

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

2014 JUL 22 AM 10:15
REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

Anadarko Petroleum Corporation,

Respondent

Permit Number: GMG290006

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Docket No. CWA-06-2014-1778

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the United States Environmental Protection Agency (“EPA”) pursuant to Section 309(g) of the Clean Water Act (“the Act”), 33 U.S.C. § 1319(g). This CAFO is issued to simultaneously commence and conclude this proceeding to assess a civil penalty in accordance with 40 C.F.R §§ 22.13(b) and 22.18(b)(2) and (3), as described in the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits.”

2. EPA and Anadarko Petroleum Corporation (“Respondent”) (collectively, “Parties”) agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public’s interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations specified in this CAFO.

3. Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific Findings of Fact and Conclusions of Law contained in this CAFO. This CAFO states a claim(s) upon which relief may be granted.

4. Respondent expressly waives any right to contest the factual allegations or Conclusions of Law contained in this CAFO, and waives its right to appeal the Final Order set forth herein.

5. Before the taking of any testimony, and without adjudication of any issue of law or fact, the parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. 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.

7. At all times relevant to the violations alleged herein ("relevant time period"), Respondent owned or operated offshore oil and gas production and/or exploration facilities, located in the Central and Western portions of the Gulf of Mexico in the Outer Continental Shelf ("facilities") located in Lease Area/Blocks East Breaks 602, Garden Banks 668, Green Canyon 608, Green Canyon 683, Viosca Knoll 826, and Walker Ridge 51; and Respondent was therefore an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

8. During the relevant time period, the facilities acted as "point sources" of "discharges" of "pollutants" to the receiving waters of the Gulf of Mexico, which is considered a "water of the United States" within the meaning of 40 C.F.R. § 122.2.

9. Because Respondent owned or operated facilities that acted as point sources 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.

10. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from point sources 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.

11. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

12. Pursuant to Section 402(a) of the Act, 33 U.S.C. § 1342(a), EPA issued the “Final NPDES General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Central and Western portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000),” 63 Fed. Reg. 58722 (November 2, 1998) (“permit”), which was reissued in 1999, 2001, 2004, 2007, and 2012. The last reissuance took effect on October 1, 2012, and is available on the Internet at <http://www.epa.gov/region6/water/npdes/genpermit/gmg290000final/gmg290000finalpermit2012.pdf>. The permit authorizes discharge from new sources, existing sources, and new dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 C.F.R. Part 435, Subpart A) to operators of lease blocks in the Oil and Gas Extraction Point Source Category that are located in Federal Waters of the Central and Western portions of the Gulf of Mexico (defined as seaward of the outer boundary of the territorial seas off Louisiana

and Texas) to the Central and Western portions of the Federal Waters of the Gulf of Mexico, but only in accordance with the conditions of the permit. The permit does not authorize discharges from facilities located in, or discharging to, the territorial seas of Louisiana or Texas or from facilities defined as "coastal," "onshore," or "stripper" (see 40 C.F.R. Part 435, Subparts C, D, and E). The permit does, however, authorize the discharge of produced water to the Central and Western portions of the Federal Waters of the Gulf of Mexico from wells located in lease blocks in the territorial seas of Louisiana and Texas.

13. Respondent submitted Notices of Intent ("NOIs") to EPA regarding the facilities and obtained coverage under the permit authorizing Respondent to discharge pollutants to waters of the United States but only in compliance with the specific terms and conditions of the permit.

14. Certified Discharge Monitoring Reports ("DMRs") were filed annually by Respondent with EPA in accordance with Part II.D of the permit and signed and certified in accordance with Part II.D.10 of the permit.

15. A DMR file review was conducted by representatives of EPA for the monitoring periods ending December 31, 2010, December 31, 2011, and December 31, 2012.

