

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

John William Hannah
d/b/a CRM Energy Partners
Osage County, Oklahoma

Respondent

Facility No. OKU000332

§ Docket No. CWA-06-2007-1923
§
§ Proceeding to Assess a
§ Civil Penalty Under § 309(g)
§ of the Clean Water Act
§
§
§ ADMINISTRATIVE COMPLAINT
§

I. Statutory Authority

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act (herein "the Act"), 33 U.S.C. § 1319(g). The Administrator of EPA has delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who has further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 (herein "Complainant"). This Class II Administrative Complaint is issued in accordance with "the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22.

Based on the following Findings, Complainant finds that Respondent has violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. John William Hannah (herein "Respondent") is an individual doing business as CRM Energy Partners in the State of Oklahoma, and as such, Respondent 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.

2. At all times relevant to this action, Respondent owned or operated the oil field facilities listed in the table below (herein “the facilities”) and was therefore an “owner or operator” within the meaning of 40 C.F.R. § 122.2.

Description	Legal Location
Daniels Tank Battery	Northwest Quarter of Section 33, Township 23 North, Range 11 East, Osage County, Oklahoma
North Stuart Tank Battery	Southeast Quarter of Section 30, Township 23 North, Range 11 East, Osage County, Oklahoma
South Stuart Tank Battery	Northwest Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma
Hannah Energy Tank Battery	Southwest Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma
Flow Line	Northwest Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma
Flow Line	Northeast Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma
Flow Line	Northwest Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma

3. At all times relevant to this action, the facilities were each a “point source” of a “discharge” of “pollutants,” namely oil field brine, to the receiving waters of Lost Creek, tributaries of Lost Creek, and a tributary of Bull Creek, which are “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.

4. Because Respondent owned or operated facilities that were each a point source of discharges of pollutants to waters of the United States, Respondent and the facilities were subject to the Act and the National Pollutant Discharge Elimination System (NPDES) program.

5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the

authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342. Under the NPDES program, the discharge of oil field brine (hereinafter "brine") to waters of the United States is a non-permitted discharge.

6. On February 28, 2006, the North Stuart Tank Battery was inspected by an EPA field inspector. The inspector observed that oil and brine had been discharged from this tank battery, located at Latitude 36° 26.36' North and Longitude 96° 9.46' West. The discharge traveled west and entered a tributary of Bull Creek located at Latitude 36° 26.61' North and Longitude 96° 9.60' West. The soil located inside the secondary containment at the tank battery was saturated with oil. The inspector observed a flow path contaminated from brine discharges traveling from the facility to the discharge point of entry.

7. On February 28, 2006, the South Stuart Tank Battery was inspected by an EPA field inspector. The inspector observed that brine had been discharged from this tank battery, located at Latitude 36° 25.30' North and Longitude 96° 9.78' West, to a tributary of Lost Creek, located at Latitude 36° 25.32' North and Longitude 96° 9.49' West. The soil located inside the secondary containment at the tank battery was saturated with oil. Soil located inside the tributary at the discharge point of entry was observed to have salt staining. The inspector observed a flow path contaminated from brine discharges traveling from the facility to the discharge point of entry.

8. On February 28, 2006, the Daniels Tank Battery was inspected by an EPA field inspector. The inspector observed that brine had been discharged from this tank battery, located at Latitude 36° 25.95' North and Longitude 96° 8.33' West, to a tributary of Lost Creek, located

at Latitude 36° 26.01' North and Longitude 96° 8.73' West. At the discharge point of entry into the tributary, fluids measured 3,000 to 5,500 parts-per million ("ppm") total soluble salts ("TSS"). The inspector observed a flow path contaminated from brine discharges traveling from the facility to the discharge point of entry.

