

UNITED STATES
ENVIRONMENTAL PROTECTIONS AGENCY
REGION 6

FILED

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In the Matter of:

Altec Petroleum Group, Inc.,

Respondent.

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REGIONAL HEARING CLERK
EPA REGION VI

CWA-06-2008-1832

INITIAL DECISION

Background

In this Class I penalty action under Clean Water Act (CWA) Section 309(g), I granted Complainant's Motion for Accelerated Decision as to liability on October 13, 2011, but ordered a hearing on penalty amount because Complainant's "breakdown of that amount is somewhat opaque and not entirely consistent with my findings of fact with regard to the first discharge [of two]." I also noted the record was "somewhat equivocal on the degree of access the State provided Altec after its initial cleanup attempt...potentially affecting the issue of Altec's possible recalcitrance for penalty assessment purposes" and set a hearing for admission of evidence on an appropriate penalty.

On the afternoon of the day before the hearing, counsel for Complainant informed me Mr. Patrick Adams, President of Respondent Altec Petroleum Groups, Inc., had contacted her regarding participation at the hearing. An *impromptu* telephonic prehearing conference ensued in which Mr. Adams requested to participate in the next day's hearing *via* telephone. Without objection, I granted that request.

When the hearing commenced, Counsel for Complainant verbally moved to amend the Complaint to decrease the penalty sought from \$16,500 to \$14,400. Without objection, I granted that motion. Complainant then presented testimony of compliance officer Matt Rudolph, who

testified on how he calculated the proposed penalty, and submitted exhibits, all of which were previously in the record.¹ Mr. Rudolph had no direct knowledge of the violations in this matter; his testimony reflected his understanding of facts gleaned from documentary evidence in the file.

Mr. Adams participated in the hearing *via* telephone. His testimony recounted Altec's efforts to remedy damage from the second violation, instructions he received on those efforts from the Oklahoma Department of Wildlife Conservation and Bureau of Indian Affairs, his limited access to the site of the discharge, other potential sources of pollution, and the general economic viability of Altec. Mr. Adams' testimony seemed credible. He submitted no documentary evidence or exhibits for the record.

The facts on which liability is premised in this matter are set forth in the Partial Accelerated Decision of October 13, 2011. In sum, Respondent was ordered by the State of Oklahoma to cease an oil drilling operation in a State wildlife management area, clean up the drill site, and leave the area due to a dispute on whether it had surface access rights. During cleanup operations, the berm of a pit in which Altec stored drill cuttings leaked pollutants to a small creek. Further, Altec used water drawn from the same or another nearby creek to wash down the site before backfilling its storage pits. Due to pre-existing chloride content, the wash water contaminated the drill site, resulting in a later discharge of contaminated storm water. Two unauthorized discharges thus occurred.

¹ There are four different exhibit collations in the record. Exhibits Complainant introduced at the penalty hearing are attached to the Transcript (TR). To a memorandum Complainant's Counsel filed on November 2, 2011 are attached 18 exhibits. The two other collations are titled "Government Trial Exhibits 1 – 34" and "Government Trial Exhibits A – D." Exhibits referenced in this Initial Decision are "Government Trial Exhibits 1 - 34," which were also an evidentiary basis for the Partial Accelerated Decision.

Penalty Criteria

In assessing an administrative penalty, CWA §309(g)(3) requires consideration of:

...the nature, circumstances, extent, and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.

In addition, 40 C.F.R §22.47 requires consideration of “any civil penalty guidelines issued under the Act.” The specific civil penalty guideline on which Complainant relies in this matter is “Interim Clean Water Act Settlement Policies” (March 1, 1995)(Interim Policy). To some extent, the statutory penalty criteria overlap; the “nature, circumstances,...and gravity” of a specific violation may, for example, sometimes reflect culpability of a violator as well as damages resulting from the violation. For analytical purposes, however, it is useful to consider factors relating primarily to the violation itself first, then consider factors specific to the violator. That is consistent with the methodology Complainant used to calculate the proposed penalty under the Interim Policy and I employ it here.

