. Respondents consent and agree to pay a civil penalty in the amount of Four Thousand Five Hundred Dollars (\$4,500) 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, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the U.S. Bank. Payments must be received by 11:00 a.m. 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." The penalty will be paid in accordance with the attached sheet entitled "Collection Information."

A copy of the check shall be sent simultaneously to:

Nathan Wisner
Technical Enforcement Program (8ENF-T)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop St.
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 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, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the date of the final order, and each subsequent thirty day period that the debt, 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 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, late interest, and any balance is then applied to the outstanding principal amount.

e. Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with the Safe Drinking Water Act and its implementing regulations.

7. Failure by Respondents 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 Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

8. Nothing in this Consent Agreement shall be construed as a waiver by 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 Respondents' failure to perform pursuant to the terms of this Consent Agreement.

9. The undersigned representatives of Respondents certify that they are fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondents to the terms and conditions of this Consent Agreement.

10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

11. Each party shall bear its own costs and attorney fees in connection with this matter.

12. 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.

In the Matter of VON Engineering, Inc. and Smith Energy Ltd. Partnership - 1988, Docket No. SDWA-08-2007-0083

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,

Complainant.

Date: 11/7/07

By: *Michael T. Busner*
for

Assistant Regional Administrator
Office of Enforcement Compliance and
Environmental Justice

Date: 10/31/07

By: *Michelle Marcu*

Michelle Marcu
Enforcement Attorney
Legal Enforcement Program

VON ENGINEERING, INC.,
Respondent.

Date:

By:
J.P. von Plonski

Title:

SMITH ENERGY LIMITED PARTNERSHIP – 1988,
Respondent.

Date:

By: *Charles A. Smith*
Charles A. Smith

Title: *President*

In the Matter of VON Engineering, Inc. and Smith Energy Ltd. Partnership - 1988, Docket No. SDWA-08-2007-0083

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,**

Complainant.

Date:

By:

Assistant Regional Administrator
Office of Enforcement Compliance and
Environmental Justice

Date:

By:
Michelle Marcu
Enforcement Attorney
Legal Enforcement Program

VON ENGINEERING, INC.,
Respondent.

Date:

10/10/07

By:

J.P. von

Plonski

Title:



**SMITH ENERGY LIMITED PARTNERSHIP –
1988,**

Respondent.

Date:

By:
Charles A. Smith

Title:

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **VON ENGINEERING, INC. AND SMITH ENERGY LIMITED PARTNERSHIP – 1988; DOCKET NO.: SDWA-08-2007-0083**. These documents were filed with the Regional Hearing Clerk on November 8, 2007.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to Michelle Marcu, 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 November 9, 2007, to:

Charles A. Smith, President
Smith Energy – 1988 LP
711 Commerce Building
Grand Rapids, MI 49503

J. P. von Plonski
Von Engineering, Inc.
3505 Pearl Drive
Monroe, MI 48162

E-mailed to:

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

November 9, 2007



Tina Artemis
Paralegal/Regional Hearing Clerk



COLLECTION INFORMATION

PENALTY PAYMENTS:

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 "

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

ON LINE PAYMENT: There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

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

Open form and complete required fields.