9. On February 28, 2006, the Hannah Energy Tank Battery was inspected by an EPA field inspector. The inspector observed that brine had been discharged from this tank battery, located at Latitude 36° 25.22' North and Longitude 96° 9.32' West, to Lost Creek, located at Latitude 36° 25.22' North and Longitude 96° 9.35' West. Fluids located inside a pit at the facility measured 50,000 to 75,000 ppm TSS. Fluids located at the discharge point of entry into Lost Creek measured 35,000 to 52,000 ppm TSS. The inspector observed brine seeping from the pit at the facility.

10. On September 19, 2006, a flow line located in the Northwest Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma, was inspected by an EPA field inspector. The inspector observed that brine had been discharged from the flow line, located at Latitude 36° 26.03' North and Longitude 96° 9.32' West, to a tributary of Lost Creek, located at Latitude 36° 26.02' North and Longitude 96° 9.18' West. Fluids located at the discharge point of entry into the tributary measured over 80,000 ppm TSS.

11. On December 19, 2006, a flow line located in the Northeast Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma, was inspected by an EPA field inspector. The inspector observed that brine had been discharged from the flow line, located at Latitude 36° 25.93' North and Longitude 96° 8.45' West, to a tributary of Lost Creek, located at

Latitude 36° 26.01' North and Longitude 96° 8.74' West. Fluids located at the discharge point of entry into the tributary measured 35,000 to 45,000 ppm TSS. The inspector also observed oil in the tributary.

12. On April 2, 2007, the flow line located in the Northwest Quarter of Section 32, Township 23 North, Range 11 East, Osage County, Oklahoma, was inspected by an EPA field inspector. The inspector observed that brine had been discharged from the flow line, located at Latitude 36° 26.01' North and Longitude 96° 9.34' West, to a tributary of Lost Creek, located at Latitude 36° 26.01' North and Longitude 96° 9.17' West. Fluids located at the discharge point of entry into the tributary measured 20,000 ppm TSS. The inspector observed a flow path contaminated from brine discharges traveling from the flow line to the discharge point of entry.

13. Each day of unauthorized discharge described above was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

14. Under Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), Respondent is liable for a civil penalty in an amount not to exceed \$11,000 per day for each day during which a violation continues, up to a maximum of \$157,500.

15. EPA has notified the Osage Nation Environmental and Natural Resources Department of the issuance of this Complaint and has afforded the State an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

16. EPA has notified the public of the filing of this Complaint and has afforded the public thirty days to comment on the proposed penalty as required by Section 309(g)(4)(A) of

the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

17. Based on the foregoing Findings, and pursuant to the authority of Sections 309(g)(1) and (g)(2)(B) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(B), EPA Region 6 hereby proposes to assess against Respondent a penalty up to \$45,700.

18. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3), 33 U.S.C. § 1319(g)(3), which include such factors as the nature, circumstances, extent and gravity of the violation(s), any prior history of such violations, the degree of culpability, economic benefit, if any, and such other matters as justice may require.

IV. Failure to File an Answer

19. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this complaint within thirty days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

20. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15. Failure to file an Answer to this Complaint within thirty days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

21. If Respondent does not file an Answer to this Complaint within thirty days after service of this Complaint, a default order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings sixty days after a final default order is issued.

22. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

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

23. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent, and must contain all information required by 40 C.F.R. § 22.05 and § 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

24. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to

Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, with supplemental Rules at 40 C.F.R. § 22.38.

25. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

26. Should a hearing be requested, members of the public who commented on the proposed penalty during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

27. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

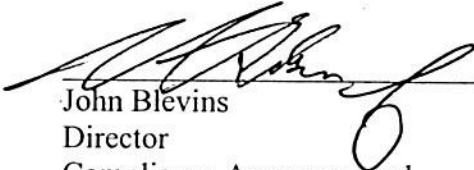
28. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent's right to a hearing on any matter stipulated to therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and

given an additional thirty days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

29. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

SEP 19 2007

Date


John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class II Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
return receipt requested: Mr. John William Hannah
d/b/a CRM Energy Partners
16540 Ranchland Road
Skiatook, OK 74140

Carbon copy hand-delivered: Yerusha Beaver (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: SEP 24 2007