Complainant’s Penalty Calculation

Mr. Rudolph testified he relied on two gravity elements from the Interim Policy in calculating the proposed penalty, i.e., Gravity Factors B (harm to health and environment) and D (significance of non-effluent violations), then increased the penalty by 20% for each violation due to Altec’s alleged culpability. As explained by Mr. Rudolph, he calculated the proposed penalty pursuant to the formula at page 6 of the interim policy, which in this case might be expressed as $(1+B+D) \times 1,000 + 20\% \text{ recalcitrance increase} = \text{penalty}$ for each of the two violations in this matter. For each violation, Mr. Rudolph chose a value of 4 (from a range of 2 to 25) for Gravity

Factor B and a value of 1 (from a range of 0 to 5) for Gravity Factor D. Hence, the proposed penalty was calculated as $1 + 4 + 1 = 6 \times \$1,000 = 6,000 + \$1200 = \$7,200$ per violation. Mr. Rudolph assigned the same values to each of the two violations, concluding \$14,400 was an appropriate total penalty. TR 11 – 13, 18, 27 – 28.

Nature, Circumstances, Extent, and Gravity of the Violations

Gravity factors B (harm to human health and environment) and D of the Interim Policy align most closely with the statutory criteria “nature, circumstances, extent, and gravity of the violation or violations.” With regard to Factor B, Complainant alleged no human health effects in this matter and its evidence of environmental damage was confined to the effects of the discharges on the receiving stream and the animal and plant life dependent on its quality. EPA’s compliance officer chose a value of 4 for Gravity Factor B because (1) he viewed the receiving water a particularly valuable environmental amenity because it was located in the Western Walls Wildlife Management Area and (2) chlorides discharged in each violation are pernicious pollutants, highly toxic to aquatic life in the concentrations found in that receiving water after each unauthorized discharge. TR 10 – 28. Mr. Rudolph attributed elevated chloride concentrations in the receiving water solely to Altec’s discharges in calculating the proposed penalty. TR 24, 26.

At the point at which Altec’s discharges entered it, the receiving water is usually only a few feet wide; an able person could easily jump across it. *See, e.g.*, Exhibit 5. In the relatively undeveloped setting of a wildlife management area, it was nevertheless likely valuable habitat for small aquatic life, as well as a source of food and water for nearby avian and terrestrial life. Those uses will not occur in several hundred yards of the creek unless and until its chloride concentrations are substantially lower than measured by EPA and the Oklahoma Department of

Wildlife Conservation after Altec's discharges. TR 17; Exhibits 11, 12, 13, 14, 15, 18, 29. The evidence in this matter does not, however, permit a conclusion Altec's discharges were the sole cause of those concentrations.

Altec's second violation was the result of its use of water drawn from the receiving creek or another nearby creek to wash down its drill site during its closure. Mr. Adam's testimony moreover suggested the receiving waters may have been heavily polluted with chlorides before Altec's unauthorized discharges when a major precipitation event (7-1/2 inches of rain in 4 hours) caused flooding that inundated other operator's upstream drill sites.² TR 43, 44. It was not clear from Mr. Adams' testimony how much earlier that rainfall occurred, but it was presumably before Altec's cleanup efforts on September 6, 2010. Photos taken then appear to show more water in the creek than those taken on later dates, but not the flood to which Mr. Adams testified.

Compare, e.g., Exhibit 5 with Exhibit 15, photo 9 and Exhibit 18, Photo 3.

Neither Complainant nor Respondent introduced pre-discharge ambient water quality data for the receiving creek. Nor did Complainant submit evidence of water quality upstream from the point of Altec's discharges; Mr. Sanborn sampled the creek at the point of discharge and downstream only. In some circumstances, upstream water quality data is required to demonstrate a discharge has occurred. *See In the Matter of: Lowell Vos d/b/a Lowell Vos Feedlot Woodbury*, 15 E.A.D. ____, 2009 WL 1670391 (EAB 2009). Respondent does not dispute that unauthorized discharges occurred on at least two occasions in the instant matter, but given Mr. Adams'

² Mr. Adams suggested some entity had determined the creek was polluted by one of those upstream operations, stating "...from what we understand the operator that actually was found to be in violation for – polluting the actual flowing creek, he – he received no penalty." TR 44. He provided no further testimony on what entity may have found the other operator liable without imposing a penalty.

testimony on other potential sources of chloride pollution, there is no basis for finding the measured chloride levels in the receiving stream resulted solely from Altec's discharges.

