

IN THE MATTER OF:)
)
Bobby Rowe Energy, Inc.)
)
Respondent)
)

FILED
2009 MAY 26 PM 2:42
Docket No. CWA 06-2009-1764
REGIONAL HEARING CLERK
EPA REGION VI

MOTION FOR DEFAULT AS TO PENALTY AND LIABILITY

Bobby Rowe Energy, Respondent, has failed to submit an Answer and Request for a Hearing in response to the Administrative Complaint ("Complaint") filed by the Complainant on July 7, 2009. The Complaint was issued under Section 309(g) of the Clean Water Act (herein "the CWA" or the "Act"), 33 U.S.C. § 1319(g) for violations of Section 301 of the CWA, 33 U.S.C. 1311. Due to the Respondent's failure to submit an Answer, pursuant to 40 C.F.R. § 22.17, the United States Environmental Protection Agency Region 6 ("EPA" or "Complainant") files this Motion for Default requesting issuance of a Default Order against the Respondent. In addition to seeking liability for violations of the CWA, the Complainant is seeking civil penalties in the amount of \$20,200. In support of this motion, the Complainant states and argues as follows:

I. PROCEDURAL BACKGROUND

1. **Governing Procedures.** This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules of Practice"), 40 C.F.R. § 22.1 et seq.
2. **Filing of the Complaint.** In accordance with 40 C.F.R. §§ 22.5(a) and 22.14, the original Complaint and one copy was filed with, and received by, the Regional Hearing Clerk, EPA Region 6, on July 7, 2009.
3. **Service of the Complaint.** In accordance with 40 C.F.R. § 22.5(b), the Complainant delivered a copy of the Complaint, via certified mail with return receipt requested, to the Respondent, on July 10, 2009. The Complaint was mailed to: Mr. Stephen Rowe, Bobby Rowe Energy, Inc., P.O. Box 240, Beggs, Oklahoma 74421.
4. **Proof of Service.** Bobby Rowe, Inc., received a copy of the original Complaint. Barbara Moeller signed the green receipt card, Article No. 7007 2560 0002 7737 3619. "July 10, 2009" is in the space for "date of delivery." Under 40 C.F.R. § 22.5(b)(1)(iii), the Complainant respectfully requests the Presiding Judicial Officer to admit into evidence, the attached green receipt card dated July 10, 2009, as proof of service. *See In re Haydel*, 2000 WL 436240, Docket No. CWA-VI-99-1618 (EPA Region VI) (Certified mail return receipt card is adequate proof of service). The individual whose signature appears on the green receipt cards for the Complainant, Barbara Moeller, is a proper representative of Bobby Rowe Energy, Inc. under 40 C.F.R. § 22.5(b). *See also Katzen Bros., Inc. v. U.S. EPA*, 839 F.2d 1396, 1399 (10th Cir. 1988) (Individual authorized to

pick up mail, such as personal secretary, is considered a proper business representative to satisfy service to Respondent.).

5. **Answer to the Complaint.** In accordance with 40 C.F.R. § 22.15, the Respondent must file an answer to the complaint with the Regional Hearing Clerk, Region 6, within thirty (30) days after service of the complaint if the Respondent: contests any material fact upon which the complaint is based; contests the proposed penalty, compliance, or corrective action order; or contends they are entitled to judgment as a matter of law.

6. **Filing of the Answer.** As of May 26, 2010, the Respondent has not filed with the Regional Hearing Clerk, an Answer to the Complaint.

7. **Request for Extension.** In accordance with 40 C.F.R. § 22.7(b), a party may request from the Presiding Judicial Officer an extension of time for filing any document. As of May 26, 2010, the Respondent has not filed with the Regional Hearing Clerk, Region 6, any request for an extension of time to file a response.

8. **Time Elapsed Since Service of Complaint.** The Complainant EPA has afforded the Respondent every opportunity to respond to the Complaint, however, as of May 26, 2010, approximately 319 days have passed since the Complaint was served without a response from the Respondent. Complainant has filed two status reports with the Regional Hearing Clerk and copies were mailed to the Respondent. The status reports stated that Complainant intends to file a Motion for Default. The Regional Judicial Officer ordered Complainant on March 22, 2010, to file a motion for default or withdraw the Complaint by May 26, 2010, if a consent agreement and final order had not been filed by that date.

II. STATUTORY AND REGULATORY AUTHORITY

9. Section 309(g) of the CWA, 33 U.S.C. § 1311, authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue a complaint for violations of the CWA.

10. **Prima Facie Case – Liability.** In order for a default order to be entered against the Respondent, the Presiding Officer must conclude the Complainant has established a prima facie case of liability against the Respondent. *See In re Atkinson*, 1998 WS 422231, Docket No. RCRA-9006-VIII-97-02 (PA Region VIII). Under 40 C.F.R. § 22.17(a), to establish a prima facie case, the Complainant must establish by a preponderance of the evidence that each element of the violation has occurred. *See In re Haydel*, 2000 WL 436240, Docket No. CWA-VI-99-1618 (EPA Region VI). As per the factual allegations outlined in the Complaint (*See* Complaint No. CWA-06-2007-1974), the Respondent violated Section 301, 33 U.S.C. § 1311. Specifically, the following elements of the Complainant's cause of action have been met:

- a. Respondent is a corporation incorporated in the State of Oklahoma and as such is a "person" as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2 (Complaint No. CWA-06-2009-1761)

b. Respondent owned or operated the oil and gas production facilities listed below and was therefore an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

-Facility #1 – Southeast Quarter of Section 11, Township 15 North, Range 11 East, Okmulgee County, Oklahoma;

-Facility #2 – Northwest Quarter of Section 11, Township 14 North, Range 11 East, Okmulgee County, Oklahoma;

-Facility #3 – Southeast Quarter of Section 27, Township 14 North, Range 10 East, Creek County, Oklahoma;

(Complaint No. CWA-06-2009-1761. July 7, 2009)

c. The facilities were "point sources" of "discharges" of "pollutants," specifically oil field brine, to the receiving waters of two tributaries of Salt Creek and a tributary of Hopper Creek, which are "waters of the United States" within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

d. Because Respondent owned or operated facilities which acted as point sources of discharges of pollutants to waters of the United States, the Respondent and the facility are subject to the Act and the National Pollutant Discharge Elimination System (NPDES) program.

e. Under Section 301 of the CWA, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source 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 CWA, 33 U.S.C. § 1342. According to the NPDES program, the discharge of oil field brine to "waters of the United States" is a non-permitted discharge.

f. On September 4, 2008, Facility #1 was inspected by an EPA field inspector. The inspector observed that oil field brine had been discharged from Facility #1.

g. On September 4, 2008, Facility #2 was inspected by an EPA field inspector. The inspector observed that oil field brine had been discharged from Facility #2.

h. On September 19, 2008, Facility #3 was inspected by an EPA field inspector. The inspector observed that oil field brine had been discharged from Facility #3.

11. Respondent's Admission of Facts Alleged. As per 40 C.F.R. §§ 22.15(d) and 22.17(a), failure of the Respondent to admit, deny or explain any material factual allegation contained in the Complaint constitutes an admission of each factual allegation and a waiver of the Respondent's right to contest such factual allegations. As stated

above, to date, the Respondent has not replied to the Complaint filed on May 26, 2010. Thus, the Respondent has, by default, admitted all of the facts alleged in the amended Complaint. *See In re Palimere, et al*, 2000 WL 33126605, Docket No. RCRA-III-9006-050 (EPA Region III). (Respondent's default constitutes an admission of facts alleged, therefore, the Complainant need not submit evidence to prove a prima facie case on liability for a default order).

12. Finding of Respondent Liability. Subsequently, under 40 C.F.R. § 22.16(c), the Complainant requests the Presiding Judicial Officer issue a Default Order against the Respondent, Bobby Rowe Energy, Inc., finding the Respondent liable for violations of the CWA as previously stated.

IV. PENALTY ASSESSMENT

13. Civil Penalty. In addition to liability, the Complainant is seeking assessment of a civil penalty in the amount of \$20,200 for violation of 301 of the CWA, 33 U.S.C. § 1311.

14. Prima Facie Case – Civil Penalty. Under 40 C.F.R. §§ 22.17(c) and 22.27(c), a Default Order functions as an Initial Decision and becomes a Final Order 45 days after its service. As per 40 C.F.R. § 22.24, the Complainant EPA bears the burden of proof for justifying its calculations of penalties. Pursuant to Section 309(g)(3), 33 U.S.C. § 1319(g)(3), the Complainant considered the following factors in determining the amount of penalty:

- a. the nature, circumstances, extent and gravity of the violation or violations
- b. violator's ability to pay
- c. prior history of violations
- d. degree of culpability
- e. economic benefit
- f. such other matters as justice may require

15. Affidavit Attached for Penalty Calculation. Attached to this Default Motion is the Affidavit of Matthew Rudolph. This declaration outlines in detail how the Complainant calculated the civil penalty using each of the statutory factors listed above. Pursuant to 40 C.F.R. §§ 22.5(a) and 22.17(b), the Complainant EPA respectfully requests the Presiding Judicial Officer to admit into evidence, the attached Affidavit of Matthew Rudolph, as evidence to support the Complainant's penalty amount.

16. Assessment of Civil Penalty. Under the facts outlined above and pursuant to 40 C.F.R. § 22.27(b), the Complainant requests the Presiding Judicial Officer approve assessment of a civil penalty in the amount of \$20,200 against the Respondent for violations of the CWA.

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Motion for Default Order was hand-delivered and filed with the Regional Hearing Clerk, EPA Region 6, 1445 Ross Ave., Dallas, Texas 75202-2733, and a true and correct copy of such Motion for Default Order was delivered in the following manner, on this 21st day of May 2010, addressed to the following:

Via certified mail: 7007 3020 0000 1522 3132
Mr. Stephen Rowe
Bobby Rowe Energy, Inc.
P.O. Box 240
Beggs, OK 74421

Ellen Chang Vaughan

Exhibit List

Exhibit A – Inspection Report with pictures. Incident No. 09042008-2

Exhibit B – Inspection Report with pictures. Incident No. 09042008-3

Exhibit C – Inspection Report with pictures. Incident No. 09192008-1

Exhibit D – Affidavit of Kent Sanborn

Exhibit E – Affidavit of Matthew Rudolph

Exhibit F – Three Cease and Desist Orders dated October 21, 2008

Exhibit G – Copy of green card for cease and desist orders

Exhibit H – Copy of green card for complaint

A

INSPECTION REPORT

REPORT DATE: 9/11/2008

INCIDENT NO: 09042008-2

INSPECTION DATE: 9/4/2008

INVESTIGATOR: Kent Sanborn

LOCATION: SE 1/4, Sec. 11, T 15N, R 11E

COUNTY: OKMULGEE

SPILL OR DISCHARGE DATE:

MATERIAL SPILLED: BRINE AND OIL

AMOUNT:

REPORTED BY:

OWNER/OPERATOR: ROWE ENERGY

SURFACE OWNER: Unknown

PHONE: Unknown

EMERGENCY HOTLINE NOTIFIED:

POINT SOURCE: TANK BATTERY

LATITUDE/LONGITUDE: 35 47.4068N, 96 6.2442W

RECEIVING WATER: TRIBUTARY OF SALT CREEK

LATITUDE/LONGITUDE: 35 47.2847N, 96 6.2382W

INSPECTION OBSERVATIONS:

FAILURE AT TB BRINE PUMP CAUSE OVERFLOW OF BRINE AND SOME OIL TO NEARBY ROAD DITCH AND THEN THE CREEK. TSS RANGES FROM OVER 80K PPM IN ROAD DITCH TO 28K DOWNSTREAM. LARGE VOLUME OF CREEK WATER IS AFFECTED. CREEK IS FLOWING SOUTH. OPERATOR WAS CONTACTED TO PUMP OUT THE UPPER PORTIONS OF THE CREEK. TB IS A MESS. INADEQUATE CONTAINMENT.

