



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2010 APR 14 AM 9:54

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2010-0009

IN THE MATTER OF:

MONTEZUMA WELL SERVICE, INC.

RESPONDENT

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FINAL ORDER

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 14th DAY OF April, 2010.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2010 APR 14 AM 9: 54

In the Matter of:

Montezuma Well Service Inc.

Respondent.

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EXPEDITED CONSENT AGREEMENT

DOCKET NO. : CWA-08-2010-0009

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Montezuma Well Service Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasure (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates the Montezuma Well Service disposal facility, located in San Juan county, Utah,

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits that it failed to prepare and implement an SPCC Plan for its Montezuma Well Service disposal facility in accordance with 40 C.F.R. § 112.7 and 112.8.

Respondent agrees to correct the cited violations of 40 C.F.R. § 112 on the attached list within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit the pertinent revised page of the SPCC Plan for its Montezuma Well Service disposal facility to EPA.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,600.00, for violations of Section 311(j) of the Act, which, shall be paid no later than thirty (30) days after the effective date of the Final Order by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF – 311" and the title and docket number of this case. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

If the Respondent sends payment by overnight mail, the payment should be sent to:

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

Contact: Natalie Pearson
314-418-4087

Wire transfers should be directed to:

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"

The Respondent shall submit copies of the check (or, in the case of a wire transfer, copies of the confirmation) to the following persons:

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

and

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

Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

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


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

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 described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By:  Date: 4-12-2010
Mark A.R., Director
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Montezuma Well Service Inc., Respondent.

By:  Date: 4-5-10
Name: Earl Martinez
Title: President/owner

LIST OF SPCC VIOLATIONS
Montezuma Well Service Disposal Facility

Specific violations in the SPCC Plan are:

Plan does not have signed management approval in violation of 40 C.F.R. § 112.7.

Technical implementation violations observed during the inspection are:

Unsecured master flow drain valves in violation of 40 C.F.R. § 112.7(g)(2).

No lighting to detect spills at night in violation of 40 C.F.R. § 112.7(g)(5).

Pits were covered with oil presenting the potential of a harmful discharge of oil in violation of 40 C.F.R. § 112.8(c)(10).

Some mobile portable tanks have no secondary containment in violation of 40 C.F.R. § 112.8(c)(11).

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **MONTEZUMA WELL SERVICE, INC.;** **DOCKET NO.: CWA-08-2010-0009** was filed with the Regional Hearing Clerk on April 14, 2010.


Further, the undersigned certifies that a true and correct copy of the documents were delivered to Thomas Sitz, 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 April 14, 2010.

Earl Martinez
Montezuma Well Service
P. O. Box 540
Montezuma Creek, UT 84534

E-mailed to:

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

April 14, 2010


Tina Artemis
Paralegal/Regional Hearing Clerk