To explain the lack of upstream sampling, EPA's compliance officer testified he understood the creek contained no water upstream of the discharge point on the days of EPA's inspections. TR 26. He'd not visited the site, but had examined photographs thereof taken by Mr. Rempe, an employee of the Oklahoma Department of Wildlife Conservation, and by Mr. Sanborn, Complainant's field inspector. TR 29.

Those photographs are in the record. They generally indicate the creek was low at the times of Mr. Sanborn's inspections with water in its pools, but not its riffles. Only one, however, is identified as providing a close look at the point at which the discharges entered the creek. Photo 3 of Exhibit 18 provides a small glimpse of the creek upstream of the discharge point. That photograph, taken by Mr. Sanborn during his March 10, 2008 inspection, portrays a small ledge immediately above the discharge point and water in the creek above the ledge to the edge of the photograph, a distance of about 3 feet. The photographic evidence Complainant provided thus shows there was *some* water in it upstream that Mr. Sanborn could have sampled on one of his inspections. Watling, *Measuring Salinity* (State of Queensland, Australia June 2007), Exhibit 31, indicates it takes but a small amount of water to measure salinity in the field.

Because the record contains no evidence indicating the degree to which Altec's discharges affected the receiving stream and its functions, I cannot conclude, as Complainant has, that those discharges were the sole cause of the receiving water's very substantial degradation. They likely contributed to its degradation, however, and a penalty is any event warranted for unauthorized discharges to waters that are already badly polluted. *See In re: Pepperell Associates*, 9 E.A.D. 83,

117 (EAB 2001). For each discharge, I thus assign a value of 2 for Gravity Factor B of the Interim Policy, representing damage to the receiving stream and biota dependent on it.

Non-effluent violations. As to Gravity Factor D of the Interim Policy, Mr. Rudolph testified he assigned a value of 1 (out of a possible 20) for gravity factor D because each of Altec's discharges was "unauthorized." He testified this value was justified by Altec's failure to obtain a National Pollutant Discharge Elimination System (NPDES) permit authorizing its discharges. TR 40 - 41.

The Interim Guidance's "non-effluent factors" is directed at deterring harm to EPA's CWA programs regardless of harm or lack thereof to protected resources. Failures to obtain required permits or to sample and report in compliance with their terms do not themselves harm water quality and such violations are by some cavalierly characterized as "mere paperwork violations." In a regulatory regime largely based and implemented on obtaining permits and self-reporting, however, such violations generally warrant *deterrence* through penalty imposition, lest others follow the violator's example. See generally *In re: Vico Construction Company*, 12 E.A.D. 298, 342 – 343 (EAB 2005); *In re: Phoenix Construction Services, Inc.*, 11 E.A.D. 379, 419 (EAB 2004); *In re: Everwood Treatment Company*, 6 E.A.D. 589, 602 (EAB 1996). Failure to obtain a permit for a discharge cannot, however, harm the NPDES program unless a permit is available for the unauthorized discharge or discharges at issue.

Altec's first unauthorized discharge occurred when pollutants seeped beneath the berm of its storage pit into the nearby creek. Effluent Limitation Guidelines for the Onshore Subcategory at 40 C.F.R. Part 435, Subpart B prohibit discharges of process waste from drilling operations like Altec's and the discharge in question would not likely have been subject to a bypass or upset

defense provided by a permit. Hence, no NPDES permit could have authorized Altec's first discharge. Indeed, this is reflected by the Complaint itself, which states in paragraph 5 "[a]ccording to the NPDES program, the discharge of oil field brine to 'waters of the U.S.' is a non-permitted discharge." Exhibit 20.