SUPPORTING VIDEO, PICTURES, OR SAMPLES: Photos

OTHER AGENCIES OR PARTIES CONTACTED OR INVOLVED:

OCC

REGIONAL COMMENTS/INFORMATION OBTAINED:

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**

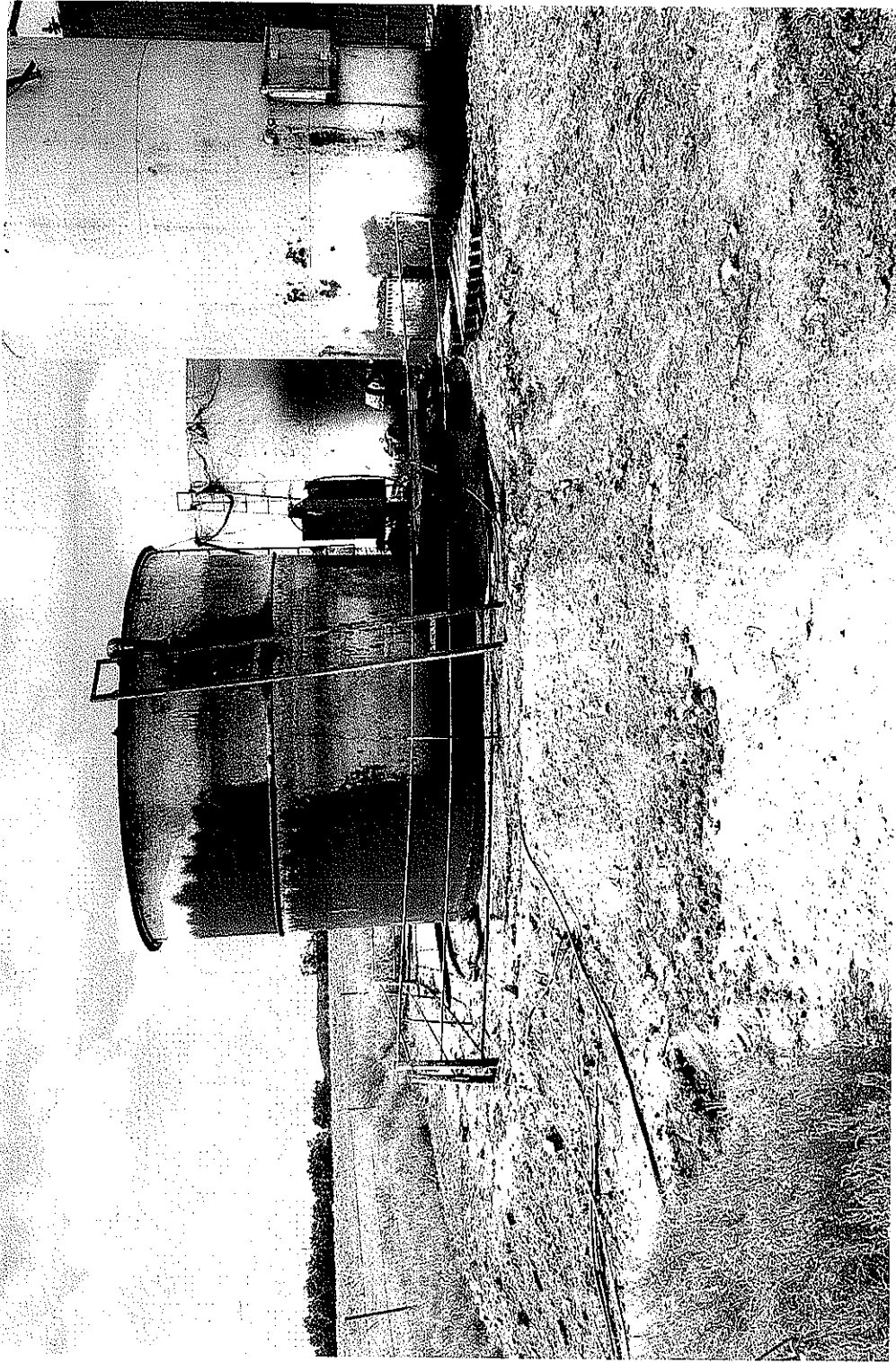


Photo 1 taken west. Source of discharge is this tank battery overflow

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**



Photo 2 taken east. Brine and some oil ran along this path the the county road shown here.

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**



Photo 3 taken west. Oil and brine flowing to road ditch. TSS here is over 80k ppm.

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**



Photo 4 taken west. View of flow path taken from road. Tank battery is upper right.

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**



Photo 5 taken west. Another view of brine flow path from tank battery to the county road.

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**

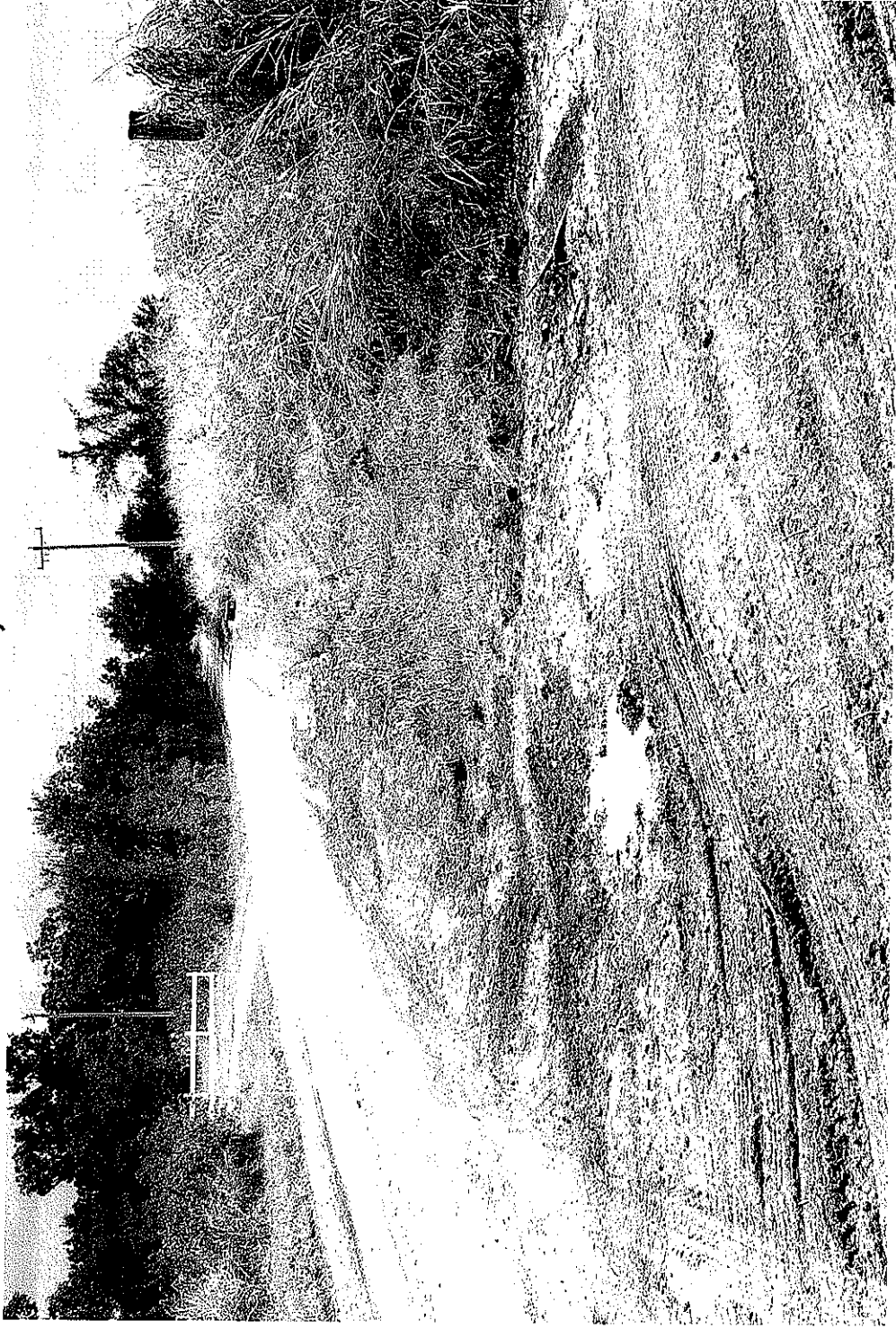


Photo 6 taken south. Discharge entered road and ditch here. Dead grass. Smell of brine. TSS over 80k ppm.

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**

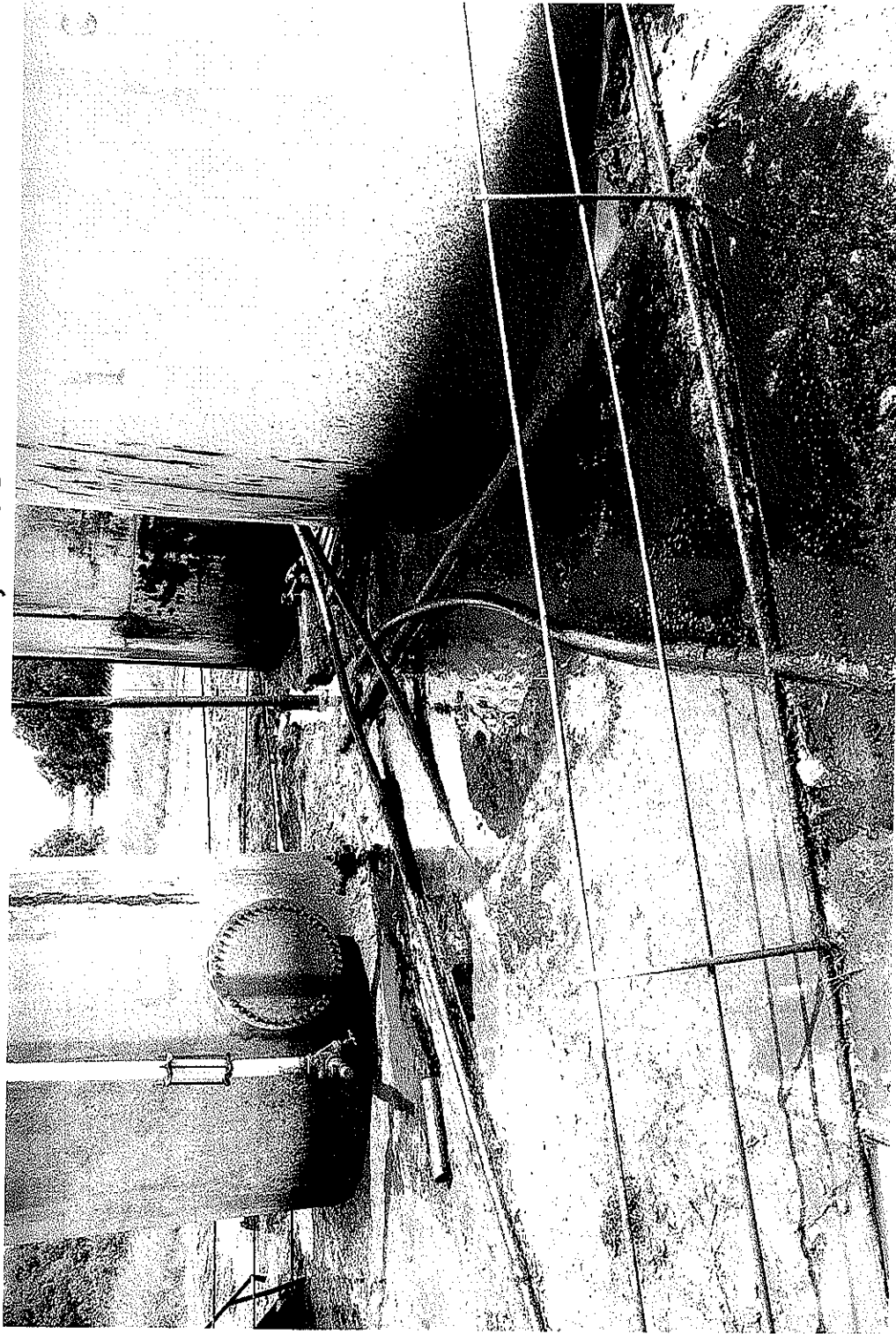


Photo 7 taken east. Inside of tank battery a mess. Operator said brine pump hose failed filling up the containment before running over.

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**



Photo 8 taken west. Brine entered creek here west of the county road. TSS here is 65k ppm.

