



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

CERTIFIED MAIL NO.: 7008 1830 0002 6279 4069
RETURN RECEIPT REQUESTED

In Reply Refer to:
Chevron Midway Sunset 17 South Steam Plant

SEP 21 2011

Bruce Johnson, Vice-President
San Joaquin Business Unit
Chevron Corp.
9525 Camino Media
Bakersfield, CA 93311

Re: In the Matter of Chevron USA Inc., San Joaquin Business Unit


Dear Mr. Johnson:

Please find enclosed the fully executed Consent Agreement and Final Order (CA/FO) negotiated between the United States Environmental Protection Agency, Region IX (EPA), and Chevron USA Inc., San Joaquin Business Unit.

This CA/FO simultaneously commences and concludes the above-referenced proceeding concerning the outstanding Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) compliance matters between Chevron USA Inc. and EPA as alleged in the CA/FO.

Chevron's prompt payment of the civil penalty assessed and completion of all tasks required by this CA/FO will close this case. If you have any questions regarding the CERCLA requirements and regulations governing operations at the San Joaquin Business Unit, or which concern the proceedings terminated by the enclosed documents, please contact Jeremy Johnstone of my staff at (415) 972-3499.

Sincerely,


for Jane Diamond
Director
Superfund Division

Enclosures

cc (w/ enclosures):

J. Johnstone, EPA Region IX
T. Jolish, EPA Region IX
R. Chatfield-Taylor, Chevron Corp.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

FILED

2011 SEP 21 PM 1:10

U.S. EPA REGION IX
REGIONAL HEARING CLERK

IN THE MATTER OF:

Chevron U.S.A. Inc.,
San Joaquin Valley Business Unit,

Respondent.

U.S. EPA Docket No.
CERCLA-09-2011-0002

CONSENT AGREEMENT AND
FINAL ORDER PURSUANT TO
40 CFR SECTIONS 22.13 and 22.18

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action initiated pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9609, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 CFR Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Chevron U.S.A. Inc. ("Respondent"), a corporation organized under the laws of the state of California.
2. This Consent Agreement and Final Order ("CA/FO"), pursuant to 40 CFR §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Section 103 of CERCLA, 42 U.S.C. § 9603 and its implementing regulations.

B. STATUTORY AND REGULATORY FRAMEWORK

3. Any person in charge of a facility is required under CERCLA Section 103(a), 42 U.S.C. § 9603(a), to immediately notify the National Response Center ("NRC") as soon as the person in charge has knowledge of a release of a Hazardous Substance ("HS") from such facility in an amount equal to or greater than the Reportable Quantity ("RQ").

C. GENERAL ALLEGATIONS

4. Section 109 of CERCLA, 42 U.S.C. § 9609, authorizes the President to issue orders assessing civil penalties for any violations of Section 103 of CERCLA, 42 U.S.C. § 9603.
5. The Administrator of EPA has delegated this authority under CERCLA to the Regional Administrators by EPA Delegation 14-31.
6. The Regional Administrator, EPA Region IX, has delegated this authority to the Director of the Superfund Division with Delegation R9 1290.16.
7. Respondent is, and at all times referred to herein was, a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

8. Respondent operates a natural gas field scrubber unit and steam generation facility located at Section 17, Township 32S, Range 23E, near Fellows, CA (the "Facility").
9. At all times relevant to this CA/FO, Respondent has been a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
10. The Facility is an "onshore facility" as defined by Sections 101(18) and 101(9) of CERCLA, 42 U.S.C. §§ 9601(18) and 9601(9).
11. At all times relevant to this CA/FO, Respondent has been the owner and/or operator, and the person in charge, of the Facility.
12. The Administrator of the EPA, as required under Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), has published a list of substances designated as "Hazardous Substances," which, when released into the environment, may present substantial danger to public health or welfare or the environment, and has promulgated regulations establishing the RQ of certain Hazardous Substances, the releases of which are required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). This list, including the corresponding RQs for each Hazardous Substance, is codified at 40 CFR Part 302, Table 302.4.
13. Sodium hydroxide is designated as a "hazardous substance" in Sections 101(14) and 102(a) of CERCLA, 42 U.S.C. §§ 9601(14) and 9602(a), and 40 CFR § 302.4, Table 302.4 and Appendix A to Section 302.4. The RQ for sodium hydroxide is 1000 pounds.