NPDES permit coverage is, however, generally available and required for discharges of contaminated storm water from drilling sites pursuant to CWA §402(p), as amended by the Energy Policy Act of 2005. In Oklahoma, oil and gas operators might have sought coverage for such dischargers under NPDES Multi-Sector General Permit OKR05000F, published at 65 Fed. Reg. 64746 (October 30, 2000) or under an individual permit issued by EPA Region 6 containing similar requirements.³ When a potential need for NPDES authorization, i.e., when it contaminated the drill site during closure operations, Altec was ineligible for permit coverage because it was no longer able to operate the site could not "ensure implementation of practices...to reduce pollutants in storm water discharges," as required by Section 4.1.2 of the General Permit. 65 Fed. Reg. 64812. As explained below, Altec had but limited access to its former drill site and was prohibited from implementing the management practice needed to reduce pollutants in storm water discharges from that site.

The compliance order Complainant issued Altec did not require it to seek permit coverage, perhaps correctly reflecting a view that no permit coverage was available for the discharge at issue.

³ Whether Altec could have obtained coverage under an expired general permit is beyond the ambit of this initial decision. *Any* NPDES permit it might have sought would have required Altec to minimize contaminants in its storm water discharges.

See Exhibit 16. Because Altec could not have obtained NPDES authorization for its discharges, I conclude no penalty is appropriate under Interim Policy Gravity Factor D.

Altec's Culpability

Recalcitrance. Mr. Rudolph's testimony was somewhat ambiguous on why he concluded a 20% increase over Gravity Elements B and D was appropriate in proposing a penalty. He stated only that EPA was not satisfied with Respondent's actions because "[i]t appeared the site continued to discharge brine." TR 25. The Interim Policy on which he relied includes only one adjustment factor specifically based on culpability, however. In pertinent part, the Interim Policy states at pages 12 – 13:

History of Recalcitrance Adjustment Factor. The "recalcitrance factor is used to increase the penalty based on a violator's bad faith, or unjustified delay in preventing, mitigating, or remedying a violation. Recalcitrance is also present if a violator failed to comply with an EPA issued administrative compliance order...or with a prior state or local enforcement order. This factor is applied by multiplying the total gravity component by a percentage between 0 and 150. In administrative penalty actions, violations of administrative orders are not included in the recalcitrance calculation (because EPA lacks the authority to seek penalties in the administrative forum for violations of administrative compliance orders).

A minimum recalcitrance factor of 10 percent is generally appropriate for each instance in which a violator fails to substantially comply in a timely manner with an administrative compliance order ("AO")...or a state enforcement order....If a violator completely fails to comply with an AO..., a recalcitrance factor of 20 percent may be appropriate, while if there were only minor violations of the AO... a recalcitrance factor of 5 percent may be appropriate.

It thus seems Complainant increased the penalty it calculated under Gravity Factors B and D by 20% for each discharge due to a perceived "delay in preventing, mitigating, or remedying" on Altec's part. The Complaint alleges but one such matter, stating in Paragraph 7 that "there was no

catchment structure to prevent contaminated runoff from the facility from entering the tributary.” Exhibit 20. That was a reference to Altec’s failure to comply with advice from Mr. Sanborn during his first inspection of the site and to a requirement in the Administrative Order Complainant issued on November 10, 2007. *See* Exhibits 15, 16.

Altec’s failure to construct a catch basin in response to Complainant’s advice and order could not have avoided or minimized damage from the first discharge.⁴ At the time of Mr. Sanborn’s first field inspection, the seeping berm no longer existed, the pit had been backfilled, and the pit’s location and discharge path were evidenced only by wet spots on the ground. *See* Exhibit 15. Complainant has no basis for increasing the penalty for the first discharge due to Altec’s alleged recalcitrance in failing to construct a catch basin.