**BOBBY ROWE ENERGY
SE 11-15N-11E OKMULGEE CO., OK
SEPTEMBER 4, 2008**



Photo 9 taken south. Creek downstream with slight flow. TSS here is 28k ppm.



o Point Source: TB

o POE: TSS=28,000 ppm

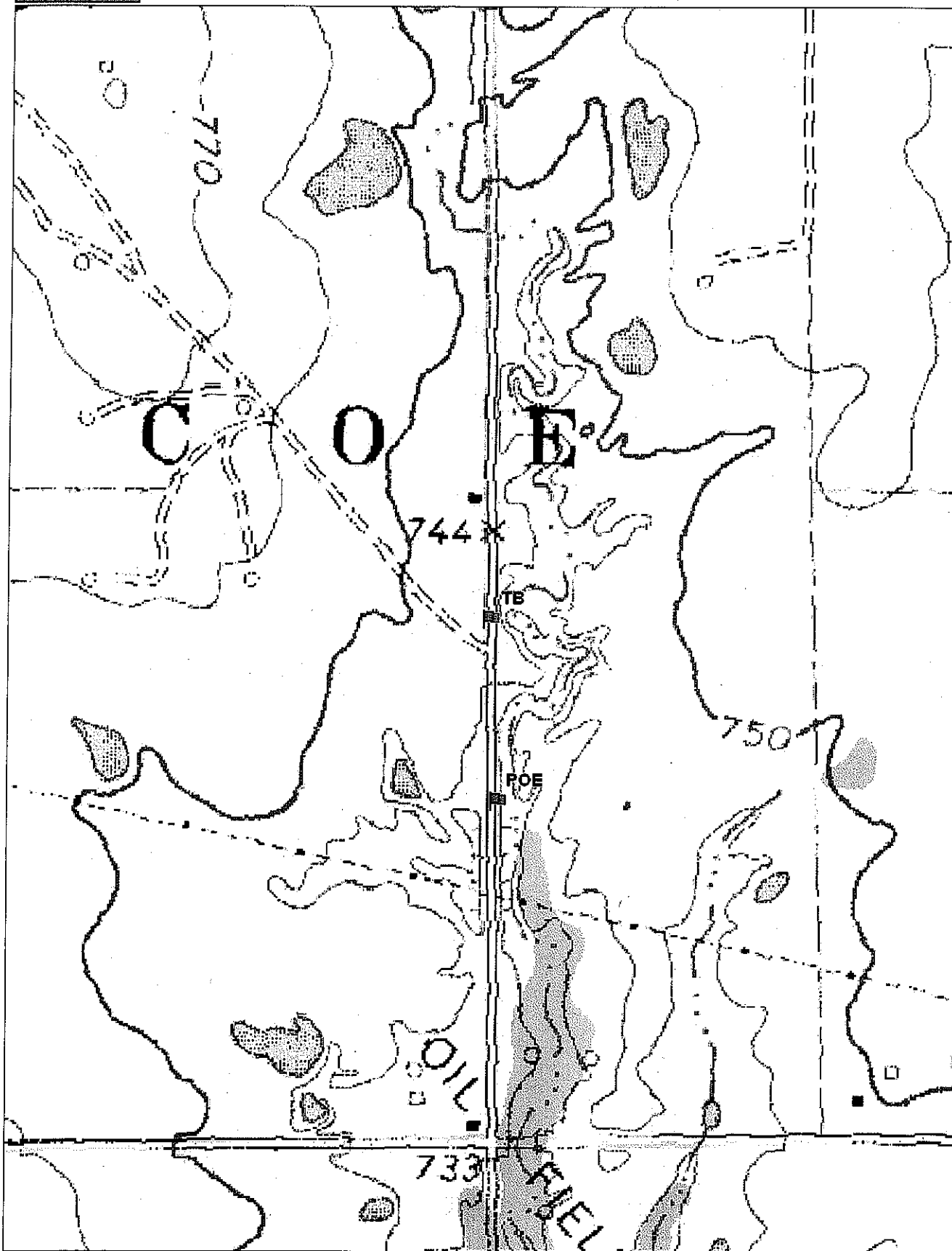
Image © 2008 DigitalGlobe

Pointer 85°47'20.29" N 95°06'13.70" W

Streaming 100%

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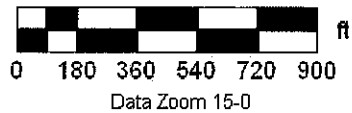
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RB

INSPECTION REPORT

REPORT DATE: 9/11/2008

INCIDENT NO: 09042008-3

INSPECTION DATE: 9/4/2008

INVESTIGATOR: Kent Sanborn

LOCATION: NW 1/4, Sec. 11, T 14, R11

COUNTY: OKMULGEE

SPILL OR DISCHARGE DATE:

MATERIAL SPILLED: Brine

AMOUNT:

REPORTED BY:

OWNER/OPERATOR: ROWE ENERGY

SURFACE OWNER: Unknown

PHONE: Unknown

EMERGENCY HOTLINE NOTIFIED:

POINT SOURCE: TANK BATTERY

LATITUDE/LONGITUDE: 35 42.3972N, 96 6.8663W

RECEIVING WATER: TRIBUTARY OF SALT CREEK

LATITUDE/LONGITUDE: 35 42.51N, 96 6.87W

INSPECTION OBSERVATIONS:

BRINE TANK AT TANK BATTERY RAN OVER INTO SHALLOW PIT THEN RAN OVER AND DOWN HILL TO SMALL CREEK/WETLANDS. TSS WAS OVER 80K ALONG THE ROUTE WITH SOME INCOMING WATER AS LOW AS 11K PPM. TSS AT ENTRY POINT DOWNSTREAM OF THE WETLAND AREA/CREEK IS 45K-79K. THE CREEK BEGINS FLOWING HERE. THERE IS ALSO ANOTHER DISCHARGE THAT HAS OCCURRED AND ENTERED AT EXACTLY THE SAME ENTRY POINT. THIS IS A DIFFERENT OPERATOR. THAT OPERATORS CONTRIBUTION TO THE DISCHARGE WILL BE DISCRIBED SEPARATELY.

SUPPORTING VIDEO, PICTURES, OR SAMPLES: Photos

OTHER AGENCIES OR PARTIES CONTACTED OR INVOLVED:

OCC

REGIONAL COMMENTS/INFORMATION OBTAINED:

**BOBBY ROWE ENERGY
NW 11-14N-11E OKMULGEE CO., OKLAHOMA
SEPTEMBER 4, 2008**

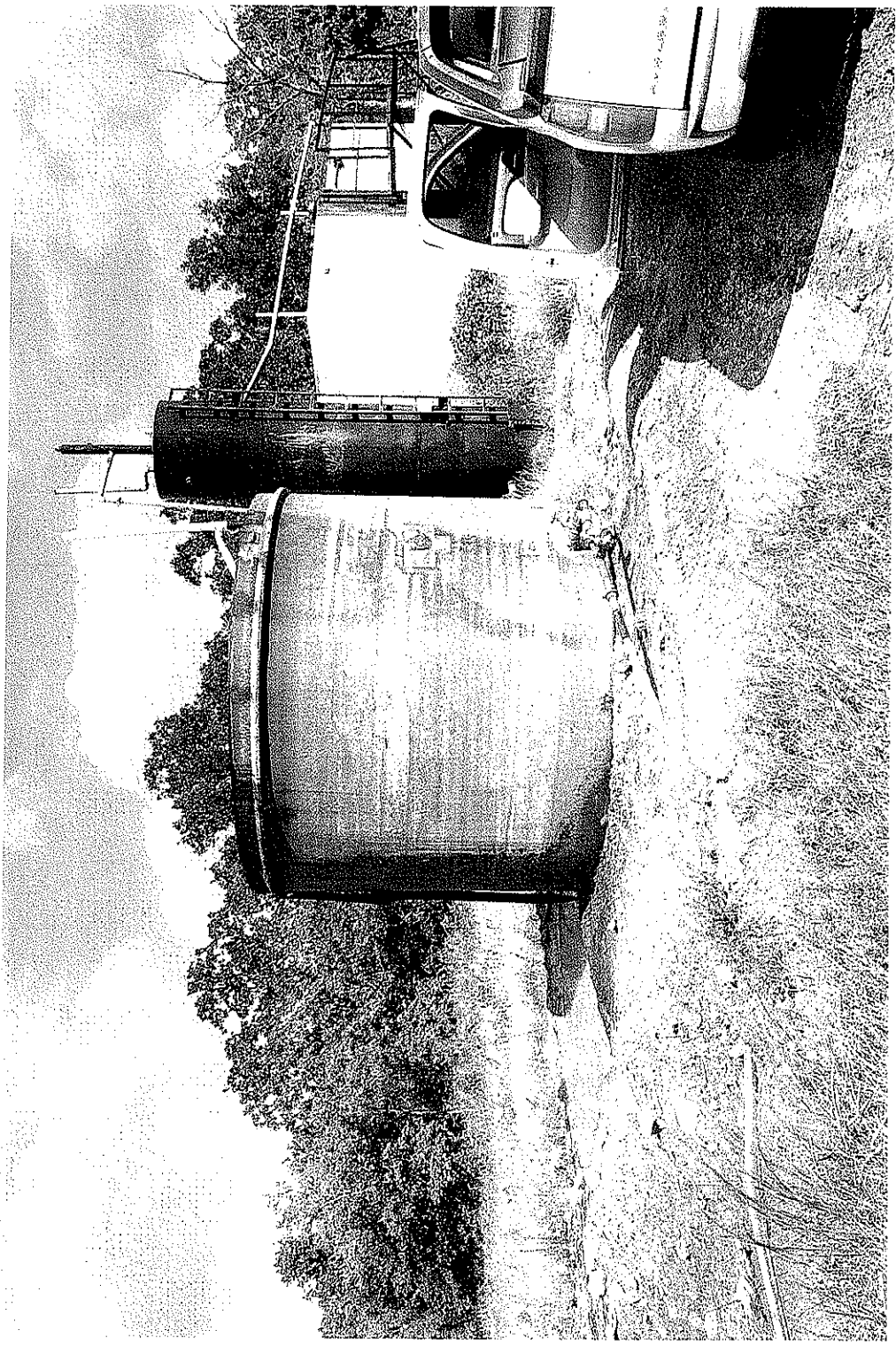


Photo 1 taken southeast. Tank battery here is the site of a discharge. SW tank probably ran over. No secondary containment.

**BOBBY ROWE ENERGY
NW 11-14N-11E OKMULGEE CO., OKLAHOMA
SEPTEMBER 4, 2008**

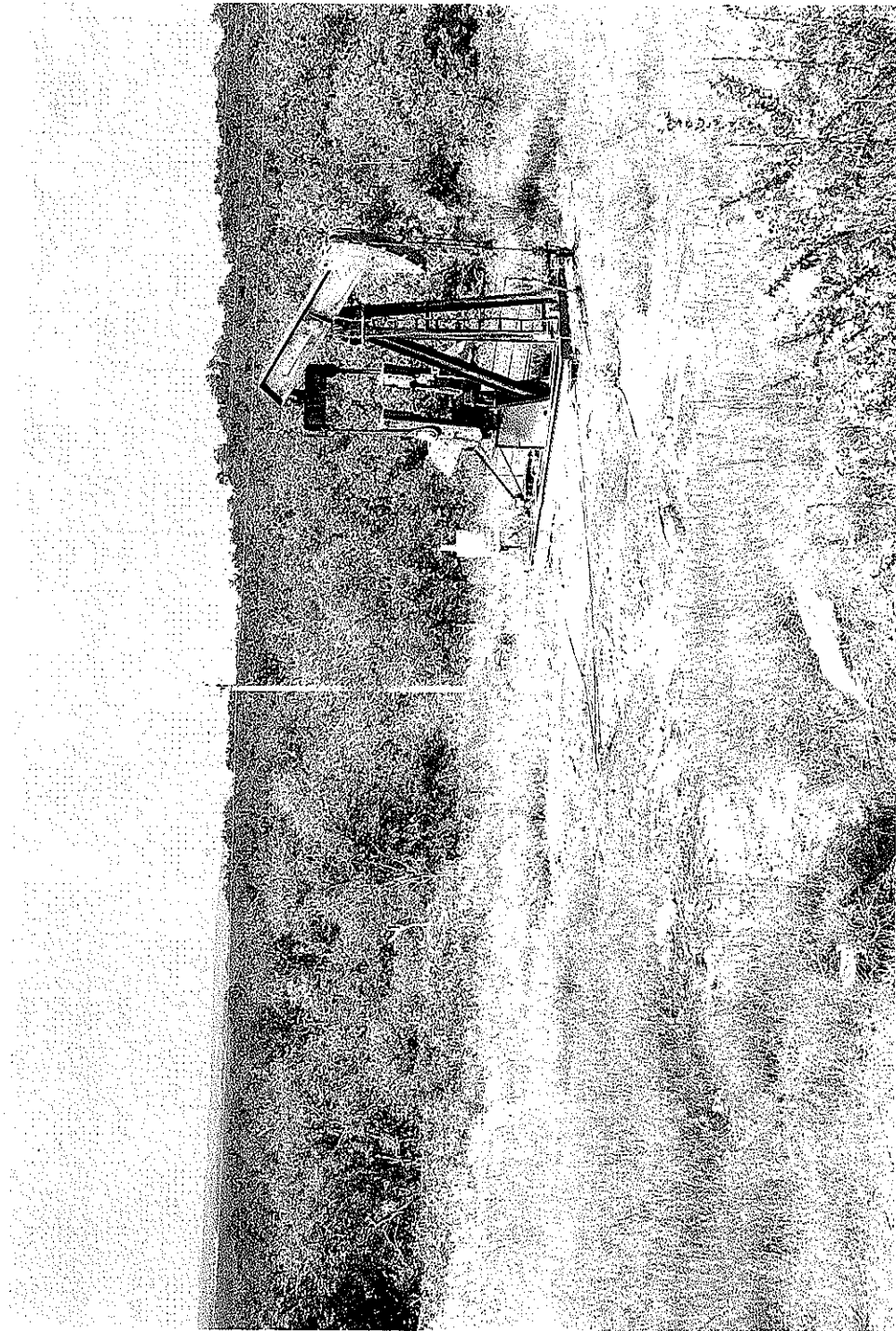


Photo 2 taken northeast. Discharge followed a trench to the creek located along the treeline. Over 80k ppm TSS in the trench.

