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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-10-2019-0143
)	
BP Exploration (Alaska) Inc.)	CONSENT AGREEMENT
Prudhoe Bay, Alaska)	
)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928.

1.2. The State of Alaska has not been authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, to carry out a hazardous waste program in lieu of the Federal program.

1.3. Pursuant to Section 3008(a) of RCRA, EPA may enforce the federal hazardous waste program in the State of Alaska.

1.4. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and BP Exploration (Alaska) Inc. ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Respondent is a corporation formed under the laws of the State of Alaska and authorized to do business in the State of Alaska.

3.2. Respondent is a "person" as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.

3.3. 40 C.F.R. § 261.2(a)(1) defines "solid waste" as any discarded material that is not excluded under 40 C.F.R. § 261.4(a) or that is not excluded by a variance granted under 40 C.F.R. §§ 260.30 and 260.31 or that is not excluded by a non-waste determination under 40 C.F.R. §§ 260.30 and 260.34.

3.4. 40 C.F.R. § 261.3 defines “hazardous waste” as a “solid waste” (as defined in 40 C.F.R. § 261.2) that has not been excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and which meets any of the criteria identified in 40 C.F.R. § 261.3(a)(2).

3.5. “Owner” is defined in 40 C.F.R. § 260.10 as “the person who owns a facility or part of a facility.”

3.6. “Operator” is defined in 40 C.F.R. § 260.10 as “whoever has legal authority and responsibility for a facility that generates, transports, processes, stores or disposes of any hazardous waste.”

3.7. “Owner or operator” is defined in 40 C.F.R. § 270.2 as “the owner or operator of any facility or activity subject to regulation under RCRA.”

3.8. “Facility” is defined in 40 C.F.R. § 260.10 as “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”

3.9. On behalf of the Prudhoe Bay Unit, Respondent operates the Prudhoe Bay facility, located at Prudhoe Bay Unit, Prudhoe Bay, Alaska 99734 (“Prudhoe Bay facility”).

3.10. The Respondent is the “operator” of the Prudhoe Bay facility identified in Paragraph 3.9 above, as those terms are defined in 40 C.F.R. § 260.10 and 40 C.F.R. § 270.2.

3.11. The State of Alaska, Department of Natural Resources, owns the land on which the Prudhoe Bay facility identified in Paragraph 3.9 above is located.

3.12. Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.1(c) require that any person that treats, stores, or disposes of hazardous waste must have a permit or interim

status. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit.

3.13. Respondent operates the Prudhoe Bay facility as a permitted hazardous waste storage facility pursuant to a RCRA Standardized Permit for Hazardous Waste Storage issued by EPA to Respondent on October 15, 2009 with an effective date of November 30, 2009 (“the Permit”).

3.14. In its 2013 Hazardous Waste Report submitted to EPA on February 6, 2014, Respondent identified as a large quantity generator (LQG) of hazardous waste and a large quantity handler of universal waste.

3.15. On or about June 25 – 28, 2018, EPA conducted inspections of the Prudhoe Bay facility pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

3.16. On or about October 19, 2018, EPA sent an information request to Respondent pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, and Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9604(e).

3.17. On or about November 6, 2018 and December 7, 2018, Respondent provided responses to EPA’s information request.

VIOLATIONS

Count 1: Failure to Establish Adequate Financial Responsibility for Sudden Accidental Occurrences

3.18. The allegations in Paragraphs 1 through 3.17 are realleged and incorporated herein by reference.

3.19. Permit condition VII.A states that the Permittee must comply continuously with the requirements of 40 C.F.R. 267 Subpart H.

3.20. 40 C.F.R. § 267.147(a) requires that an owner or operator of a hazardous waste treatment or storage facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs.

3.21. Between January 1, 2014 and January 1, 2015, Respondent's liability coverage, Policy Number PLS 14784107, failed to establish adequate financial responsibility exclusive of legal defense costs for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the Prudhoe Bay facility as required by Permit Condition VII.A and 40 C.F.R. § 267.147(a).

3.22. Between January 1, 2015 and January 1, 2016, Respondent's liability coverage, Policy Number PLS 14784107, failed to establish adequate financial responsibility exclusive of legal defense costs for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the Prudhoe Bay facility as required by Permit Condition VII.A and 40 C.F.R. § 267.147(a).

3.23. Between January 1, 2016 and January 1, 2017, Respondent's liability coverage, Policy Number PLS 14784107, failed to establish adequate financial responsibility exclusive of legal defense costs for bodily injury and property damage to third parties caused by sudden

accidental occurrences arising from operations of the Prudhoe Bay facility as required by Permit Condition VII.A and 40 C.F.R. § 267.147(a).