Construction of a catch basin to intercept storm water from the contaminated former drill site would likely have avoided or minimized the second discharge, but Altec’s failure to construct the basin was not recalcitrant. Surface property rights are subject to State law in Osage County, but the Bureau of Indian Affairs (BIA) holds mineral rights therein in trust for the benefit of the Osage Indian Tribe pursuant to the 1906 Osage Allotment Act, 34 Stat. 539. *See Quarles v. U.S., ex rel. Bureau of Indian Affairs*, 372 F.3d 1172 (10th Cir. 1169, 1172 (10th Cir. 2004) Hence, Altec obtained its mineral lease from BIA, but its access to the drill site was subject to control by the surface owner, the State of Oklahoma. Altec failed to obtain the access it needed from the State and, when the mishaps leading to its discharges occurred, had been ordered to clean up the site and depart the State’s property. TR 46 – 48, Exhibits 9, 10. BIA demanded that Altec

⁴ The photographic evidence shows Altec attempted to stanch the seep of water from its pit with plastic sheeting while it was occurring, albeit without complete success. *See* Exhibit 3.

continue to comply with the terms of the lease, which limited the areas Altec could disturb to those for which it had obtained archaeological clearance. *See* TR 35 - 36, 45 - 46. Complainant, on the other hand, advised (and later ordered) that Altec excavate the catch basin in an area for which it had obtained no such clearance.

Altec's President testified the Oklahoma Department of Wildlife Conservation and BIA agreed Altec could return to the site in response to each rainfall and pump water directly from the "hole" in the creek. *Id.* It appears this agreement was reached soon after Mr. Sanborn advised Altec to construct the catch basin on September 21, 2007. Mr. Adams testified he recalled Mr. Sanborn was present when that agreement was reached, but Mr. Sanborn's report of his inspection that day suggests he left the site without knowledge of the agreement. *See* Exhibit 15.

Whether or not Mr. Sanborn was present for that conversation, Complainant was aware Altec's access to the site was limited. Exhibits 1 and 2 are copies of letters to that effect from the Oklahoma Attorney General's Office to Altec, which Complainant received on September 19 and 20, 2007. *See* "Complainant's Response to the May 24, 2011, Court Order for More Definite Statement," p. 4. Even after the access issue was specifically raised in the Partial Accelerated Decision, Complainant sought no further information from the State on it prior to the penalty hearing. TR 40. Nor did Complainant offer testimony or evidence suggesting Altec was allowed to construct the catch basin.

In view of the constraints imposed on it by several government agencies, Altec did as much as it reasonably could to avoid future discharges and minimize the damage its discharges caused. All three agencies agreed it could neutralize the contaminated soils in the area of its former storage pits and Altec complied, applying a substantial quantity of gypsum ("a few

semi[truck]loads ..incorporated ... into the site down six inches...with... rippers and a bulldozer.”

TR 32). All three agencies agreed Altec could pump water from the “hole” in the creek⁵ and invoices in the record show Altec pumped the hole on several occasions after its initial site cleanup. *See* Exhibit 26. Mr. Adams testified:

The only thing I was authorized to do is to extract water with a pump truck from our site. So we actually had to have hose run down to the -- to the pooling area of the creek. We paid to have it on standby there. Every time it would rain for the next 30 days, we mobilized the pump truck and ran hoses [sic] down and waited for the rain. TR 36.

When questioned on the number of times Altec pumped the creek, Mr. Adams replied:

I don't recall exactly, but I know we had at least four or five rain events that we mobilized for. Some of them, there was no water generated so we didn't have a water disposal fee, we probably just had pumping, you know, time for the truck....but we did pump out the creek numerous times. TR 53.

Altec's actions to minimize the effects of its discharge of contaminated storm water are inconsistent with Complainant's claim it was recalcitrant. The heavy equipment it used in neutralizing site soils was already onsite and could likely have made short work of catch basin construction. It was no easier or less expensive for Altec to pump water from the creek than from an upland catch basin. There is no reason to conclude Altec wouldn't have constructed the catch basin had it been allowed. Hence, no portion of the penalty may be based on recalcitrance.

Negligence. My finding it was not recalcitrant in responding to its discharges does not mean Altec lacked culpability for their occurrence. Although no part of Complainant's penalty calcula-

⁵ In addition to ordering Atec to construct the catch basin, Complainant's Administrative Order included a requirement to “remove all brine from the creek” at least once, presumably by pumping the “hole.” Exhibit 16.

tions seems to reflect such general culpability, I must nevertheless consider the statutory factor of culpability in assessing a penalty in this matter.