**BOBBY ROWE ENERGY
NW 11-14N-11E OKMULGEE CO., OKLAHOMA
SEPTEMBER 4, 2008**



Photo 3 taken south. Point of entry to creek. TSS here is 45k-79k ppm.

**BOBBY ROWE ENERGY
NW 11-14N-11E OKMULGEE CO., OKLAHOMA
SEPTEMBER 4, 2008**

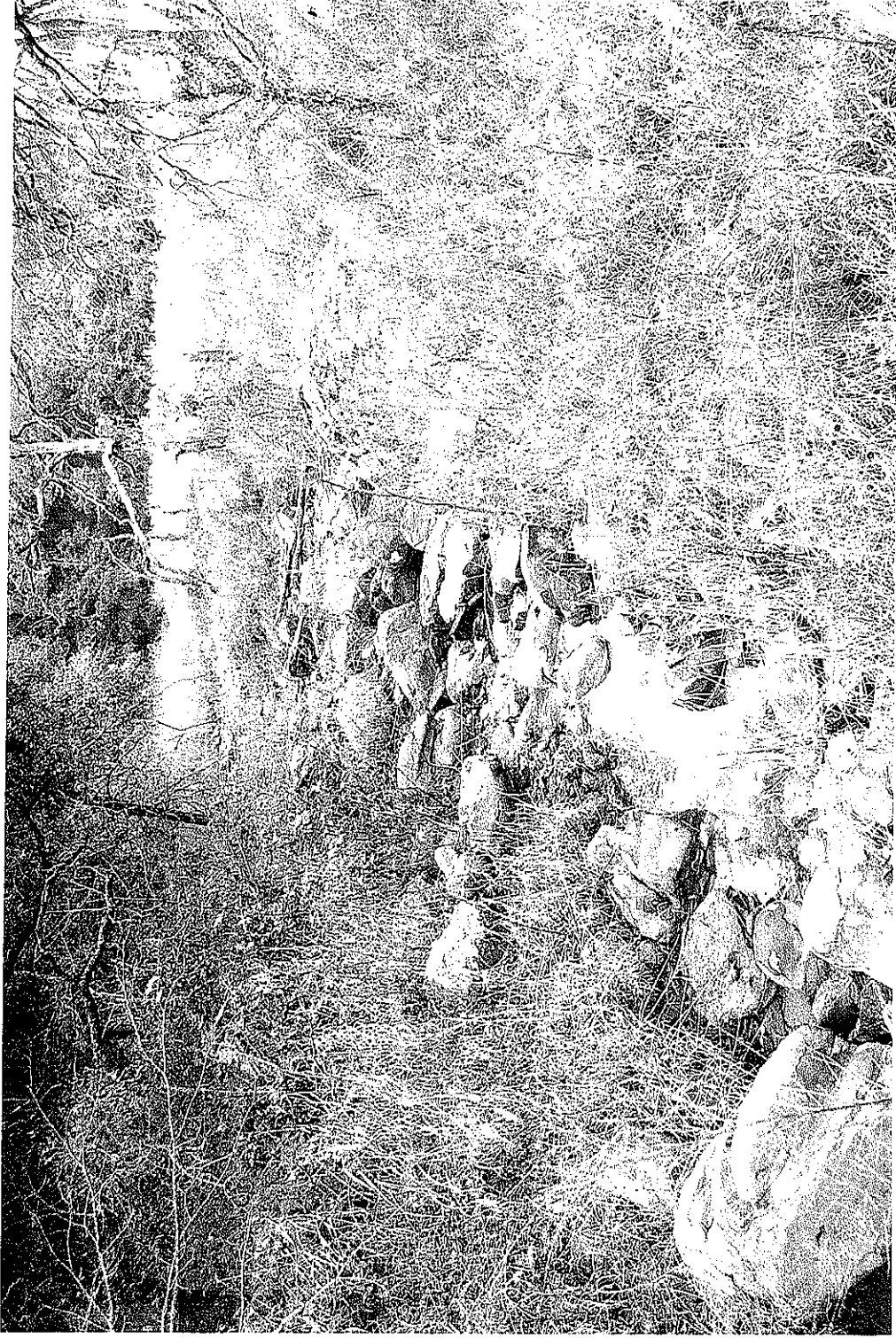


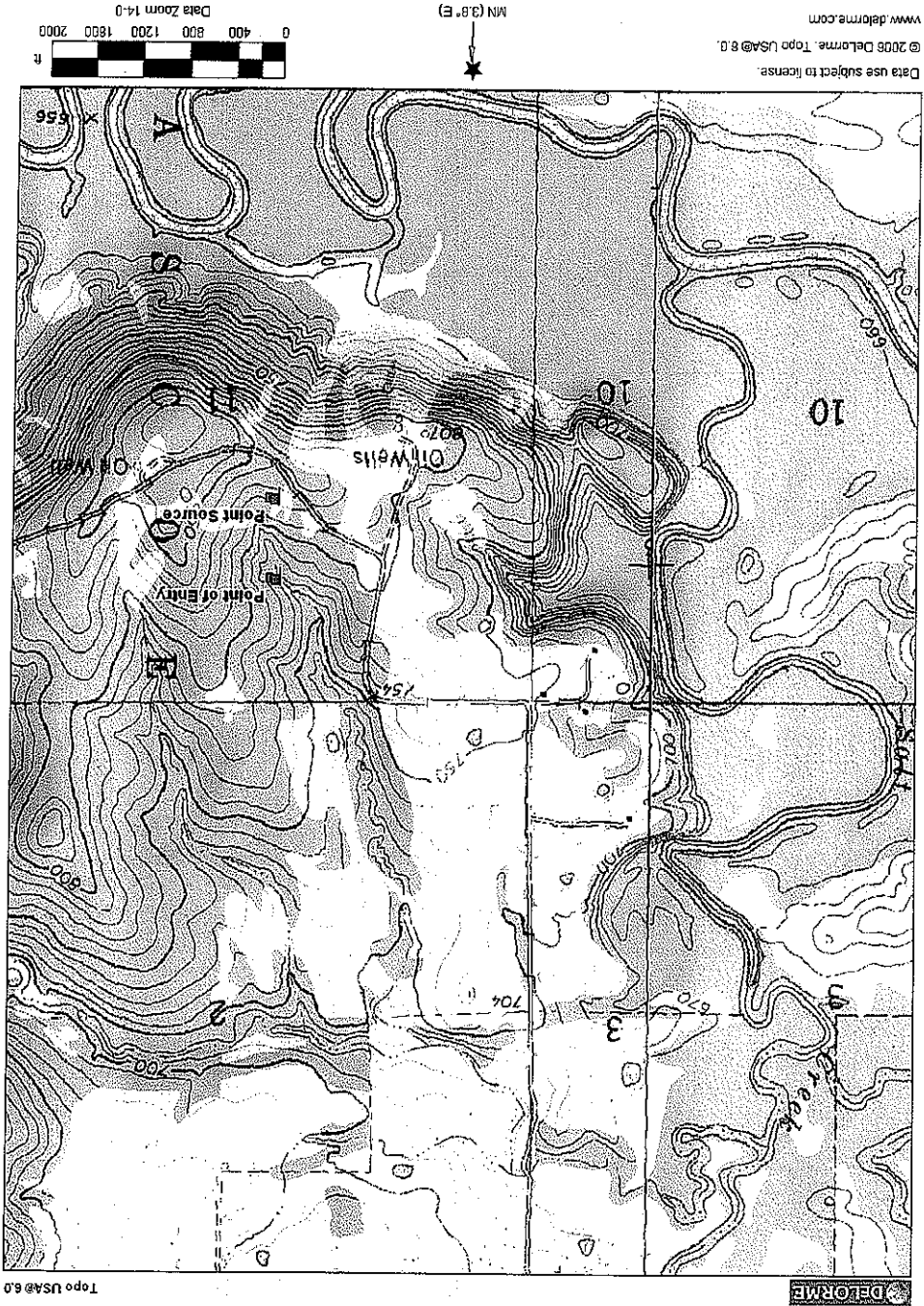
Photo 4 taken north. Creek flowing north with 35k ppm TSS. Near old discharge site to the right in this photo.

POE: TSS=45K-79K ppm



Point Source: TB

Image © 2008 DigitalGlobe



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C

INSPECTION REPORT

REPORT DATE: 10/2/2008

INCIDENT NO: 09192008-1

INSPECTION DATE: 9/19/2008

INVESTIGATOR: Kent Sanborn

LOCATION: SE 1/4, Sec. 27, T 14, R 10;

COUNTY: CREEK

SPILL OR DISCHARGE DATE:

MATERIAL SPILLED: Brine

AMOUNT:

REPORTED BY:

OWNER/OPERATOR: BOBBY ROWE ENERGY

SURFACE OWNER: Unknown

PHONE: Unknown

POINT SOURCE: TANK BATTERY AND FLOWLINE

LATITUDE/LONGITUDE: 35 39.172N, 96 14.199W

RECEIVING WATER: HOPPER CREEK TRIBUTARY

LATITUDE/LONGITUDE: 35 39.010N, 96 14.143W

INSPECTION OBSERVATIONS:

TANK BATTERY CONTINUALLY LEAKS AND SEEPS BRINE FROM THE CONAINMENT AREA AND A LEAKING FLOWLINE. IT IS DEAD AND VOID OF VEGETATION FROM THE BATTERY TO THE SMALL SPRING FED CREEK NEAR A WETLANDS. WETLANDS LOCATED AT 35 38.7140N, 96 14.0974W. THE SPRING FED CREEK AND WETLANDS AREA IS 5500 PPM TSS. THE WETLANDS EMPTIES INTO THE HOPPER CREEK TRIB. AT 2000 PPM TSS. TANK BATTERY SOURCE IS 65K PPM TSS. THERE ARE SOME DEAD TREES ALONG THE ROUTE AS WELL. A CUT IN THE EAST BERM WALL ALLOWS LARGER DICHARGES TO OCCUR WITHOUT ACTUALLY OVERFLOWING THE TOP OF THE BERM. THE SMALL SPRING FED CREEK AND MARSH IS WET YEAR AROUND. THE TRIBUTARY IS ALSO FLOWING.

SUPPORTING VIDEO, PICTURES, OR SAMPLES: Photos

OTHER AGENCIES OR PARTIES CONTACTED OR INVOLVED:

NONE

REGIONAL COMMENTS/INFORMATION OBTAINED:

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**



Photo 1 taken east. Lease and tank battery identification.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**



Photo 2 taken south. Brine pooled up inside tank battery. No rain here for weeks. 65k ppm TSS.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**

