



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

**1445 Ross Avenue, Suite 1200
Dallas, Texas 75202 - 2733**

8 SEP 2016

CERTIFIED MAIL- RETURN RECEIPT REQUESTED: 7001 0360 0001 1267 1621

c/o Frances Phillips
Gardere Wynne Sewell LLP
3000 Thanksgiving Tower, 1601 Elm St.
Dallas, Texas 75201

**Re: Trican Well Service L.P.: RCRA 3008 Consent Agreement and Final Order USEPA
Docket No. RCRA-06-2016-0917**

**Trican Well Service L.P.: RCRA 3008 Consent Agreement and Final Order USEPA
Docket No. RCRA-06-2016-0918**

Dear Ms. Phillips:

Enclosed are the fully executed Administrative Consent Agreement and Final Orders (CAFOs) approved in the settlement for each of the above referenced facilities. As you are aware, each of the CAFOs include an assessment of a civil penalty and compliance order pursuant to Section 3008 of the Resource Conservation and Recovery Act.

The U.S. Environmental Protection Agency, Region 6, appreciates your cooperation throughout this process. If you have questions please do not hesitate to contact me at (214) 665-7297 or by email: clay.jeffrey@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Clay".

Jeffrey Clay
Assistant Regional Counsel

Enclosure

2. Notice of this action has been given to the State of Oklahoma, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.
5. The CAFO resolves only those violations which are alleged herein.
6. Respondent consents to the issuance of the CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or facts, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.

II.
JURISDICTION

7. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the

EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III.
FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a Delaware limited partnership authorized to do business in the State of Oklahoma.
10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); and 27A OK Stat § 27A-2-7-103.15, [40 C.F.R. § 260.10].
11. Respondent's principal place of business is located at 7614 Bluff Point Dr., Houston, Texas 77086.
12. Respondent does not own any facilities in Oklahoma; however, Respondent previously owned or operated the Facilities at the respective locations identified in Paragraph 1 above and at each facility engaged in activities that support oil and gas operations.
13. Respondent closed the Woodward Facility in 2014 and sold the assets of the Facilities in 2016.
14. During 2015, EPA conducted a RCRA investigation that included a records review of information requested by EPA and voluntarily provided to EPA by Respondent, of Respondent's activities as a generator of hazardous waste in Oklahoma (the "Investigation").
15. During the Investigation, EPA discovered that Respondent generated, and offered for transport and treatment, without an EPA identification number, hazardous waste from 2011 through 2012 at the Facilities.

16. Each of the Facilities listed in Paragraph 1 above was a "facility" within the meaning of 40 C.F.R. § 260.10.
17. EPA determined that the activities at the two (2) facilities were similar.
18. The waste streams identified in Paragraph 14 were "hazardous waste" as defined in 27A OK Stat § 27A-2-7-103.9.a, b, & c., [40 C.F.R. §§ 261.21, 261.22, and 261.33].
19. From the Investigation, EPA determined that Respondent generated, at a minimum, the hazardous waste streams identified in Paragraph 14. These quantities exceed the threshold amounts of 100 kg, making the Respondent a SQG at one facility, and in another instance exceeding 1000 kg of hazardous waste per month, which qualified Respondent at another facility as a large quantity generator ("LQG") under 40 C.F.R. Part 262, for the periods that such wastes remained onsite.
20. Respondent was a "generator" of "hazardous waste" as those terms are defined in 40 C.F.R. § 260.10.
21. As a generator of hazardous waste, Respondent was subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 40 C.F.R Part 262.

Woodward and Shawnee Facilities
(During the Period of 2011 to 2012)

Claim i. Notification Requirements

22. The allegations in Paragraphs 1-21 are realleged and incorporated by reference.
23. Pursuant to 40 C.F.R. §§ 261.5(a) and (b), a generator is a conditionally exempt small quantity generator ("CESQG") in a calendar month if he generates no more than 100 kg of hazardous waste and complies with 40 C.F.R. §§ 261.5 (0, (g), and (j)).
24. The exemptions set forth at 40 C.F.R. § 261.5(c) are not applicable to Respondent.

25. During the Investigation, EPA determined that Respondent periodically did not operate as a CESQG at the Facilities.
26. During the Investigation, EPA determined that Respondent at some periods operated as a SQG and at others operated as a large quantity generator ("LQG") at the Facilities.
27. Within the meaning of 40 C.F.R. § 260.10, Respondent was a "generator."
28. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized state a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. No identified or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless notification has been given as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).
29. Respondent did not file with the Administrator or the authorized state a notification of its hazardous waste activities for the Facilities to the extent necessary during all relevant times of this CAFO in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claim ii. Managing Hazardous Waste without a Generator Identification Number

30. The allegations in Paragraphs 1-29 are realleged and incorporated by reference.
31. Pursuant to 40 C.F.R. § 262.12(a), a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.
32. During the Investigation, EPA determined that Respondent did not apply to the Administrator and receive an EPA identification number.