“The culpability factor generally measures the level of the violator’s fault or ‘blame-worthiness’ and frequently includes consideration of a host of factors to assess the violator’s wilfulness and/or negligence.” *In re: Phoenix Construction Services, Inc., supra* at 419. Those factors are identified at pages 17 – 19 of *A Framework for Statute Specific Approaches to Penalty Assessments*, #GM-22 (February 16, 1984). Among them, foreseeability is of particular relevance here. Unless Altec foresaw or should have foreseen its actions might result in the discharges at issue here, no portion of a penalty is warranted for its negligence.

The inspection report of October 2, 2007 accurately concludes the first discharge occurred because Altec’s pit was unlined. Because neither party provided evidence on the storage pit construction practices knowledgeable Oklahoma oil and gas operators employ, I turn to relevant requirements of the Oklahoma Corporation Commission, an Agency regulating oil and gas exploration and production, for guidance.

OAC 165:10-7-16 imposes requirements on construction, use, and closure of pits in Oklahoma oil and gas operations. Subsection (b) of that regulation requires different types of liners depending on the anticipated content of the pits and the nature of groundwater underlying them. It thus appears protection of groundwater, rather than avoiding discharges to surface waters, is the generally acknowledged purpose of pit liners in Oklahoma. Moreover, OAC 165:10-7-16(b)(1)(B)(v) specifically exempted Altec’s pits from *any* liner requirement:

Category 4 - Air-Based. Any pit used to contain the cuttings from an air-based system shall not be required to be lined. The discharge of produced water into a category 4 pit is prohibited.

The state regulation thus indicates oil and gas operators in Altec's circumstances do not normally line pits for storage of drill cuttings in air-based drilling operations. In the absence of evidence that Altec foresaw or should have foreseen a special need to line its pits, I conclude there is no basis to assess it a penalty for negligently causing the first discharge.

Altec's negligence in fact contributed to the second unauthorized discharge in this matter, which occurred as a result of its use of contaminated water from a nearby (possibly even the same) creek to wash down the drill site during closure operations. TR 43. Altec's President testified to personally witnessing upstream flooding inundating other drill sites, which in his view contributed to the chloride levels in the small creek receiving Altec's discharges. Even if Altec obtained its wash water from another nearby creek, nothing in Mr. Adam's account suggested that rainfall was limited to the watershed of that particular creek or that other oil and gas operations had escaped similar flooding. Hence, Altec might reasonably have expected the creek from which it obtained its wash water was contaminated. To avoid a longer trip to town, Altec took a chance on using water from a creek without testing it, leading to contamination of the former drill site and at least one discharge of contaminated storm water. *Id.* That negligence was not great, but in my judgment warrants an additional \$1,000 penalty.

Other Factors

Economic Impact of Penalty on Violator. No documentary evidence has been admitted showing Altec's ability to pay a penalty. At the time of the hearing, however, Altec was suffering hard times, largely because it could not complete or produce the well associated with the violations here due to its dispute with the State of Oklahoma. That dispute was close to final resolution in

October 2011 and, at the time of the hearing, Altec hoped to soon re-enter the Wildlife Management Area and complete the well. Mr. Adams testified:

Well, this -- this whole situation has actually just devastated me financially. You know, not only did I spend every bit that I had in savings, but I spend -- cashed out my IRAs to make it through this. And, basically, you know -- basically we're -- just -- we've made it to the end here, and we're hoping that we'll be able to borrow enough money on -- in order to -- to continue to complete the drill. TR 49.

Mr. Adams also testified Altec owned an interest in another well that was producing, but would generate no revenue for the company until January 2012. TR 50. That source of funds may now be available to Altec. Given the relatively modest penalty today ordered, there is no reason to further reduce that penalty due to Altec's current financial condition.