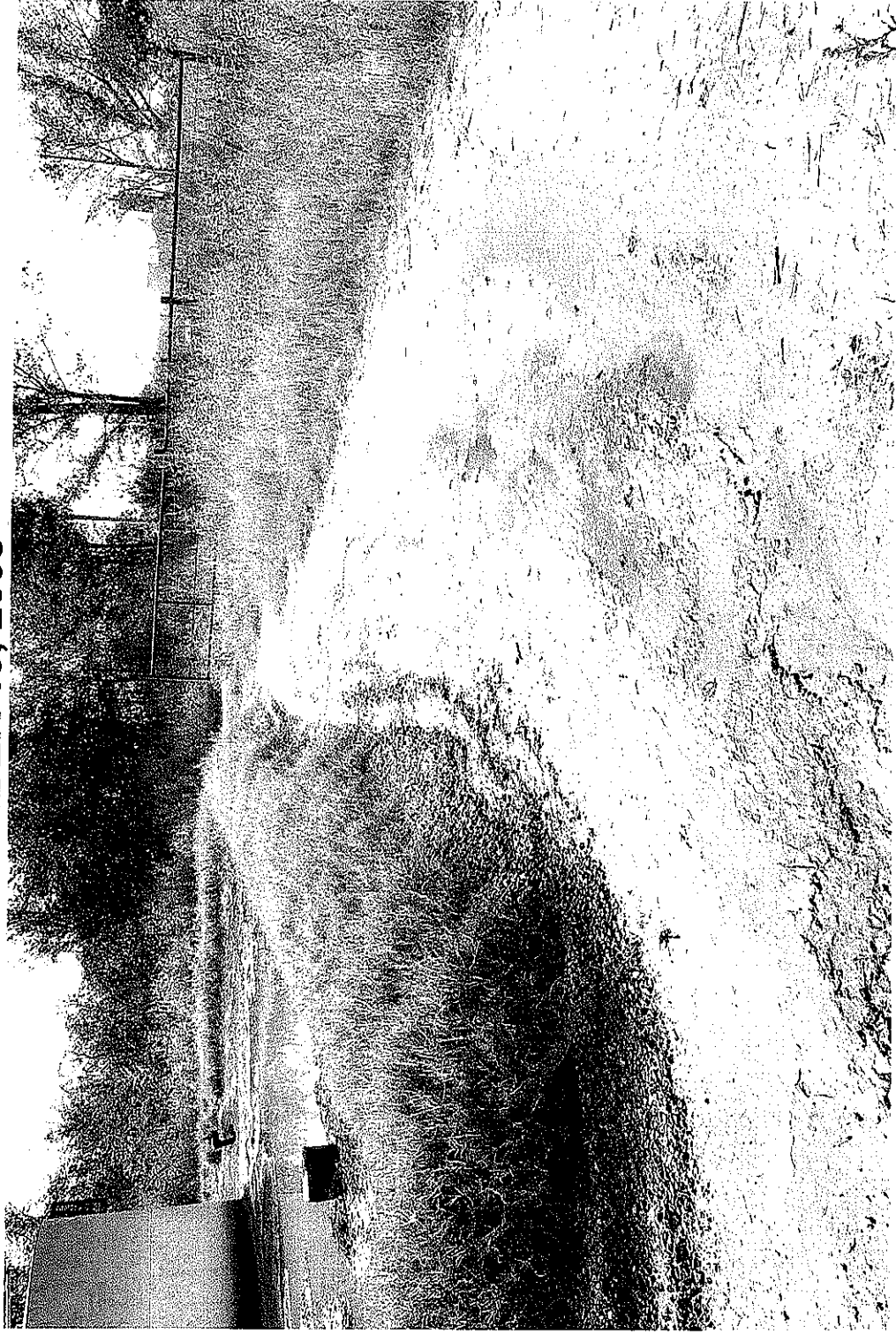


Photo 3 taken west. North side of berm wall leaking out the base.
Runs east then south toward creek.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**

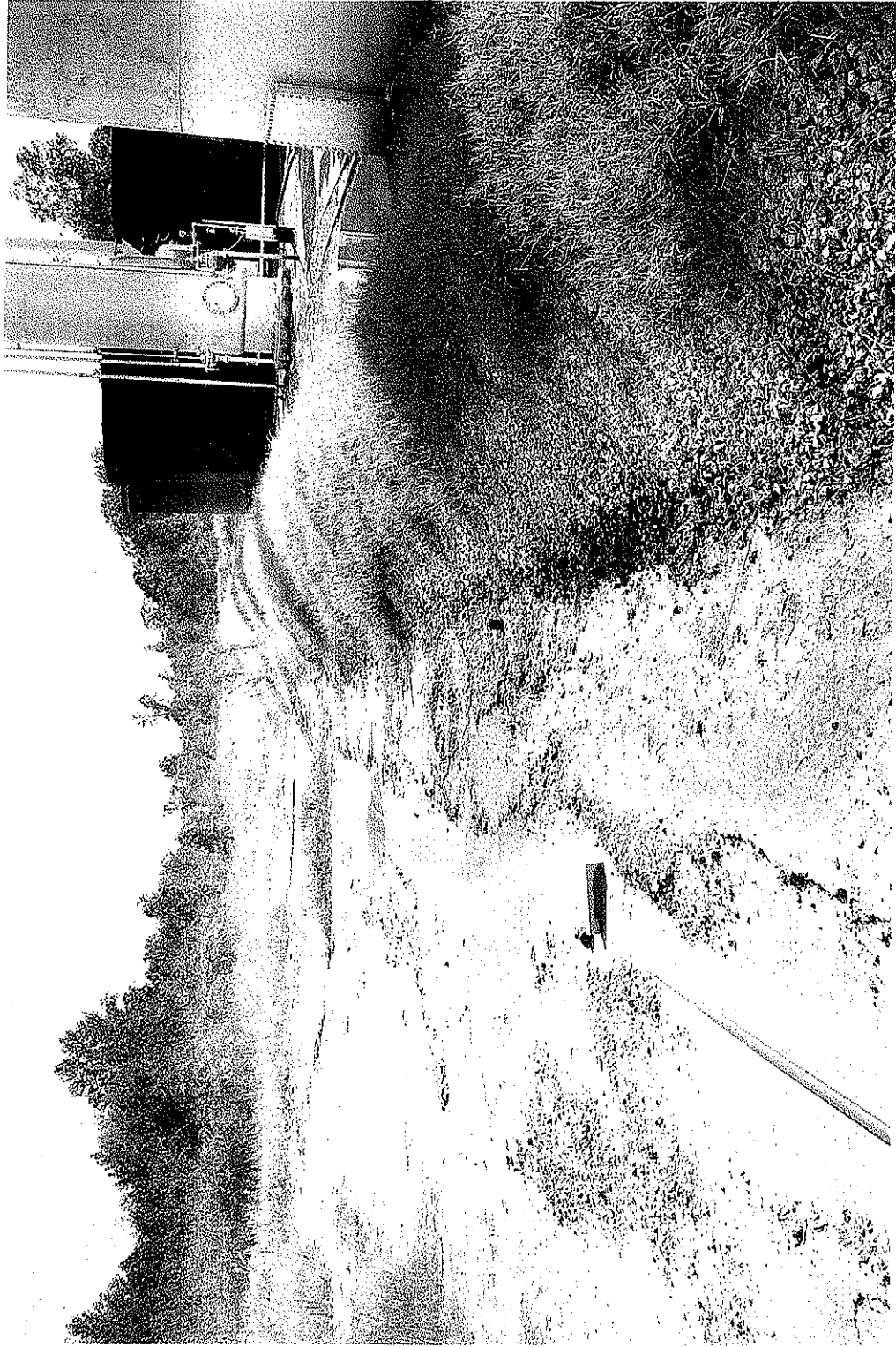


Photo 4 taken south. East side of tank battery berm wall leaking brine. Flow is south toward creek.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**



Photo 5 taken north. Flow of brine leaving the containment. White salt staining and saturated ground.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**

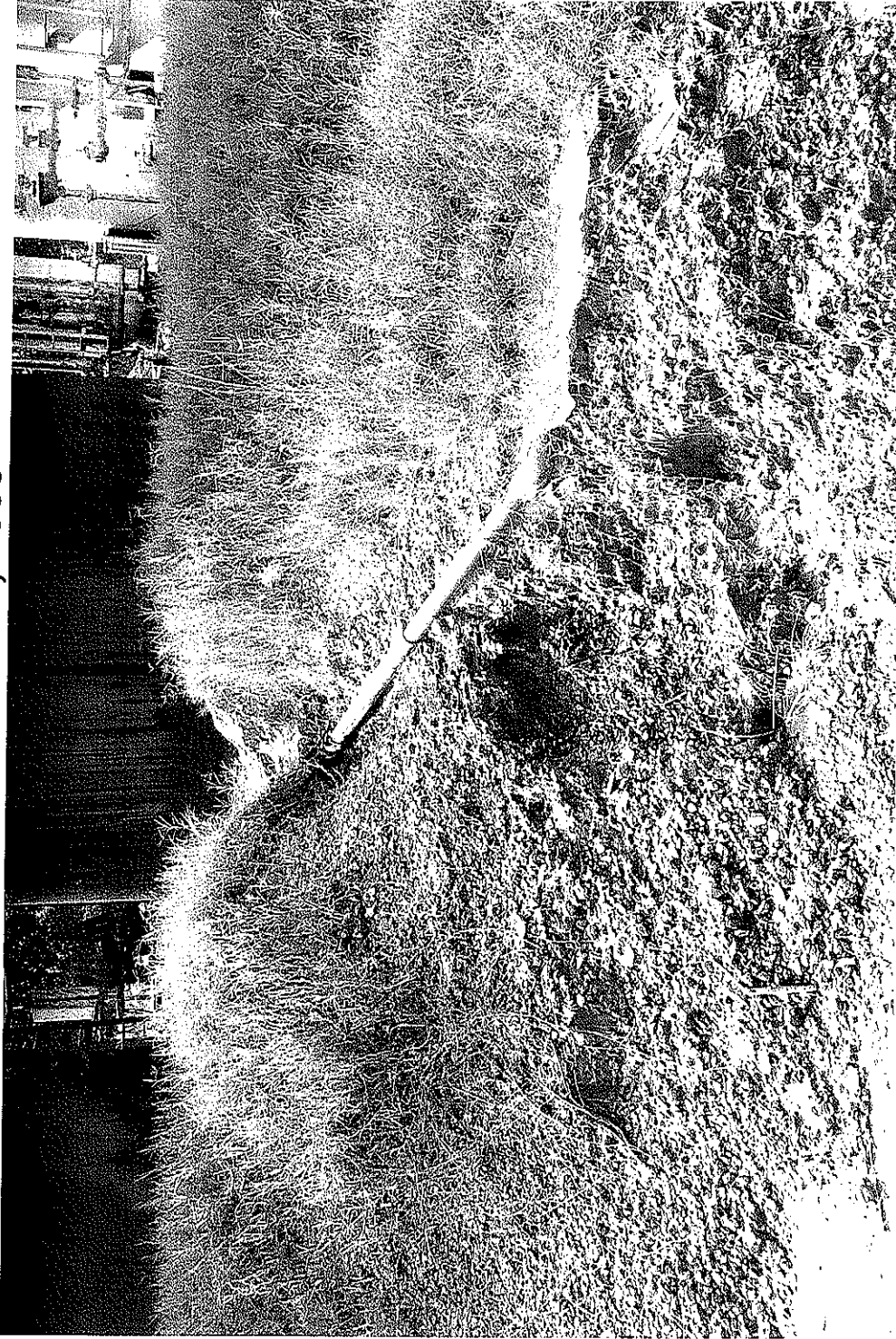


Photo 6 taken west. Leaking flowline here with cut in berm wall adding to discharge.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**

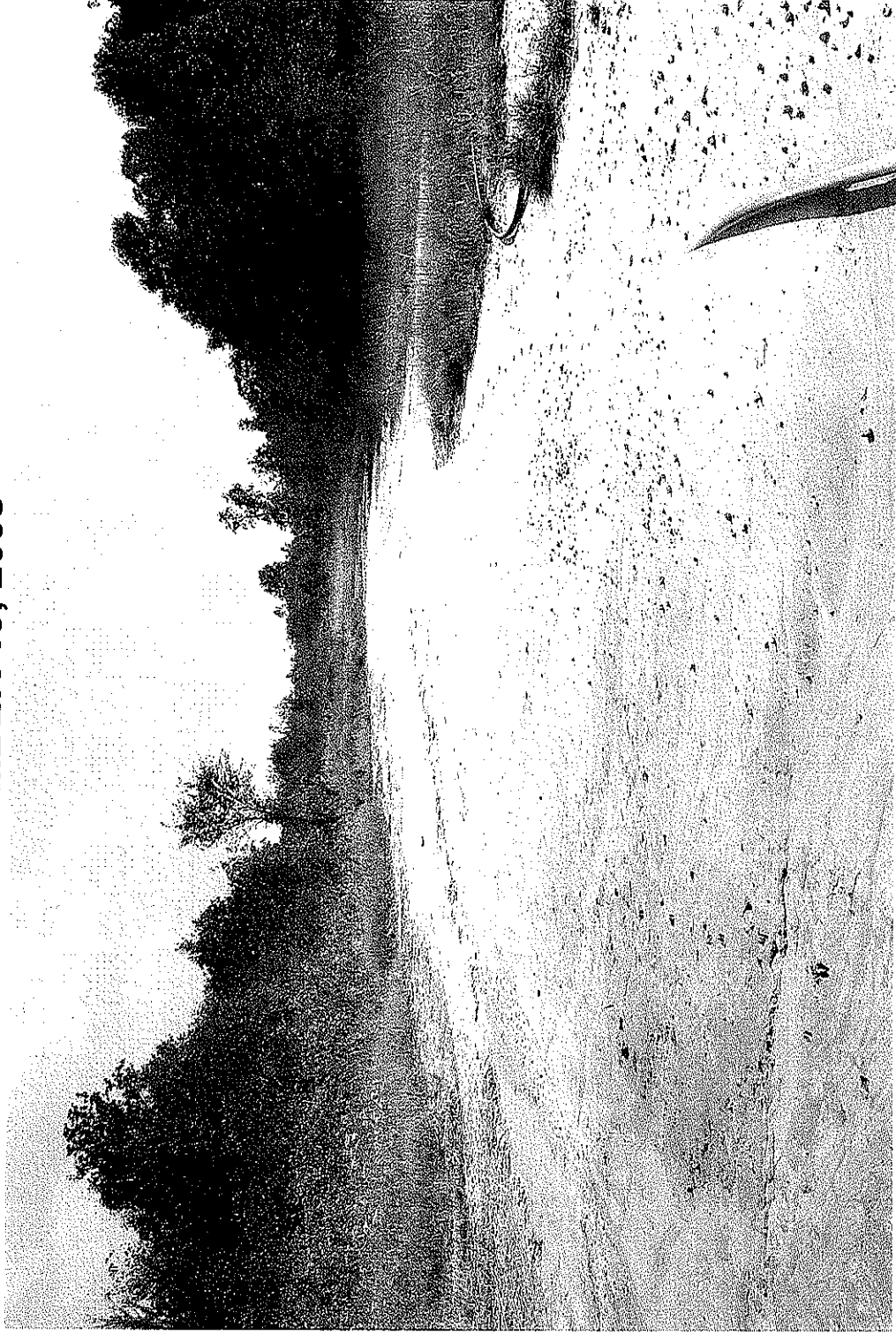


Photo 7 taken south . Runoff travels this path to creek. Void of vegetation and salt stained. Area is saturated and soft.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**

