

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
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REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

WEATHERFORD ARTIFICIAL
LIFT SYSTEMS, LLC
HOUSTON, TEXAS

RESPONDENT

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CONSENT AGREEMENT
AND FINAL ORDER
Docket No. RCRA-06-2016-0938

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (CAFO) is entered into by the United States Environmental Protection Agency Region 6 (EPA or Complainant) and Weatherford Artificial Lift Systems, LLC (Respondent) and covers the facility located at 901 Jensen in El Reno, Oklahoma (El Reno Facility).

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 purposes of this CAFO, the relevant Oklahoma Administrative Code, Title 252, Chapter 205, Sections 252:205-3-2 has incorporated by reference 40 Code of Federal Regulations Parts 260, 262, 265, and 270.

4. 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.

5. This CAFO states a claim upon which relief may be granted.

6. 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 that have been raised or could have been raised to the claims set forth in the CAFO.

7. This CAFO resolves only those violations that are alleged herein.

8. Respondent consents to the following: issuance of the CAFO hereinafter recited; the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO; and to the specific stated compliance order.

II. JURISDICTION

9. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), 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 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.18(b)(3).

10. 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. Furthermore, Respondent agrees not to contest the validity of this CAFO, or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. Respondent is a limited liability company registered to do business in the State of Oklahoma on April 11, 2013.

12. This CAFO was commenced concurrently and in conjunction with the CAFOs for the matters of Weatherford Artificial Lift Systems, LLC (Docket No. RCRA-06-2016-0937), Weatherford Laboratories, Inc. (Docket No. RCRA-06-2016-0954), and Weatherford U.S., L.P. (Docket No.

RCRA-06-2016-0955). Respondent, Weatherford U.S., L.P., and Weatherford Laboratories, Inc., are affiliated as subsidiaries under a common domestic Weatherford parent corporation.

13. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.

14. Respondent is an “owner” or “operator” of the El Reno Facility within the meaning of 40 C.F.R. § 260.10.

15. Respondent is a “generator” of hazardous waste at the El Reno Facility, as the term is defined in 40 C.F.R. § 260.10.

16. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, 40 C.F.R. §§ 262 and/or 270.

17. Between October 2015 and May 2016, EPA conducted an investigation and record review (Investigation) of Respondent’s compliance with RCRA, and the regulations promulgated thereunder, and performance as a hazardous waste generator.

18. From the Investigation, EPA determined that in 2014, Respondent’s El Reno Facility generated, at a minimum, hazardous waste in quantities that exceeded its generator status of a small quantity generator (SQG) by generating more than the threshold amount of 1,000 kg of hazardous waste per month, which qualified Respondent for the large quantity generator (LQG) status under 40 C.F.R. § 262.

19. The waste streams identified in Paragraph 18 are hazardous waste as defined in 40 C.F.R. § 261.3.

Claim 1: Notification Requirements

20. Complainant hereby restates and incorporates by reference Paragraphs 1 through 19.

21. Pursuant to RCRA § 3010(a), 42 U.S.C. § 6930(a), any person generating a characteristic or listed 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. This includes a subsequent notification for a change in the status of a generator.

22. In 2014, the El Reno Facility was registered as a SQG of hazardous waste.

23. From the Investigation, EPA determined that Respondent, in 2014, generated waste at the El Reno Facility at quantities of a LQG.

24. At the time of the Investigation, Respondent had not filed with the Administrator or with Oklahoma, a notification for a change in hazardous waste activities.

25. Respondent did not file the required subsequent notification of hazardous waste activities for the El Reno Facility in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claim 2: Failure to Operate Within Proper Generator Status

26. Complainant hereby restates and incorporates by reference Paragraphs 1 through 25.

27. A generator of hazardous waste is subject to the multiple requirements, including the applicable parts of 40 C.F.R. Parts 124, 262-68, 270.

28. From the Investigation, EPA determined that Respondent exceeded the limits of a SQG and generated hazardous waste at the LQG status at the El Reno Facility.

29. While operating as a LQG, Respondent failed to comply with various sections of the applicable LQG requirements, including, but not limited to, deficiencies in its: contingency plan, emergency procedures, and RCRA training, under 40 C.F.R. Parts 124, 262-68, 270.

30. Respondent did not operate within its designated status at the El Reno Facility for parts of 2014, in violation of 40 C.F.R. § 262 and/or 270.

IV. COMPLIANCE ORDER

31. Pursuant to RCRA § 3008(a), 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 CAFO, Respondent shall provide to EPA in writing the following:

- a) Respondent shall certify that if the El Reno Facility is not currently operational but will generate hazardous waste at either an SQG or LQG, Respondent will develop standard operating procedures to ensure it will be in compliance with RCRA and the regulations promulgated thereunder. This includes, but is not limited to, procedures for:
 - i. making hazardous waste determinations;
 - ii. training personnel involved in managing, reporting, transporting, and disposing of hazardous waste;
 - iii. preparing hazardous waste manifests; and
 - iv. meeting the requirements of the land disposal requirements.

32. 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 Respondent, 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 the CAFO shall be sent to the following:

Fred Deppe
Waste Compliance II Section (6EN-H2)
U.S. Environmental Protection Agency Region 6
Compliance Assurance and Enforcement Division
Waste Enforcement Branch
1445 Ross Avenue
Dallas, Texas 75202-2733

V. TERMS OF SETTLEMENT

A. Penalty Provisions

33. 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 \$20,400.00. This penalty is calculated concurrently and in conjunction with the CAFOs for the matters of Weatherford Artificial Lift Systems, LLC (Docket No. RCRA-06-2016-0937), Weatherford Laboratories, Inc. (Docket No. RCRA-06-2016-0954), and Weatherford U.S., L.P. (Docket No. RCRA-06-2016-0955).

34. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America.

35. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties

Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
314-418-1028

Wire Transfers should be remitted to:

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

The case name and docket number (**In the Matter of Weatherford Artificial Lift Systems, LLC, Docket No. RCRA-06-2016-0938**) shall be documented on or within your chosen method of payment to ensure proper credit.

36. 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, Chief
Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Fred Deppe

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

37. 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 of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 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 that remains delinquent more than ninety (90) days pursuant to 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 pursuant to 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

38. 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.

A. Termination and Satisfaction

39. 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 also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 31. Unless 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.

D. Effective Date of Settlement

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

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

FOR THE RESPONDENT:

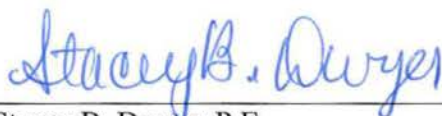
Date: 10/24/16


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Weatherford Artificial Lift Systems, LLC

FOR THE COMPLAINANT:

Date: 10/31/2016




Stacey B. Dwyer, P.E.
Acting Director
Compliance Assurance and Enforcement Division
U.S. EPA Region 6

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. 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. 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 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: _____

11/1/16



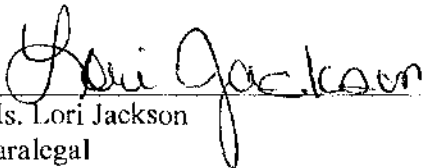
Renea Ryland
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of November, 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 below:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED 7015152000339898337

Frederick W. Addison III
Shareholder
Munsch Hardt Kopf & Harr, P.C. on Behalf of Weatherford Artificial Lift Systems, LLC
500 North Akard Street, Suite 3800
Dallas, Texas 75201



Ms. Lori Jackson
Paralegal