

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2019 SEP 16 PM 3:01

FILED  
EPA REGION VIII  
HEARING CLERK

\_\_\_\_\_  
IN THE MATTER OF: )  
)  
Big West Oil, L.L.C. )  
333 West Center Street )  
North Salt Lake, UT 84054 )  
)  
Respondent )  
\_\_\_\_\_ )

**ADMINISTRATIVE COMPLIANCE ORDER  
ON CONSENT**

Docket No. **CAA-08-2019-0013**

**PRELIMINARY STATEMENT**

This Administrative Compliance Order On Consent (Order) is entered into voluntarily by the United States Environmental Protection Agency (the EPA) and by Big West Oil, L.L.C. (Respondent) and is issued under the authority vested in the Administrator of the EPA by section 113(a)(3) and (4) of the Clean Air Act (CAA or Act), 42 U.S.C. § 7413(a)(3) and (4).

1. The Director for the EPA Region 8's Environmental Compliance and Assurance Division is delegated the authority to issue this Order under section 113(a) of the Act, 42 U.S.C. § 7413(a).
2. This Order requires Respondent to comply with the requirements of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. part 68. All activities specified and ordered below shall be initiated and completed as soon as possible even though maximum time periods or specific dates for their completion may be detailed herein. With the exception of extension or deadlines for submittals or performance, the terms of this Order shall not be modified except by a subsequent written agreement between the EPA and Respondent.
3. By entering into this Order, Respondent (1) consents and agrees not to contest the EPA's authority or jurisdiction to issue or enforce this Order, (2) agrees to undertake all actions required by the terms and conditions of this Order, and (3) consents to be bound by the requirements set forth herein.

## **STATUTORY AND REGULATORY BACKGROUND**

4. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of the EPA to, among other things, promulgate regulations to prevent accidental releases of certain regulated substances.
5. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), provides that the owners and operators of stationary sources are required to develop and implement a risk management plan (RMP) that includes a hazard assessment, a prevention program and an emergency response program.
6. 40 C.F.R. part 68 sets forth the requirements of a risk management program that must be established and implemented at a stationary source that has more than a threshold quantity of a regulated substance in a process.
7. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines the term “person” to include in relevant part, an individual, corporation, or partnership.

## **FINDINGS**

8. Respondent is a limited liability company and is authorized to do business in the state of Utah and is therefore a “person” as that term is defined under the section 112(r) of the CAA, 42 U.S.C. § 7412(r).
9. Respondent is the owner and/or operator of the Big West Oil Refinery, a stationary source, located at 333 West Center Street, North Salt Lake, Utah, 84054 (the Facility).
10. The Facility uses, handles, and/or stores more than a threshold quantity of Flammable Mixture and Hydrogen fluoride/Hydrofluoric acid, which are regulated substances, as specified at 40 C.F.R. §§ 68.115 and 68.130.

11. Pursuant to CAA section 112(r)(7), 42 U.S.C. § 7412(r)(7), Respondent is required to prepare and implement a risk management program to detect and prevent or minimize accidental releases of such substances.

12. The EPA conducted an inspection of the Facility from August 15 to August 18, 2016, to assess compliance with section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. part 68.

13. During the inspection, the EPA representative observed alleged violations of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. part 68. The alleged violations identified in the inspection that remain uncorrected are described in paragraphs 14-16 below.

14. 40 C.F.R. § 68.73(d)(1) provides that inspections and tests shall be performed on process equipment. Respondent failed to test piping at established CMLs (Corrosion/Condition Monitoring Locations). This is not an acceptable practice per Respondent's procedure EP 15-4-2, In-Plant Inspection of Existing Piping Systems and API 570, Piping Inspection Code: Inspection, Repair, Alteration, and Rerating of In-service Piping Systems. By failing to test piping at established CMLs, Respondent violated 40 C.F.R. § 68.73(d)(1).

15. 40 C.F.R. § 68.73(d)(1) provides that inspections and tests shall be performed on process equipment. Respondent failed to perform an internal inspection on D-914 (North Flare Knock Out Drum) per API 510, Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration and Respondent's procedure EP 15-4-3, In-Plant Inspection of Existing Pressure Vessels. By failing to perform an internal inspection on D-914, Respondent violated 40 C.F.R. § 68.73(d)(1).

16. 40 C.F.R. § 68.73(d)(1) provides that inspections and tests shall be performed on process equipment. Respondent failed to perform an internal inspection on E-616D (Unifier Exchanger) per API 510, Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration and

Respondent's procedure EP 15-4-3, In-Plant Inspection of Existing Pressure Vessels. By failing to perform an internal inspection on E-616D, Respondent violated 40 C.F.R. § 68.73(d)(1).

### **COMPLIANCE ORDER**

17. Based upon the foregoing Findings by the EPA, it is hereby ordered and agreed that Respondent shall comply with the requirements of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. part 68. Specifically, the EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than September 15, 2020, correct the violations alleged in paragraphs 14-16.

18. Within 15 days of completion of all actions identified in paragraph 17, Respondent shall provide the EPA with a notification that the actions have been completed.

19. The notification of completion required by paragraph 18 of this Order shall also contain the following certification signed by an officer of Respondent:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based upon my inquiry of those individuals immediately responsible for obtaining the information, the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment. (Signature and date)

20. All submissions and correspondence shall be mailed or emailed to the following address:

U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129  
Attn: Steven A. Ramirez, 8ENF-AT-TP  
(Email address: [ramirez.stev.ena@epa.gov](mailto:ramirez.stev.ena@epa.gov))

### **OTHER TERMS AND CONDITIONS**

21. Respondent admits the jurisdictional allegations contained in this Order.

22. Respondent neither admits nor denies the findings in the Findings section of this Order.

### **GENERAL PROVISIONS**

23. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties of up to \$99,681 per day per violation, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), and 40 C.F.R. part 19, as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

24. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

25. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present imminent and substantial endangerment to the public health, welfare, or the environment.

26. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the effective date of this Order until the termination date as set out in paragraph 32 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

27. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. part 2, subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. part 2, subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

28. Each undersigned representative certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally Respondent and Complainant to this document.

29. Deadlines for submittals or performance may be extended by the EPA, at its sole discretion, without further amendment to this Order. The EPA will provide Respondent written confirmation and documentation of any such extensions of time.

#### **EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE**

30. Pursuant to section 113(a)(4) of the Act, an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order. Accordingly, this Order will take effect immediately upon signature by the latter of Respondent or the EPA.

#### **JUDICIAL REVIEW**

31. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

**TERMINATION**

32. This Order shall terminate on the date of a determination by the EPA that Respondent has achieved compliance with all terms of this Order.

UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY, REGION 8,  
Complainant

Date: Sept. 16, 2019

By:   
Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division

Big West Oil, L.L.C.,  
Respondent

Date: Sept 11, 2019

By:   
MICHAEL SWANSON  
PRESIDENT - REFINING DIV  
Title

**In the Matter of:  
Big West Oil, LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the original and one copy of the ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT were hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, and that a true copy of the same was sent via Certified Mail, Postage Pre-Paid, to:

Big West Oil, LLC  
333 West Center Street  
North Salt Lake, UT 84054  
Attn: Mike Swanson, President, Refining Division

9/14/19  
Date

Joan Detty  
Joan Detty