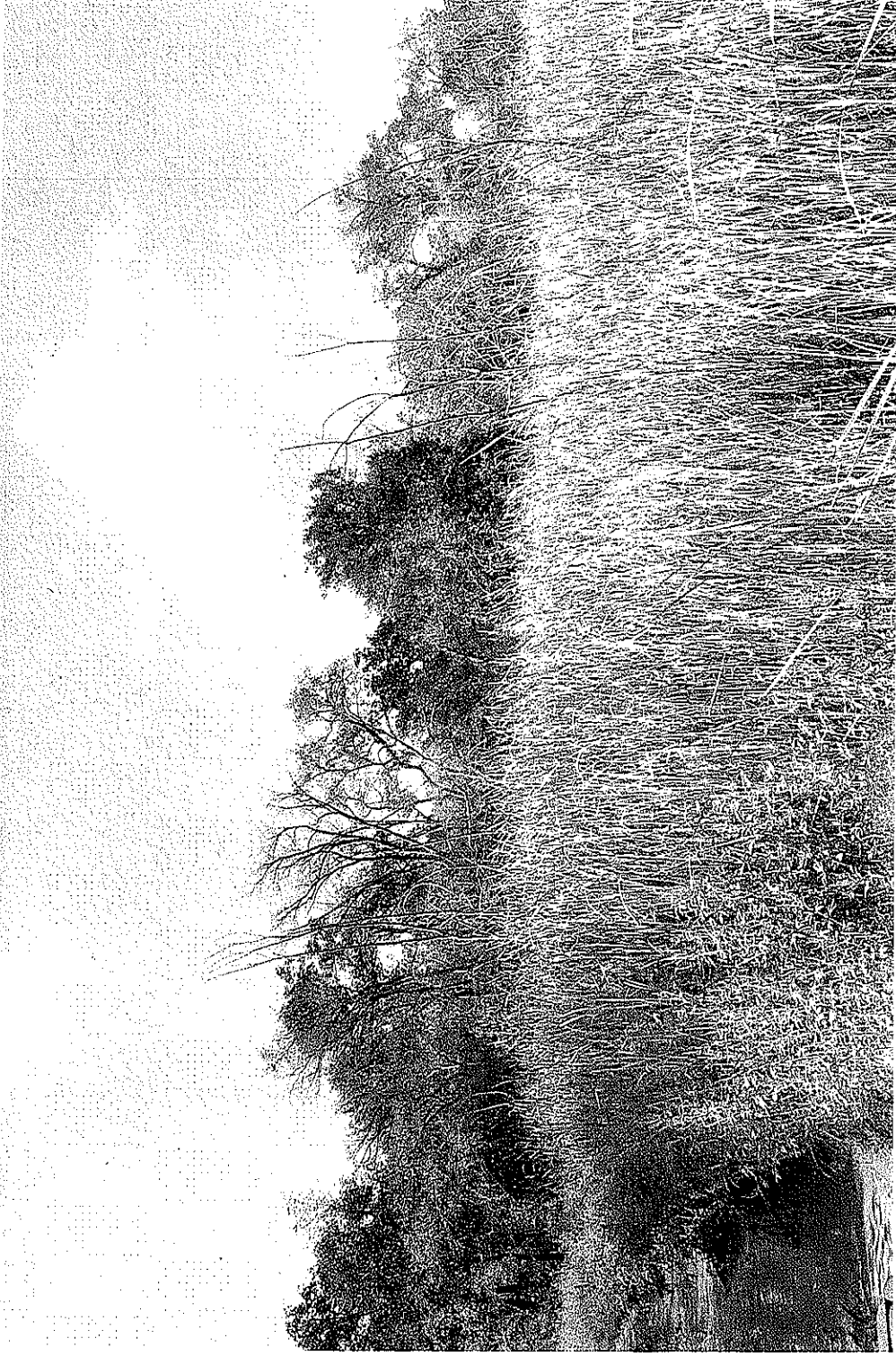


Photo 8 taken northwest. Runoff from TB enters a spring fed creek before entering this wetlands area. TSS is 5500 ppm. Dead trees evident on the perimeter.

**BOBBY ROWE ENERGY
SE 27-14N-10E CREEK CO., OKLAHOMA
SEPTEMBER 19, 2008**

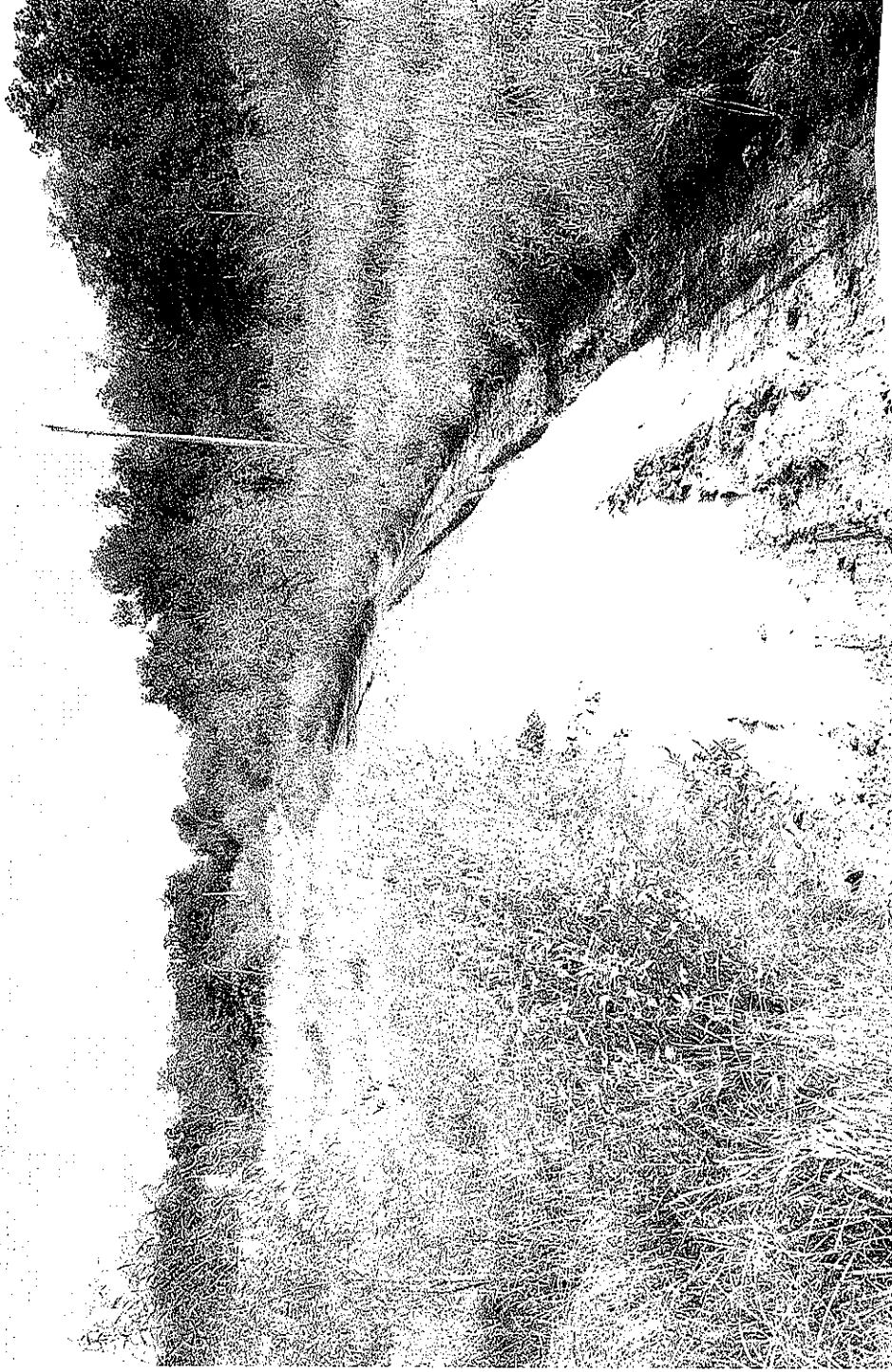


Photo 9 taken east. This road is on the edge of the wetlands and serves as a conduit to the creek. TSS of discharge entering the creek is 2000 ppm. It is flowing.



Point Source

Point of Entry

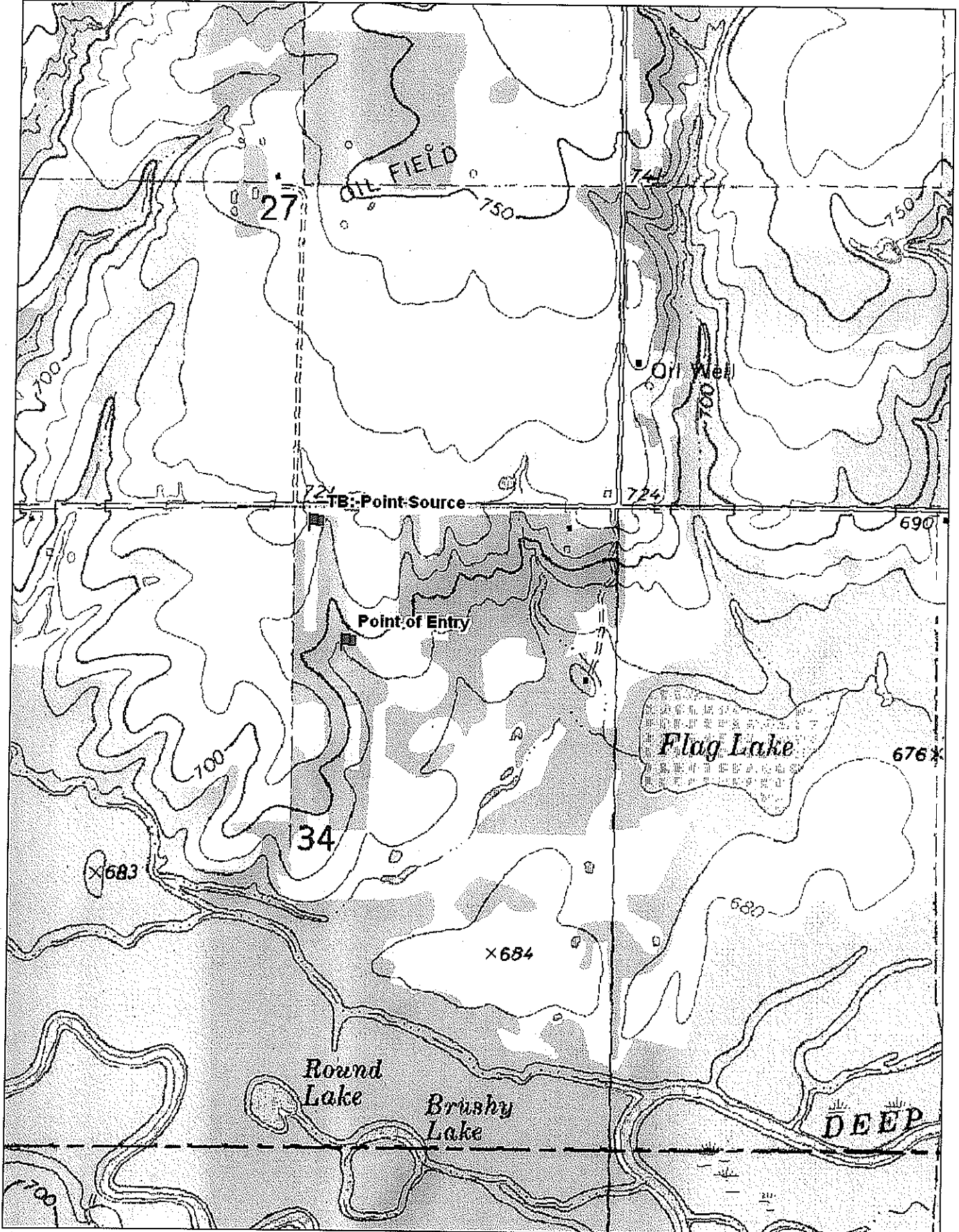
Image © 2003 DigitalGlobe

Streaming 100%

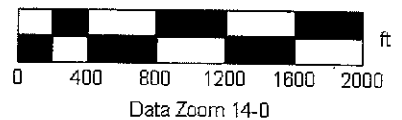
Google

all 5340 ft

Printer 35°38'55.58" N 96°13'56.84" W



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D

IN THE MATTER OF:)

BOBBY ROWE ENERGY, INC.)