D. ALLEGED VIOLATION

COUNT I

(Violation of Section 103 of CERCLA)

14. Paragraphs 1 through 13 above are incorporated herein by this reference as if they were set forth here in their entirety.
15. On May 25, 2010, approximately 2,750 pounds (lbs) of sodium hydroxide leaked or was emitted into the environment from the Facility.
16. The leaking or emitting of sodium hydroxide from the Facility was a "release" as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
17. Respondent had actual or constructive knowledge that the release exceeded the RQ at approximately 2:30 am on May 25, 2010.
18. Respondent notified the NRC of the sodium hydroxide release at approximately 2:30 pm on May 25, 2010.
19. Respondent's failure to immediately notify the NRC of the above-referenced release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 CFR § 302.6.

E. CIVIL PENALTY

20. Section 109 of CERCLA, 42 U.S.C. § 9609, as adjusted by the Civil Monetary Penalty Inflation Adjustment Rule, 73 Fed. Reg. 75340 (Dec. 11, 2008), authorizes a civil penalty of up to \$37,500 per day for a violation of Section 103 of CERCLA occurring after January 12, 2009. See Table 1 of 40 CFR §19.4.
21. Based on the facts alleged herein and upon all the factors which the Complainant considers pursuant to the *Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (“ERP”), including the nature, extent, and gravity of the violations, the Respondent’s ability to pay, prior history of violations, degree of culpability, and any economic benefit, and such other matters as justice may require, the Complainant proposes that the Respondent be assessed, and Respondent agrees to pay **EIGHT THOUSAND, EIGHT HUNDRED DOLLARS (\$8,800)**, as the civil penalty for the violations alleged herein. The proposed penalty was calculated in accordance with the ERP.

F. ADMISSIONS AND WAIVERS

22. For purposes of this proceeding, Respondent admits and agrees that EPA has jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondent pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and 40 CFR §§ 22.4 and 22.37. Further, for the purposes of this proceeding, Respondent admits to the general allegations of facts and law set forth in Sections B and C of this CA/FO. Respondent consents to and agrees not to contest EPA’s jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA’s jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
23. Respondent neither admits nor denies any allegations of fact or law set forth in Section D of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

G. PARTIES BOUND

24. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns and upon all persons acting under or for Respondent, until such time as the civil penalty required under Section E has been paid in accordance with Section J and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.

25. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
26. Until termination of this CA/FO, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.
27. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

H. CERTIFICATION OF COMPLIANCE

28. Upon signing this CA/FO, Respondent certifies to EPA that the Facility has fully complied with the requirements of Section 103 of CERCLA that formed the basis for the violations alleged in Section D above, and that the Facility is now in compliance with the relevant current reporting obligations under Section 103 of CERCLA.
29. The signatory for Respondent certifies under penalty of law that this certification of compliance is based upon true, accurate and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

I. PAYMENT OF CIVIL PENALTY

30. Respondent hereby consents to the assessment of and agrees to pay a civil penalty of **EIGHT THOUSAND, EIGHT HUNDRED DOLLARS (\$8,800)** in settlement of the alleged violation set forth in Section D above. This CA/FO constitutes a settlement of all claims for the violation of Section 103 of CERCLA alleged in Section D above.
31. Within forty-five (45) days of the effective date of this CA/FO Respondent shall submit a certified or cashier's check in the amount of **EIGHT THOUSAND, EIGHT HUNDRED DOLLARS (\$8,800)** payable to "U.S. EPA Hazardous Substance Superfund," which shall be sent to

US Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
Saint Louis, MO 63197-9000

The check shall reference the name and CERCLA docket number of this CA/FO, and shall be accompanied by a cover letter stating that payment is being made pursuant to this CA/FO. The cover letter and civil penalty shall be sent by certified mail, return receipt requested. Copies of the transmittals shall be sent to:

Jeremy Johnstone
Emergency Prevention & Preparedness Section (SFD-9-3)
Superfund Division
U.S. EPA, Region IX

75 Hawthorne Street
San Francisco, CA 94105

and

Regional Hearing Clerk (ORC-1)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

32. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), failure to send the penalty so that it is received by the due date will result in imposition of interest from the effective date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 CFR § 13.11. In addition, a twelve percent (12%) per annum penalty will be applied on any principal amount not paid within ninety (90) days of the due date.
33. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

J. DELAY IN PERFORMANCE / STIPULATED PENALTIES

34. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.
35. For failure to submit a payment to EPA by the time required in this CA/FO: TWO HUNDRED, FIFTY DOLLARS (\$250) per day for the first to fifteenth day of delay, FIVE HUNDRED DOLLARS (\$500) per day for the sixteenth to thirtieth day of delay, and TWO THOUSAND, FIVE HUNDRED DOLLARS (\$2,500) per day for each day of delay thereafter.
36. The determination of whether Respondent has satisfactorily complied with the terms of this CA/FO and the determination of whether Respondent has made a good faith, timely effort to complete the tasks required by this CA/FO, are within the sole discretion of the Division Director, Superfund Division, EPA Region IX. The decision of the Division Director, Superfund Division, EPA Region IX is not reviewable in any forum.
37. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Paragraph 32.
38. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance fifteen days after it is due at the current rate published by the United States Treasury, as described at 40 CFR § 13.11. Complainant reserves the right to take any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO or with CERCLA and its implementing regulations.

39. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.
40. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
41. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.
42. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

K. RESERVATION OF RIGHTS

43. EPA expressly reserves all rights and defenses that it may have.
44. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO and the right to bring an action under Section 107 of CERCLA, 42 U.S.C. § 9607, to recover costs of responding to any release from the Facility. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045. This CA/FO shall not be construed as a covenant not to sue, a release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under EPCRA, or any other statutory, regulatory or common law enforcement authority of the United States, except as otherwise set forth herein.
45. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with any applicable local, state or federal laws and regulations.
46. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section D of this CA/FO. Full payment of the penalty proposed herein shall resolve Respondent's liability for federal civil penalties for the violations and facts alleged herein.
47. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

L. OTHER CLAIMS

48. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to

the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

N. MISCELLANEOUS

49. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
50. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
51. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.
52. In accordance with 40 CFR §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

IT IS SO AGREED.

Date

8/29/11

Name: BRUCE A. JOHNSON
Title: VP
Chevron U.S.A. Inc.

Bruce A. Johnson

Date

15 September 2011

Name: Jane Diamond
Title: Director
Superfund Division
United States Environmental Protection Agency,
Region IX

Jane Diamond

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (EPA Docket No. CERCLA 09-2011-⁰⁰~~02~~) be entered and that Respondent pay a civil penalty in the amount **EIGHT THOUSAND, EIGHT HUNDRED DOLLARS (\$8,800)**.
sj

09/20/11

Date



Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

Docket No. CERCLA-09-2011-

I hereby certify that the original copy of the foregoing CAFO with the Docket number referenced above, has been filed with the Region 9 Hearing Clerk and that a copy was sent by certified mail, return receipt requested, to:

Bruce Johnson, Vice-President
San Joaquin Business Unit
Chevron Corp.
9525 Camino Media
Bakersfield, CA 93311


CERTIFIED MAIL NUMBER: 7008 1830 0002 6279 4069

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Taly Jolish, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne St.
San Francisco, CA 94105

9/21/12

Date



Bryan K. Goodwin
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105