33. During the period 2011 to 2012, Respondent treated, stored, disposed of, and/or offered for transportation hazardous waste without having received an EPA identification number from the Administrator in violation of 40 C.F.R. § 262.12(a).

Claim iii. Failure to Operate within Its Stated Generator Status

34. The allegations in Paragraphs 1-33 are realleged and incorporated by reference.
35. During the Investigation, EPA determined that Respondent declared its generator status as a CESQG at the Facilities.
36. Pursuant to 40 C.F.R. § 261.5(b), as long as a CESQG complies with the applicable requirements under 40 C.F.R. §§ 261.5 (e), (f), (g) and (j) the generator's hazardous waste is not subject to regulation under 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.
37. During the period 2011 to 2012, Respondent exceeded or may have exceeded its declared CESQG status and for the months such hazardous waste remained onsite, operated in some instances as a SQG and in other instances as a LQG in violation of one or more of the requirements for small and large quantity generators under 40 C.F.R. § 262.34.

IV.
COMPLIANCE ORDER

38. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered, upon the effective date of this Order, not to treat, store, dispose of, transport, and/or offer for transportation, hazardous waste without first receiving an EPA identification number from the State of Oklahoma for any facility that it may currently own and/or operate.
39. If Respondent has (a) been dissolved as a legal entity, pursuant to bankruptcy law or otherwise, or (b) no longer owns or operates the Facilities at issue in this CAFO, then Respondent shall certify such facts as required below (Paragraph 41). This certification shall operate in lieu of the compliance order requirements identified below.
40. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this Order, Respondent shall provide in writing the following with regard to the Facilities:
- A. Respondent shall certify that it has assessed all of its solid waste streams at the Currently Owned/Operated Facilities to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOP") for each Currently Owned/Operated Facility to ensure that Trican is operating in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements;

- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 Notification and the requirements of Paragraph 44 above for the Currently Owned/Operated Facilities and within the prescribed time period;
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above; and
- D. Respondent shall provide with its certification, the amount of funds expended to bring the facility into compliance, and any reduction of pollutant/waste, if applicable, as a result of compliance.
41. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Trican and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Waste Enforcement Branch
Compliance Enforcement Section (6EN-HC)
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Debra Pandak

V.
TERMS OF SETTLEMENT

i. Penalty Provisions

42. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of Ninety-Four Thousand, Two Hundred Thirty-Nine Dollars (\$94,239.00).
43. The total penalty shall be paid within one hundred and eighty (180) calendar days from the effective date of this CAFO, made payable to the Treasurer United States, in the manner, and within the prescribed time period set forth in Paragraph 44 below.
44. Six (6) payments of \$15,706.50 shall be paid. The first payment shall be paid within thirty (30) calendar days of the effective date of this CAFO, and five (5) subsequent payments shall be paid on or before the last business day of each successive month until the total payment of \$94,239.00 is paid in full.
45. The following are Respondent's options for transmitting the penalties:
- Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail, the check should be remitted to:
- U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines and Penalties

RE: TRICAN WELL SERVICE, L.P.
RCRA-06-2016-0918

1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (In the Matter of Trican Well Service, L.P., Docket No. RCRA-06-2016-0918 shall be clearly documented on or within your chosen method of payment to ensure proper credit.

46. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Mark Potts, Associate Director
Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Debra Pandak

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

47. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the

United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

ii. Cost

48. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

iii. Termination and Satisfaction

RE: TRICAN WELL SERVICE, L.P.
RCRA-06-2016-0918

49. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall so certify in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 41. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

iv. Effective Date of Settlement

50. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

RE: TRICAN WELL SERVICE, L.P.
RCRA-06-2016-0918

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS
CONSENT AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

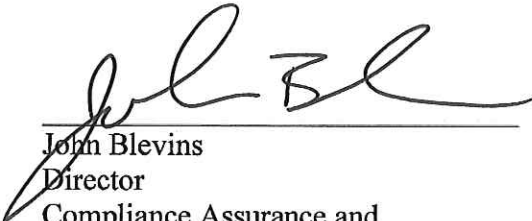
Date: _____



Trican Well Service, L.P., By and Through
TriLib Management, LLC, its Managing
Partner

FOR EPA:

Date: 9.6.16



John Blevins
Director
Compliance Assurance and
Enforcement Division

RE: TRICAN WELL SERVICE, L.P.
RCRA-06-2016-0918

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 CFR § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 9/8/16



Thomas Rucki
Regional Judicial Officer

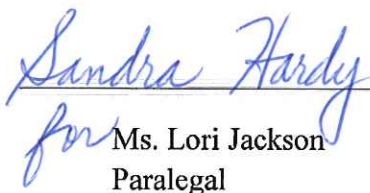
RE: TRICAN WELL SERVICE, L.P.
RCRA-06-2016-0918

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of September, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Trican Well Service, L.P.
7614 Bluff Point Dr.
Houston, TX 77086
Ph.: (281) 716-9152


for Ms. Lori Jackson
Paralegal