16. Part I.B of the permit was violated in that the Respondent reported, on certified DMRs, the following effluent violations:

Lease Area/Block	Permitted Feature	Parameter	Permit Limit	Value Reported	Monitoring End Date
Green Canyon 683	0396A	Miscellaneous Free Oil	Report Number of Days	3 Days	12/31/2012
East Breaks 602	0408A	Produced Water, Oil & Grease, Daily Maximum	42 mg/L	43 mg/L	12/31/2012
Walker Ridge 51	0626S	Discharge Drill Cuttings, Formation Oil	Pass = 0 Fail = 1	1 = Fail	12/31/2012
Green Canyon 608	0095A	Well Fluids, Oil & Grease, Daily Maximum	42 mg/L	50 mg/L	12/31/2012
Viosca Knoll 826	0430A	Deck Drainage, Free Oil, Monthly Total	Report Number of Days	16 Days	12/31/2011
Green Canyon 608	0095A	Deck Drainage, Free Oil, Monthly Total	Report Number of Days	1 Day	12/31/2010
Garden Banks 668	0422A	Deck Drainage, Free Oil, Monthly Total	Report Number of Days	30 Days	12/31/2010
Viosca Knoll 826	0430A	Deck Drainage, Free Oil, Monthly Total	Report Number of Days	1 Day	12/31/2010

17. Respondent and the facilities were subject to the provisions of the Act and the NPDES program, and Respondent violated Section 301 of the Act, 33 U.S.C. § 1311, by violating permit conditions.

18. EPA notified the public of the proposed CAFO and afforded the public forty (40) days to comment on the proposed penalty. At the expiration of the notice period, EPA had received no comments from the public.

III. TERMS OF SETTLEMENT

A. PENALTY PROVISIONS

19. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of twenty-eight thousand eight hundred dollars (\$28,800.00) to settle the violations specified in this CAFO.

20. Payment shall be made by one of the following methods within thirty (30) days of the effective date of this CAFO.

- a. By mailing a bank check, cashier's check or certified check, payable to "Treasurer of the United States," to:

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

- b. By wire transfer to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

- c. By overnight mail (Express, FedEx, DHL, etc.) to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
Phone: 314-418-1028

- d. By credit card payments to <https://www.pay.gov>

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"In the Matter of Anadarko Petroleum Corporation, Docket No. CWA-06-2014-1778" should be clearly marked on the check, or other payment method, to ensure credit for payment.

21. Respondent shall send simultaneous notices of payment, including a copy of the check, or other payment method, to each of the following:

- (1) Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
- (2) Chief, NPDES Compliance (6EN-WC)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
- (3) Chief, Water Legal Branch (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

22. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

23. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b).

24. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty-(30) day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty-(30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

25. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any person who fails to pay, on a timely basis, a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly non-payment penalty for each quarter during which such failure to pay persists. Such non-payment penalty shall be twenty percent (20%) of the aggregate amount of such person's outstanding penalties and non-payment penalties accrued as of the beginning of each quarter. In such a collection action, the validity, amount, and appropriateness of the penalty assessed by this CAFO, and the terms of this CAFO shall not be subject to review.

B. GENERAL PROVISIONS

26. To execute this Agreement, Respondent shall forward this copy of the CAFO, with original signature, to:

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

27. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.

28. In any action to enforce this CAFO, Respondent shall not assert as a defense any act or failure to act by any of its officers, directors, employees, agents, servants, contractors, subcontractors, successors or assigns.

29. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorneys' fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L.104-121), and any regulations promulgated pursuant to those Acts.

30. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

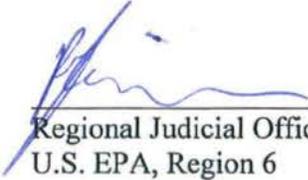
In recognition and acceptance of the foregoing:

T. Q. Gilman, G.M. Dept. of Cont. 17 JUN 2014
For Anadarko Petroleum Corporation Date

John Blevins 7.9.14
John Blevins Date
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case 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. This Final Order shall resolve only those causes of action alleged in the CAFO. 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. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date: 7/22/14

Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of July, 2014, the original of the foregoing Consent Agreement and Final Order was hand-delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Copy by certified mail,
return receipt requested:

Mr. Albert L. Richey
Vice President
Anadarko Petroleum Corporation
P.O. Box 1330
Houston, TX 77251-1330

Copy hand-delivered:

Mr. Tucker Henson (6RC-EW)

