



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 AUG 19 AM 10:49

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2008-0047

IN THE MATTER OF:

P & M Petroleum Management, LLC

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 Respondents are 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 19th DAY OF August, 2008.

Elyana R. Sutin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Docket No.: SDWA-08-2008-0047

In the Matter of:)
)
P & M Petroleum Management, LLC) **CONSENT AGREEMENT**
)
Respondent.)
)

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, P & M Petroleum Management, LLC (Respondent), by their undersigned representatives, hereby consent and agree as follows:

1. EPA issued to Respondent a First Amended Penalty Complaint and Notice of Opportunity for Hearing (Complaint) filed on July 7, 2008, alleging certain violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., relating to the underground injection controls (UIC) program.

2. Respondent admits that EPA has the jurisdictional authority to issue the Complaint and settle this case pursuant to this Consent Agreement, but does not confirm or deny the remaining allegations, including the findings and alleged violations.

3. Respondent waives its 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 consent 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 Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Respondent consents and agrees to pay a civil penalty in the amount of ten thousand dollars (\$10,000.00), in the manner described below in this paragraph.

- a. Payment is due within 30 calendar days from the date of 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, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM. EST are processed on the same day, those received after 11:00 AM are processed on the next business 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 the amount, payable to "Treasurer, United States of America," to:

REGULAR MAIL:

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

A copy of the check shall be sent simultaneously to:

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

and to:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
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. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
- f. Should Respondent so choose, but in compliance with subparagraphs a-e of this paragraph 5, it may pay the civil penalty pursuant to the following payment schedule:
 - i. within 30 calendar days from the date of the Final Order, payment of four thousand dollars (\$4,000.00);
 - ii. within 180 calendar days from the date of the Final Order, payment of the remaining six thousand dollars (\$6,000.00) plus interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 which totals \$6,088.77, if timely paid.

6. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.

7. Failure by Respondent 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 the 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 Respondent's failure to perform pursuant to the terms of this consent Agreement.

9. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the party he/she represents 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.

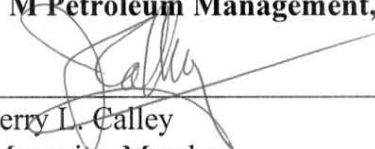
11. Each party shall bear its own costs and attorney fees in connection with this matter.

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.

13. This is the second SDWA UIC enforcement action taken by EPA against this Respondent in less than three years, for similar violations at the same facilities. It is the hope of the parties that future non-compliance will not be an issue, but if it is, EPA will consider the termination of Respondent's UIC permit.


P & M Petroleum Management, LLC

Date: 5/11/08

By: 
Jerry L. Calley
Managing Member

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Date: 5/14/08

By: 
Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **P & M Petroleum Management, LLC**; **DOCKET NO.: SDWA-08-2008-0047** was filed with the Regional Hearing Clerk on August 19 2008.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Jim Eppers, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document were placed in the United States mail certified/return receipt requested on August 19, 2008, to:

Jerry L. Calley, Managing Member
P & M Petroleum Management, LLC.
518 17th Street, Suite 230
Denver, CO 80202

E-mailed to:

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

August 19, 2008


Tina Artemis
Regional Hearing Clerk