3.24. Between January 1, 2017 and January 1, 2018, Respondent's liability coverage, Policy Number PLS 14784107, failed to establish adequate financial responsibility exclusive of legal defense costs for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the Prudhoe Bay facility as required by Permit Condition VII.A and 40 C.F.R. § 267.147(a).

3.25. Between January 1, 2018 and January 1, 2019, Respondent's liability coverage, Policy Number PLS 14784107, failed to establish adequate financial responsibility exclusive of legal defense costs for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the Prudhoe Bay facility as required by Permit Condition VII.A and 40 C.F.R. § 267.147(a).

3.26. Respondent's failure to establish adequate financial responsibility as required by 40 C.F.R. § 267.147(a) constituted separate violations of Permit Condition VII.A.

3.27. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$25,000, and increased for inflation, per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

Count 2: Storage of Hazardous Waste Without a Permit or Interim Status

3.28. The allegations in Paragraphs 1 through 3.17 are realleged and incorporated by reference.

3.29. 40 C.F.R. § 262.17 provides that large quantity generators may accumulate hazardous waste on site without a permit or interim status, provided that the generator complies with certain conditions.

3.30. 40 C.F.R. § 262.17(a)(5) provides that large quantity generators may accumulate hazardous waste in containers without a permit or interim status if the container is marked or labeled with: (1) the words "Hazardous waste;" (2) the hazards of the contents; and (3) the date when the period of accumulation began.

3.31. At the time of the 2018 inspection, there were seven waste aerosol cans observed in a flammable storage locker in the Seawater Treatment Plant that were not labeled or marked with the words "Hazardous Waste," and there was no label to indicate the hazardous nature of the contents or the date of accumulation. The Seawater Treatment Plant is not a permitted storage area.

3.32. At the time of the 2018 inspection, there was a 21-gallon step can in the Lisburne Production Center containing waste solvent rags that was not labeled or marked with the words "Hazardous Waste," and there was no label to indicate the hazardous nature of the contents or the date of accumulation. The Lisburne Production Center is not a permitted storage area.

3.33. Respondent failed to label containers of hazardous waste generated at the Prudhoe Bay facility as provided in the permit exemption criteria of 40 C.F.R. § 262.17, therefore was not exempt from the requirement for a storage permit for these hazardous wastes.

3.34. Respondent violated Section 3005 of RCRA, 42 U.S.C § 6925, and 40 C.F.R. § 270.1 when it stored containers of hazardous waste generated at the Seawater Treatment Plant and at the Lisburne Production Center without a permit or interim status at the Prudhoe Bay facility.

3.35. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$25,000, and increased for inflation, per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations and legal conclusions contained in this Consent Agreement. However, Respondent wishes to resolve all claims and disputes arising from these factual allegations.

4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$125,100 (the "Assessed Penalty").

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Code 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
young.teresa@epa.gov

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10, Mail Stop 20-C04
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
schanilec.kevin@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.8.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order attached hereto, provided, however,

that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order attached hereto.

4.8.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

4.8.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. The Assessed Penalty represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order that is

attached to this Consent Agreement. Respondent reserves all of its rights in any proceeding other than this proceeding.

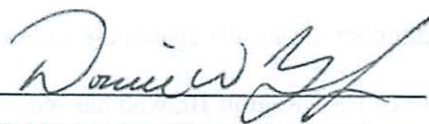
4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.15. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

10-28-2019

FOR RESPONDENT:

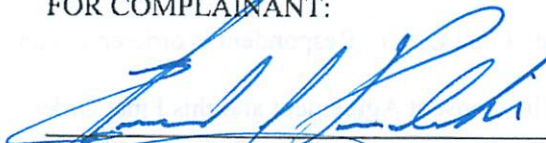


DONNIE BROWN, VP Operations
BP Exploration (Alaska) Inc.

DATED:

10/28/2019

FOR COMPLAINT:



EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-10-2019-0143
)	
BP Exploration (Alaska) Inc.)	FINAL ORDER
Prudhoe Bay, Alaska)	
)	
Respondent.)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegate this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Respondent reserves all of its rights in any proceeding other than this proceeding. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: BP Exploration (Alaska) Inc., Docket No.: RCRA-10-2019-0143** was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

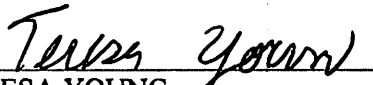
Lynne Davies
U.S. Environmental Protection Agency
Region 10, Mail Code 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

CT Corporation
9360 Glacier Highway
Suite 202
Juneau, AK 99801

Attn: Amy MacKenzie

DATED this 5 day of NOV, 2019.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 4th day of November, 2019.



RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10