



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

2009 MAR 12 7 52 AM '09

DOCKET NO.: CWA-08-2009-0009

IN THE MATTER OF:

HOMELAND GAS & OIL LTD., INC.
15587 Huron St.
Broomfield, CO

FINAL ORDER

RESPONDENT

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 12th DAY OF March, 2009.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF)
)
)
Homeland Gas & Oil Ltd., Inc.)
15587 Huron St.)
Broomfield, CO 80023)
Respondent.)

COMPLAINT AND CONSENT AGREEMENT

DOCKET NO. : CWA-08-2009-0009

Complainant, United States Environmental Protection Agency, Region 8 (EPA) or (Complainant), and Homeland Gas & Oil Ltd., Inc. (hereinafter Respondent) by their undersigned representatives, hereby consent and agree as follows:

A. PRELIMINARY MATTERS

1. This Complaint and Settlement Agreement (CASA) is issued to Respondent pursuant to the authority vested in the Administrator of the Environmental Protection Agency by section 311(b)(6)(B)(i) of the Clean Water Act (CWA or the Act), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990.
2. The Administrator has properly delegated this authority to the undersigned EPA officials.
3. This section authorizes EPA to bring an action under section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(i), for civil administrative penalties against Respondent who has violated, or is in violation of, a requirement or prohibition of the CWA or its implementing regulations.
4. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action
Homeland Gas & Oil Ltd., Inc.

Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules) set forth at 40 C.F.R. part 22.

5. This CASA is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. §22.13(b), and executed pursuant to 40 C.F.R. §22.18(b)(2) and (3) of the Consolidated Rules of Practice.

6. Respondent admits the specific factual allegations and the jurisdictional allegations contained herein.

7. Respondent waives its rights to a hearing before any tribunal and to contest any issue of law or fact set forth in this CASA.

8. Complainant asserts that settlement of this matter is in the public interest and Complainant and Respondent agree that entry of this CASA and Final Order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.

9. This CASA, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

10. This CASA contains all terms of the settlement agreed to by the parties.

B. ALLEGED VIOLATIONS

11. Respondent is a corporation organized under the laws of Nevada with a place of business located at 15587 Huron St., Broomfield, Colorado. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.

12. Respondent is the owner and/or operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2 of the following three oil production facilities, hereinafter collectively referred to as “the facilities:”

a. Ute Tribal 1-34B (Z2), located in SWNE Section 34, Township 1N, Range 2W, Duchesne County, Utah, approximately 300 feet from an unnamed drainage that flows into Starvation Reservoir;

b. Ute Tribal 1-14-B1E, located in NWNE Section 14, Township 2S, Range 11, Uintah County, Utah, which drains to an unnamed stream that is a tributary to the Uintah River; and

c. Ute Tribal 1-31C5, located in SENW Section 31, Township 3S, Range 5W, Duchesne County, Utah, which drains to an intermittent stream that is a tributary to Cottonwood Creek.

13. Starvation Reservoir, the Uintah River, and Cottonwood Creek are navigable water(s) of the United States within the meaning of 40 C.F.R. § 112.2, as amended at 73 Fed. Reg. 71,944 (November 20, 2008), and Section 502(7) of the Act, 33 U.S.C. § 1362(7).

14. Each of the facilities has an aggregate above-ground storage capacity greater than 1,320 gallons of oil in containers each with a shell capacity of at least 55 gallons.

15. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the facilities.

16. Each of the facilities is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2 Appendix A, as incorporated by reference within 40 C.F.R. § 112.2.

17. Each of the facilities is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

18. Each of the facilities is therefore a non-transportation-related, onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity (“an SPCC-regulated facility”).

19. 40 C.F.R. § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare and implement a written SPCC plan in accordance with 40 C.F.R. §§ 112.7, 112.9, and 112.10.

20. On May 18, 2007, EPA inspected each of the facilities and found that Respondent had failed to adequately prepare and implement an SPCC plan for each of the facilities.