Respondent)

) Docket No. CWA-06-2009-1761
)
)
)

AFFIDAVIT OF KENT SANBORN

I, KENT SANBORN, make the following statement truthfully from personal knowledge, under penalty of perjury, in accord with 28 U.S.C. § 1746.

1. I make this statement in my capacity as an Environmental Engineer employed in the Water Resources section of the Compliance Assurance Enforcement Division of the United States Environmental Protection Agency, Region 6 ("EPA").
2. I joined the Water Resources section in 1990. I am responsible for doing Clean Water Act inspections of different facilities including oil and gas operations.
3. Oil and gas operations inspections consist of a physical inspection of the facility and surrounding waterbodies and record/document review. During an inspection, I may assess the structural integrity, condition and availability of surface impoundment/pits, staff gauges and liquid levels, and maintenance facilities. If there is a discharge of pollutants from the facility into waters of the U.S., I will walk the path of the discharge if feasible and determine impact. I also review records and management plans to determine if the facility is in compliance with its National Pollutant Discharge Elimination System permit.
4. On September 4, 2008, I conducted an inspection of Facility #1 located at Latitude 35° 47.41' North and Longitude 96° 6.24' West. I observed at Facility #1 that the secondary containment/surface impoundment pit had overflowed with brine and a flow path of brine was observed between the facility and the discharge point of entry into the tributary of Salt Creek which was located at Latitude 35°, 47.29' North and Longitude 96° 6.24' West. I sampled the pools of brine located on this flow path and they measured over 80,000 parts per million (ppm) Total Soluble Salts (TSS.). I also sampled the water located at the discharge point of entry into the tributary of Salt Creek which had been contaminated from brine discharges and it measured 28,000 ppm TSS.
5. On September 4, 2008, I conducted an inspection of Facility #2 located at Latitude 35° 42.40' North and Longitude 96° 6.87' West. I observed at Facility #2 that oil field brine had been discharged. The brine tank had overflowed before breaching the berm. I saw a brine flow path between the facility and the discharge point. I sampled the fluids along this flow path which measured over 80,000 ppm TSS. I also sampled the water located at the discharge point of entry into the tributary of Salt Creek which was contaminated from brine discharges and it measured at 45,000 to 79,000 ppm TSS.

6. On September 19, 2008, I conducted an inspection of Facility #3 located at Latitude 35° 39.17' North and Longitude 96° 14.20' West. I observed at Facility #3 that oil field brine had been discharged. It appeared that the berm had been cut allowing brine to be released from the bermed area. I saw a brine flow path between the facility and an unnamed spring-fed creek. The spring-fed creek then flows into a wetlands area and then into an unnamed tributary of Hopper Creek. The spring fed creek is located at 35° 39.01' North and Longitude 96° 14.14' West. I sampled the fluids in the secondary containment at Facility #3 and they measured at 65,000 ppm TSS. I also sampled the fluids at the point of entry into the unnamed spring-fed creek which measured at 5,500 ppm TSS. In addition, I sampled the fluids at the point of entry into the unnamed tributary of Hopper Creek which measured at 2,000 ppm TSS.

Kent Sanborn
Kent Sanborn

Executed this 19 day of May 2010 in Bartlesville, Oklahoma.

Subscribed and sworn to before me, the undersigned Notary Public,

This 19 day of May, 2010

Stephanie J. Miller



E

IN THE MATTER OF:)

Bobby Rowe Energy, Inc.)

Respondent)

) Docket No. CWA-06-2009-1761
)
)
)

DECLARATION OF MATTHEW RUDOLPH

1. I, MATTHEW RUDOLPH, make the following statement truthfully from personal knowledge, under penalty of perjury, in accord with 28 U.S.C. § 1746.
2. I make this statement in my capacity as an environmental engineer employed in the Water Resources section of the Compliance Assurance Enforcement Division of the United States Environmental Protection Agency, Region 6 ("EPA").
3. I joined the Water Resources section in May 2003. My job duties are that of an enforcement officer and inspector. As such, I am responsible for activities regarding the onshore oil and gas industry oil and gas operations and determining if facilities in this industry are in compliance with the Clean Water Act (CWA) and the National Pollutant Discharge Elimination System (NPDES) program.
4. I am one of the EPA, Region 6 enforcement officers assigned to review information related to the CWA at Bobby Rowe Energy, Inc. ("Respondent"). In my capacity as an enforcement officer for EPA, I am familiar with CWA.
5. As one of the enforcement officers for the matter against Respondent, I calculated the penalty based on a consideration of the required statutory factors in Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3) for the Complaint that was issued against Respondent.

6. Section 309(g)(2) authorizes the Administrator of EPA to assess administrative civil penalties of \$11,000 per day during which a violation continues, up to a maximum of \$32,500.

7. Section 301(a) of the CWA, 33 U.S.C. § 1319(a), prohibits any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

8. Respondent owned or operated the oil and gas production facilities listed below (herein "the facilities").

- Facility #1 - Southeast Quarter of Section 11, Township 15 North, Range 11 East, Okmulgee County, Oklahoma;

- Facility #2 - Northwest Quarter of Section 11, Township 14 North, Range 11 East, Okmulgee County, Oklahoma;

- Facility #3 - Southeast Quarter of Section 27, Township 14 North, Range 10 East, Creek County, Oklahoma.

9. On September 4, 2008, Facility #1 was inspected by an EPA field inspector. The inspector observed that oil field brine had been discharged from Facility #1.

On September 4, 2008, Facility #2 was inspected by an EPA field inspector. The inspector observed that oil field brine had been discharged from Facility #2.

On September 19, 2008, Facility #3 was inspected by an EPA field inspector. The inspector observed that oil field brine had been discharged from Facility #3.

10. Because Respondent owns and operates oil and gas production facilities that discharge pollutants into waters of the U.S., Respondent is required by Section 402(p) of

the CWA and 40 C.F.R. Part 122 to have coverage under the NPDES program to perform these acts.

11. The Respondent does not have NPDES permit coverage to discharge pollutants from the facilities to waters of the U.S.

12. On October 21, 2008, EPA sent Respondent three Cease and Desist Administrative Orders ordering the Respondent to stop all discharges of pollutants from its facilities (Facility #1, #2 and #3).

13. On July 6, 2009, EPA filed an Administrative Complaint against Respondent seeking a penalty of \$20,200.

A. The Statutory Factors

14. The CWA enumerates in Section 309(g)(3), 33 U.S.C. § 1319(g)(3), the factors that the court and EPA must consider in the assessment of any civil penalty. The first statutory factor deals with the violation itself and it considers the “nature, circumstances, extent and gravity” of the CWA violation. The next group of factors are “the violator’s ability to pay, any prior history of CWA violations, the degree of culpability” and depending on the circumstances surrounding the violator’s act, the penalty may either increase or decrease when considering these factors. “Economic benefit” is a factor which tries to capture any economic advantage the facility may have gained as a result of noncompliance. The final factor is a catch-all and it is “such other matters as justice may require.”

15. One of the main goals of assessing a penalty against a violator is deterrence. Penalties deter noncompliance and help protect the environment and public health by deterring future violations. By recovering the economic benefit resulting from

noncompliance, penalties also help to ensure that violators do not obtain an economic advantage over their competitors. Before a penalty is calculated using the statutory penalty factors, I determined the number of days the Respondent was in violation of the CWA. I considered each day where there was an unauthorized discharge of a pollutant from a single point source to a water of the US, a violation of the CWA. For this case, I determined there to be at least three violations. In reviewing the inspection reports, I determined that there were at least two violations which occurred on or before September 4, 2008, and there was at least one violation which occurred on or before September 19, 2008. The violations were evident based on the high salinity levels in the impacted water bodies. The statutory maximum penalty is \$11,000 per day per violation. For this case, the statutory maximum penalty was \$33,000.

16. Based on my analyses of the statutory factors for this case, I calculated a penalty of \$20,200, which is less than the statutory maximum penalty of \$33,000. Below I will go into more detail of my analyses of the statutory factors.

1. Gravity Component

17. The gravity component accounts for nature, circumstances, extent and gravity of the violation, economic impact, good-faith efforts to comply and such other matters as justice may require. It is the punitive component of the penalty. When determining the gravity of the violation, it is proper to examine the severity of the violation. This includes considering the presence or absence of actual or possible environmental harm associated with the violation and the importance of the violation to the regulatory scheme.

a. Nature, circumstances, extent and gravity of the violation

18. Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), requires that EPA consider the nature, circumstances, extent and gravity of the violation. When Congress enacted the CWA, its goal was to restore and maintain the chemical, physical and biological integrity of the U.S. waters and this was to be achieved partially by prohibiting the discharge of pollutants into waters of the U.S. Oil field brine is a pollutant associated with oil and gas production activities.

19. Brine is a byproduct of crude oil production. Oil field brine has high concentrations of calcium and sodium salts and since there is little market for brine, the brine must be disposed of properly. Brine is usually disposed of by underground injection into subsurface formations designated for brine disposal.

20. During all three inspections, the inspector had observed where brine had overflowed or breached the Facilities' secondary containments and as a result, the oil field brine discharged into waters of the U.S. Respondent's discharge of brine into surface waters may cause environmental harm because high salt concentration can kill vegetation and aquatic life. In 1988, the EPA's Office of Research and Development Environmental Research Laboratory in Duluth, Minnesota, performed research and studied the effects chlorides had on aquatic life. (Ambient Water Quality Criteria for Chloride, February 1988.) From this research, EPA found that freshwater fish were affected from chloride, when associated with sodium, which would be sodium chloride (a form of salt), at levels of 230 parts per million (ppm) if exposed once every three years for a four day period (chronic exposure) and freshwater fish were affected at levels of 860 ppm if exposed once every three years for a period of one hour (acute exposure). To put that into

perspective with the case at hand, the brine levels taken at the discharge points of entry into the waters of the U.S. ranged from 2,000 ppm Total Soluble Salts (TSS) to 28,000 ppm. Clearly at these salinity levels and in reference to the 1988 research studies, this undermines the statutory purpose of the CWA which is to restore and maintain the chemical, physical and biological integrity of our waters.

2. Adjusting the Gravity Component: Ability to Pay, History of Violations and Degree of Culpability

21. The gravity component adjustment factor allows EPA to take into account the differences between cases and to apply the gravity component to these different facts. This adjustment factor promotes the fair and equitable treatment of the regulated community by increasing or decreasing the gravity component. Under the adjusting the gravity component, there are some factors that distinguish different cases. These factors are: ability to pay, history of violations and degree of culpability.

a. Ability to Pay

22. Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), requires that EPA consider the economic impact on the violator. This particular factor takes into account the different impacts of a penalty on violators by looking into their financial capability and the size of the business or municipality. It also considers Respondent's ability to pay a penalty. An inability to pay defense can only be invoked when the violator can prove it cannot pay the assessed penalty. Complainant was told by Respondent's counsel that Respondent had filed for Chapter 11 bankruptcy on July 27, 2009, and that he would provide the bankruptcy documentation. However, Complainant has not received any financial documents. I researched the bankruptcy claim and discovered that part of Rowe's bankruptcy was to have an auction to liquidate assets. It appeared that

Respondent was trying to auction off approximately 37 different oil and gas wells which include both production and injection wells and some equipment. Current records obtained from the Oklahoma Corporation Commission's website listed 108 wells in which Stephen Rowe Oil Properties, LLC, operates. The 37 oil and gas wells which Bobby Rowe Energy owned appear to be part of the same 108 wells which Stephen Rowe Oil Properties, LLC operates. Furthermore, according to the Oklahoma Secretary of State, Stephen Rowe is the listed registered agent for Bobby Rowe Energy. However, no information has been received by EPA in regards to this auction or its outcome.

b. History of Violations

23. Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), requires that EPA consider the factor, history of violations. The Respondent does have a history of non-compliance. In December 2006 and January 2007, EPA issued Orders for Compliance for similar violations of the CWA. Records indicate that the Respondent did not comply with the Order issued in December 2006. In May 2007, the EPA issued a Complaint to the Respondent addressing the two violations. The Respondent agreed to settle that Complaint by paying a \$14,400 penalty.

c. Degree of Culpability

24. Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), requires that EPA consider the degree of culpability. This factor can be used to either increase or mitigate the gravity component. If the violator is not trying to come into compliance or is acting in bad faith, the gravity component may increase. EPA should consider how quickly the violation was corrected and how fast the damage was mitigated before the enforcement action was commenced. The agency must also take into regard, the degree of effort the

violator put forth to remedy the violation and to respond to the enforcement action. To date, the EPA has issued five Administrative Orders to the Respondent. The Respondent has put forth very little effort to comply with these Orders.

d. Such Other Matters as Justice May Require

25. Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), requires that EPA consider the factor, such other matters as justice may require. That particular factor was not used in the calculation of the penalty in this matter.