Economic Benefit or Savings and History of Violations. Altec enjoyed no economic benefit or savings from its violations and no portion of the penalty Complainant seeks is premised on economic benefit. Nor does the record indicate Altec has previously violated CWA and no portion of the penalty Complainant seeks is premised on a history of such violations. Hence, these factors do not contribute to the penalty Altec is today ordered to pay.

Such Other Matters As Justice May Require. This statutory criterion allows reduction of penalty amount under rare circumstances when application of the other criteria would work a manifest injustice. *See generally, e.g., In re: Phoenix Construction Services, Inc., supra* at 414 – 415. No manifest injustice is evident in this matter.

Penalty Assessment Calculation

In view of my findings and conclusions, application of the Interim Policy factors on which Complainant relied in proposing a penalty herein yields a penalty of \$3,000 for Altec's first

unauthorized discharge, i.e., 2 (Gravity Factor A) + 0 (Gravity Factor D) + 1 x 1,000 = 3,000). To a penalty similarly calculated for the second unauthorized discharge, an additional \$1000 is required to account for Altec's culpable negligence in causing it, so the penalty for that discharge is \$4,000. The penalty here assessed for both discharges thus totals \$7,000.

ORDER

For the foregoing reasons, an administrative penalty in the amount of Seven Thousand Dollars (\$7,000.00) is hereby assessed against Respondent Altec Petroleum Group, Inc.

This Order is an Initial Decision issued pursuant to 40 C.F.R. §22.27. This Initial Decision shall become a Final Order forty five (45) days after its service on a party and without further proceedings unless (1) a party moves to reopen the hearing (2) a party appeals the Initial Decision to the Environmental Appeals Board; or (3) the Environmental Appeals Board elects to review the Initial Decision on its own initiative.

Within thirty (30) days after the Initial Decision is served, any party may appeal any adverse order or ruling of the Regional Judicial Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board. 40 C.F.R. §22.27(a).

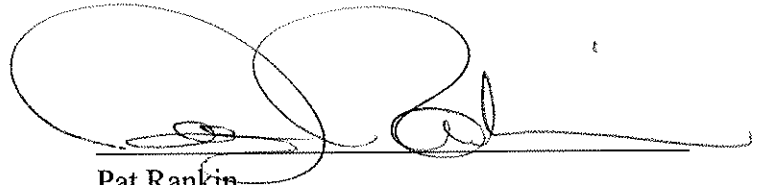
If a party intends to file a notice of appeal to the Environmental Appeals Board, it should be sent to:

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board (MC1103B)
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington DC 20460-0001.

If Respondent fails to file an appeal with the Environmental Appeals Board pursuant to 40 C.F.R. §22.30, and this Initial Decision becomes a Final Order pursuant to 40 C.F.R. §22.27(c), *RESPONDENT WILL HAVE WAIVED ITS RIGHT TO JUDICIAL REVIEW.*

Each party shall bear its own costs in bringing or defending this action.

So Ordered this 15th day of February, 2012.

A handwritten signature in black ink, consisting of several large, overlapping loops and a long horizontal stroke extending to the right.

Pat Rankin
Regional Judicial Officer
EPA Region 6

CERTIFICATE OF SERVICE

I, Lorena S. Vaughn, the Regional Hearing Clerk, do hereby certify that a true and correct copy of the Initial Decision for CWA - 06-2008-1832 was provided to the following on the date and in the manner stated below:

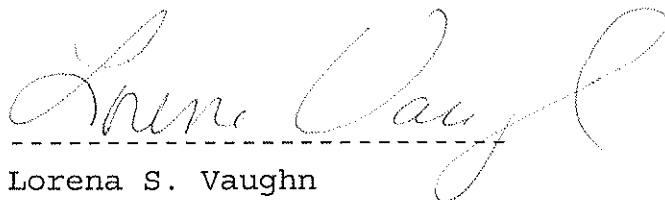
Patrick Adams
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Altec Testing and Engineering, Inc.
6035 Freemont Street
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CERTIFIED MAIL

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Lorraine Dixon, Esq.
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202

INTEROFFICE MAIL



Lorena S. Vaughn
Regional Hearing Clerk

2-15-12

Date