21. Respondent’s failure to adequately prepare and implement such an SPCC plan for each of the facilities violated 40 C.F.R. § 112.3.

C. CIVIL PENALTY

22. As alleged in the preceding Paragraphs, and pursuant to section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(i), and 40 C.F.R. §19.4, the Respondent is liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum total of \$37,500 for all violations.

20. Respondent, by signing this CASA, herein certifies to EPA that Respondent is now in compliance with each of the relevant provisions of the CWA that formed the basis of the Complaint.

21. Based on the foregoing Allegations and pursuant to the authority of section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii), and 40 C.F.R. § 19.4, Complainant proposes the assessment of administrative penalties against the Respondent in the amount of four thousand six hundred dollars (\$4,600).

22. Complainant proposes this penalty amount after considering the applicable statutory penalty factors in section 311(b)(8) of the Act, 33 U.S.C. §1321(b)(8): the seriousness of the violation, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

23. Respondent consents to the issuance of a final order and consents for the purposes of settlement to the payment of the civil penalty in the amount of four thousand six hundred dollars (\$4,600).

24. a. **Payment is due within 30 calendar days from the date written on the Final Order.** issued by the Regional Judicial Officer, that incorporates this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by the Bank described

Homeland Gas & Oil Ltd., Inc.

below. Payments received by 11:00 AM, EST are processed on the same day, those received after 11:00 AM are processed on the next business day.

b. The payment in paragraph 23 shall be made by remitting a cashier's or certified check, including the name and docket number of this case, referencing "Oil Spill Liability Trust Fund-311," for the amount, payable to the "Environmental Protection Agency," to:

CHECK PAYMENTS:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

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

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.
This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field

Open form and complete required fields.

A copy of the check, or wire transfer, shall be sent simultaneously to:

Jane Nakad (81ENF-UFO)
U.S. EPA Region 8
Technical Enforcement Program
1595 Wynkoop St.
Denver, CO 80202-1129

and

Tina Artemis
Regional Hearing Clerk
Office of Regional Counsel
1595 Wynkoop St
Denver, CO 80202-1129

Payment of the penalty in this manner does not relieve Respondent of its obligations to comply with the requirements of the statute and regulations. Payment of the penalty in this manner shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing on this matter.

Homeland Gas & Oil Ltd., Inc.

D. TERMS AND CONDITIONS

25. Failure by Respondent to comply with any of the terms of this CASA shall constitute a breach of the CASA and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

26. Nothing in this CASA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this CASA.

27. Each undersigned representative of the parties to this CASA certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this CASA and to execute and legally bind that party to this CASA.

28. The parties agree to submit this CASA to the Regional Judicial Officer, with a request that it be incorporated into a final order.

29. This CASA, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the violations alleged in this CASA.

30. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this CASA.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice, Complainant.

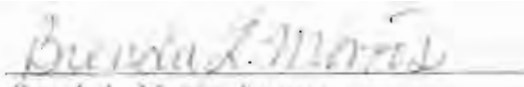
Date: 3/2/2009

By: 
Mark Chalfant, Director
Technical Enforcement Program

Date: 3/11/09

By: 
Michael T. Risner, Director
Legal Enforcement Program

Date: 3/12/09

By: 
Brenda L. Morris, Attorney
Legal Enforcement Program

HOMELAND GAS & OIL LTD., INC.
Respondent.

Date: 2/25/09

By: 
(Signature of Authorized Agent)

Paul McCullers
Type or print name of signatory

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT AND SETTLEMENT AGREEMENT/ FINAL ORDER** in the matter of **HOMELAND GAS & OIL LTD., INC.; DOCKET NO.: CWA-08-2009-0009** was filed with the Regional Hearing Clerk on March 12, 2009.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to Brenda Morris, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on March 12, 2009. to:

Paul McCullins
Homeland Gas and Oil Ltd., Inc.
15587 Huron Street
Broomfield, CO 80023

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

March 12, 2009



Tina Artemis
Paralegal/Regional Hearing Clerk