2. The Economic Benefit Component

26. Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), requires that EPA consider the economic benefit of noncompliance. The purpose of the economic benefit factor is to remove any economic advantage the facility may have gained as a result of noncompliance. Computing the economic benefit involves three parts as follows: 1) capital investments, 2) one-time, non-depreciable expenditure and 3) annually recurring costs.

27. Capital investments are those expenditures that are one-time depreciable costs which have been put off by the violator's failure to promptly comply with the regulations. By not spending the money initially to achieve compliance, the violator accrued an economic benefit.

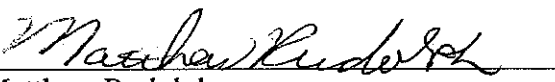
28. One-time non-depreciable expenditures are the type of non-depreciable expenditures (such as the purchase of land) that the violator should have implemented but did not do so. The violator gained an economic benefit by not putting to use these type of non-depreciable expenditures.

29. Annual recurring costs are the type of expenditures which occur on a regular basis associated with environmental control measures. These types of expenses are equivalent to operating and maintenance costs.

30. In this matter, I did calculate the economic benefit for the penalty.

D. Conclusion

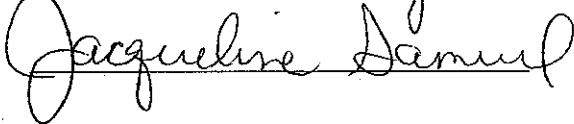
31. In calculating the penalty based on the three violations, I used the statutory factors. These include: the nature, circumstances, extent and gravity of the CWA violation, the violator's ability to pay, any prior history of CWA violations, the degree of culpability, the economic benefit resulting from the violation and such other matters as justice may require. The penalty I calculated was \$20,200.

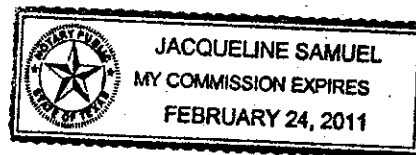

Matthew Rudolph

Executed this 25 day of May 2010 in Dallas, Texas.

Subscribed and sworn to before me, the undersigned Notary Public,

This 25 day of May, 2010





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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

October 21, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7007 1490 0002 3413 7648

Mr. Stephen Rowe, Owner
Bobby Rowe Energy, Inc.
P.O. Box 240
Beggs, OK 74421

Re: Cease and Desist Administrative Orders
Docket Number CWA-06-2009-1717
Docket Number CWA-06-2009-1718
Docket Number CWA-06-2009-1724
Facility Number OKU000616


Dear Mr. Rowe:

Enclosed are Administrative Orders (AOs) issued to Bobby Rowe Energy, Inc. for violations of the Clean Water Act (33 U.S.C. § 1251 et seq.). The violations were identified based on our September 4, 2008, and September 19, 2008, inspections of your facilities. The inspection results were discussed with you shortly after the inspections. The violations found consist of unauthorized discharges of a pollutant, specifically oil field brine, to waters of the United States.

Effective upon receipt of this AO, you shall immediately cease and desist all discharges of pollutants into the identified water bodies, and comply with all of the provisions of the AOs. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the Clean Water Act, and my staff will assist you in any way possible.

If you have any questions, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely,


John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure(s)

cc: Mr. Terry Grooms, District Manager
Oklahoma Corporation Commission, District 1

U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER

In the Matter of Bobby Rowe Energy, Inc., Respondent
Docket No. CWA-06-2009-1717

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a). The Administrator has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Respondent, Bobby Rowe Energy, Inc., is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).
2. At all times relevant to the violation alleged herein (relevant time period) Respondent operated an oil field production facility located in the Southeast Quarter of Section 11, Township 15 North, Range 11 East, Okmulgee County, Oklahoma (facility), designated as Facility Number OKU000616.
3. On September 4, 2008, an EPA inspector observed that pollutants, namely, oil field brine generated by oil production activities, had been recently discharged from the facility to "waters of the United States" as that term is defined by 40 C.F.R. § 122.2. Pollutants were discharged to a tributary of Salt Creek. The inspector determined that the water located at the discharge point of entry into the tributary of Salt Creek was contaminated from brine discharges and measured 28,000 parts-per-million total soluble salts.
4. Pumps, pipes, hoses, flow lines, production wells, and associated devices acted as "point sources" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).
5. At no time during the relevant time period did Respondent have National Pollutant Discharge Elimination System permit coverage under the Act, which authorized the discharge of a pollutant from the facility to waters of the United States.
6. During the relevant time period, it was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1311(a), for any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.
7. On or about September 4, 2008, Respondent discharged and caused the discharge of pollutants from point sources within the facility to waters of the United States without permit coverage under the Act in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

ORDER

Based on these findings and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA orders that Respondent take the following actions upon receipt of this Order:

1. Cease all discharges of pollutants from the facility;
2. remove all brine from the flow path located in between the facility and the tributary of Salt Creek;
3. remove all brine from the tributary of Salt Creek, located at Latitude 35° 47.407' North and Longitude 96° 6.244' West, which was discharged from the facility on or about September 4, 2008;
4. within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to the EPA, Region 6, that these activities have been completed.

GENERAL PROVISIONS

Issuance of this Order shall not be deemed an election by EPA to waive any administrative, judicial, civil or criminal action to seek penalties, fines or other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any remedy available under the law which it deems appropriate.

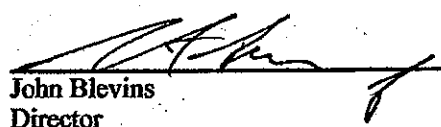
Failure to comply with this Order or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state and local laws.

The effective date of this Order is the date it is received by the Respondent.

Date

10-21-08


John Blevins
Director
Compliance Assurance and
Enforcement Division

U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER

In the Matter of Bobby Rowe Energy, Inc., Respondent
Docket No. CWA-06-2009-1718

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a). The Administrator has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Respondent, Bobby Rowe Energy, Inc., is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to the violation alleged herein (relevant time period) Respondent operated an oil field production facility located in the Northwest Quarter of Section 11, Township 14 North, Range 11 East, Okmulgee County, Oklahoma (facility), designated as Facility Number OKU000616.

3. On September 4, 2008, an EPA inspector observed that pollutants, namely, oil field brine generated by oil production activities, had been recently discharged from the facility to "waters of the United States" as that term is defined by 40 C.F.R. § 122.2. Pollutants were discharged to a tributary of Salt Creek. The inspector determined that the water located at the discharge point of entry into the tributary of Salt Creek was contaminated from brine discharges and measured 45,000 to 79,000 parts-per-million total soluble salts.

4. Pumps, pipes, hoses, flow lines, production wells, and associated devices acted as "point sources" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

5. At no time during the relevant time period did Respondent have National Pollutant Discharge Elimination System permit coverage under the Act, which authorized the discharge of a pollutant from the facility to waters of the United States.

6. During the relevant time period, it was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1311(a), for any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

7. On or about September 4, 2008, Respondent discharged and caused the discharge of pollutants from point sources within the facility to waters of the United States without permit coverage under the Act in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

ORDER

Based on these findings and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA orders that Respondent take the following actions upon receipt of this Order:

1. Cease all discharges of pollutants from the facility;
2. remove all brine from the flow path located between the facility and the tributary of Salt Creek;
3. remove all brine from the tributary of Salt Creek, located at Latitude 35° 42.51' North and Longitude 96° 6.87' West, which was discharged from the facility on or about September 4, 2008;
4. within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to the EPA, Region 6, that these activities have been completed.

GENERAL PROVISIONS

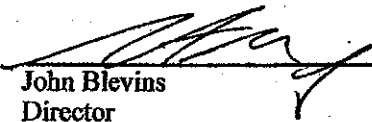
Issuance of this Order shall not be deemed an election by EPA to waive any administrative, judicial, civil or criminal action to seek penalties, fines or other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any remedy available under the law which it deems appropriate.

Failure to comply with this Order or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state and local laws.

The effective date of this Order is the date it is received by the Respondent.

10-21-08
Date


John Blevins
Director
Compliance Assurance and
Enforcement Division

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER

In the Matter of Bobby Rowe Energy, Inc. (Respondent)
Docket No. CWA-06-2009-1724

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a). The Administrator has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Respondent, Bobby Rowe Energy, Inc., is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to the violation alleged herein (relevant time period), Respondent operated an oil field production facility located in the Southeast Quarter of Section 27, Township 14 North, Range 10 East, Creek County, Oklahoma (facility), designated as Facility Number OKU000616.

3. On September 19, 2008, an EPA inspector observed at pollutants, primarily oil field brine generated from oil production activities, had been recently discharged from the facility to "waters of the United States" as that term is defined by 40 C.F.R. § 122.2. Pollutants were discharged to a tributary of Hopper Creek. The inspector determined that the water located at the discharge point of entry into the tributary of Hopper Creek was contaminated from brine discharges and measured 5,500 parts-per-million total soluble salts.

4. The tank battery and associated devices located within the facility acted as "point sources" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

5. At no time during the relevant time period did Respondent have National Pollutant Discharge Elimination System permit coverage under the Act, which authorized the discharge of a pollutant from the facility to waters of the United States.

6. During the relevant time period, it was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1311(a), for any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

7. On or about September 19, 2008, Respondent discharged and caused the discharge of pollutants from point sources within the facility to waters of the United States without permit coverage under the Act, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

ORDER

Based on these findings and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA orders that Respondent take the following actions upon receipt of this Order:

1. Cease all discharges of pollutants from the facility;
2. remove all brine and contaminated soils from the flow path located between the facility and the tributary of Hopper Creek;
3. remove all brine from the tributary of Hopper Creek located at Latitude 35° 39.01' North and Longitude 96° 14.14' West, which was discharged from the facility on or about September 19, 2008; and
4. within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to EPA Region 6, that these requirements have been completed.

GENERAL PROVISIONS

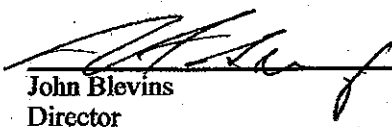
Issuance of this Order shall not be deemed an election by EPA to waive any administrative, judicial, civil or criminal action to seek penalties, fines or other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any remedy available under the law which it deems appropriate.

Failure to comply with this Order or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state and local laws.

The effective date of this Order is the date it is received by the Respondent.

10-21-08
Date


John Blevins
Director
Compliance Assurance and
Enforcement Division

G

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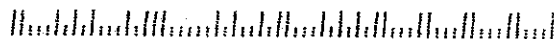
Matt Rudolph (GEN-UR)
US EPA Region 6
1445 Ross Ave., Suite 1200
Dallas TX 75202

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Bobby Rowe Energy
PO Box 240
Beggs OK 74421*

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
X Barbara Moeller Agent Address
- B. Received by (Printed Name) *Barbara Moeller* C. Date of Delivery *10-27-0*
- D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

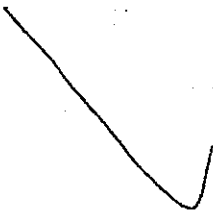
7007 1490 0002 3413 7648

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FILED

2009 JUL 15 AM 9:28

REGIONAL HEARING CLERK
EPA REGION VI



CWA-06-2009-1761 / Complaint / OK 4000616

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Stephen Rowe, Owner
 Bobby Rowe Energy, Inc.
 P.O. Box 240
 Beggs, OK 74421

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
Barbara Moeller

B. Received by (Printed Name) C. Date of Delivery
Barbara Moeller *7-10-09*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
 (transfer from service label)

7007 2560 0002 7737 3619