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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGIONAL HEARING CLERK
REGION 6 EPA REGION VI
1201 Elm Street, Suite 500
Dallas, Texas 75270

In the Matter of §
Oilfield Solutions Ltd. § Docket No. CAA-06-2023-3342
Midland, Texas §
Respondent. §

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Oilfield Solutions Ltd. (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the CAA General Duty Clause, promulgated pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), and that Respondent is therefore in violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA,

42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

4. Respondent is Oilfield Solutions Ltd., a company authorized to conduct business in the state of Texas.

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

6. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), commonly referred to as the General Duty Clause, owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty in the same manner and the same extent as the Occupational Safety and Health Act, 29 U.S.C. § 654 et. seq., to identify hazards which may result from accidental releases using appropriate hazard assessment techniques, to design and maintain a safe facility, taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

7. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), requires the Administrator to

promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires that the Administrator establish a threshold quantity for any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

8. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$55,808 for violations that occur after November 2, 2015, and are assessed after January 12, 2022.

Definitions

9. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

10. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and the regulation at 40 C.F.R. § 68.3 defines “accidental release” as an unanticipated emission of a regulated substance

or other extremely hazardous substance into the ambient air from a stationary source.

11. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines “stationary source,” in part, as any buildings, structures, equipment, installations or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

12. The term “extremely hazardous substance” means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Such substances include any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, reactivity, flammability or corrosivity.¹ The term includes, but is not limited to, regulated substances listed in Section 112(r)(3), 42 U.S.C. § 7412(r)(3), and 40 C.F.R. 68.130. Also, the release of any substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion, or other reaction would create a presumption that such substance is extremely hazardous.²

EPA Findings of Fact and Conclusions of Law

13. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

14. Respondent is the owner and operator of the facility located at: 2614 South County Road 1257, Midland, Texas 79706 (“the Facility”).

¹ Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 228, 101st Congress, 1st Session 211 (1989).

² *Id.*

15. On September 30, 2022, there was an incident at the Facility that resulted in an accidental release (the "Incident"). Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA requested on date, and Respondent provided, documentation and information concerning the Incident and Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the "Investigation").

16. On March 28, 2023, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter. On April 19, 2023, the EPA responded to the documentation and information received from Respondent as a result of the opportunity to confer and articulated the EPA's position concerning Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

17. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

18. The Respondent operates as an oil industry chemical manufacturer and distributor providing production intermediates, formulated concentrates, and custom blending of oilfield chemicals. The facility is approximately 5.5 acres with four buildings. The facility processes contain the blending of products in open top vats and ten reactors that are closed vessels. Chemicals produced at the facility include alkyl pyridine quats, coco quat, phosphonates, phosphate esters, triazines, sulfonates, imidazoline, corrosion inhibitors, scale inhibitors, demulsifiers, and paraffin control products. Various flammable and/or corrosive materials are handled/stored onsite, as well as surfactants, polymers, and emulsifiers.

19. Xylene is a chemical that may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, flammability, or volatility. Xylene is a class 3 flammable liquid that requires specialized fire suppression because

it can ignite at room temperature, it releases vapors that can form an explosive mixture with the air, can be ignited by static discharge, and stays flammable even when mixed with water. Toxic gases will form upon combustion. Xylene is also toxic. An acute amount of pure xylene can cause severe injury. Xylene may cause toxic effects if inhaled or absorbed through the skin, including but not limited to death. Vapors may cause dizziness or asphyxiation. Accordingly, xylene is an “extremely hazardous substance,” within the meaning of the General Duty Clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

20. From the time Respondent first produced, processed, handled, or stored xylene at the Facility, Respondent was subject to the requirements of the General Duty Clause in Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

EPA Findings of Violation

21. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

22. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1 – General Duty Clause (Failure to Maintain)

23. The CAA Section 112(r)(1), 42 U.S.C. § 7412(r)(1), imposes a general duty on the owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, to design and maintain a safe facility, taking such steps as are necessary to prevent releases.

24. At the time of the Incident, Respondent failed to follow the standard grounding operating procedure established for the handling and transfer of xylene between totes, leading to

static ignition of the xylene resulting in a fire and an accidental release of 200 gallons of xylene to the air during the incident.

25. Respondent's failure to follow the standard grounding operating procedure established for the handling and transfer of xylene is a failure to maintain a safe facility, taking such steps as are necessary to prevent releases, in violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

CONSENT AGREEMENT

26. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),
Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to any conditions specified herein;
- (e) waives any right to contest the allegations set forth herein; and
- (f) waives its rights to appeal the Final Order accompanying this Consent Agreement.

27. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

28. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

29. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of **thirty-six thousand, two hundred and fifty dollars (\$36,250)**, as set forth

below.

30. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

31. A copy of the check or other information confirming payment shall simultaneously be sent by electronic email to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.lorena@epa.gov; and

Carlos Flores
Enforcement and Compliance Assurance Division
Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
flores.carlos@epa.gov

32. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31

U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(c)(2).

Effect of Settlement and Reservation of Rights

33. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein.

34. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

35. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), save and except as reflected in the Administrative Order for Compliance on Consent, Docket No. CAA-06-2023-3342. Fulfillment of the terms of the Administrative Order for Compliance on Consent is intended to bring Respondent into full compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

36. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

37. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

38. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

39. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

40. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

41. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

42. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA:

pittman.lawrence@epa.gov

flores.carlos@epa.gov

To Respondent:

gsisson@oilfieldsolutionsinc.com

**RESPONDENT:
OILFIELD SOLUTIONS LTD.**

Date: 6-15-23

Gary Sisson
Signature

GARY Sisson
Print Name

General Manager
Title

**COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: June 20, 2023

Cheryl T. Seager

Digitally signed by CHERYL
SEAGER
Date: 2023.06.20 12:13:41 -05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 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, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

**THOMAS
RUCKI**

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection
Agency, cn=THOMAS RUCKI,
0.9.2342.19200300.100.1.1=6800100
3655804
Date: 2023.06.20 14:09:27 -04'00'

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

pittman.lawrence@epa.gov

Copy via Email to Respondent:

gsisson@oilfieldsolutionsinc.com

Copy via Email to Regional Hearing Clerk:

vaughn.loreana@epa.gov

Dated this 20th day of June, 2023.

LAWRENCE
PITTMAN

Digitally signed by LAWRENCE
PITTMAN
Date: 2023.06.20 14:21:20 -05'00'

Signed
Office of Regional Counsel
U.S. EPA, Region 6