



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

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2014 APR 18 AM 8:12

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2014-0022

IN THE MATTER OF:

CONTINENTAL RESOURCES, INC.

RESPONDENT

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)
)

FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 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 18th DAY OF April, 2014.

Elyana R. Sutin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY** 2014 APR 14 PM 3:14
REGION 8

EPA REGION VIII
HEADING 1 ERK

IN THE MATTER OF:)	Docket No. CWA-08-2014-0022
)	
Continental Resources, Inc.,)	COMBINED COMPLAINT AND CONSENT AGREEMENT
)	
)	Proceeding to Assess Class I Civil Penalty
)	Under Section 311
Respondent.)	of the Clean Water Act

The United States Environmental Protection Agency (EPA) and Continental Resources, Inc. (Respondent), by their undersigned representatives, hereby consent and agree as follows.

PRELIMINARY MATTERS

1. This Combined Complaint and Consent Agreement (Agreement) is issued under the authority vested in the EPA by section 311(b)(6) of the Clean Water Act (the Act), 33 U.S.C. § 1321(b)(6).
2. With this Agreement, the parties intend to commence and conclude this matter simultaneously, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. The EPA has jurisdiction over this matter pursuant to section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6). 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 at 40 C.F.R. part 22.
4. The Respondent admits the jurisdictional allegations contained in paragraph 3 of this Agreement and neither admits nor denies the factual allegations in paragraphs 5 - 58 of this Agreement. The Respondent consents to the assessment of the civil penalty referenced below and waives any right to a hearing or an appeal before any tribunal or to contest any statement of law or fact in this Agreement.

THE EPA'S ALLEGATIONS

The following allegations apply at all times relevant to this proceeding.

Oil Discharge Prohibition

5. Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), prohibits discharging oil into or upon the navigable waters of the United States in such quantities as may be harmful as determined under section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4).

6. For purposes of section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), the EPA has determined, in 40 C.F.R. § 110.3, that a discharge of oil may be harmful to the public health or welfare or the environment of the United States if that discharge (a) violates applicable water quality standards or (b) causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

7. Section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), directed the President to make the determination referenced in paragraph 6, above. The President delegated the authority to make this determination to the Administrator of the EPA by section 8(a) of Executive Order No. 12777 (56 Fed. Reg. 54757, October 21, 1991), which superseded Executive Order No. 11735 (38 Fed. Reg. 21243, August 7, 1973).

Spill Prevention Control and Countermeasure Requirements

8. Section 311(j)(1)(C) of the Act, 33 U.S.C. § 1321(j)(1)(C), directed the President to issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from vessels and from onshore and offshore facilities, and to contain such discharges” The President delegated the authority to make this determination for non-transportation related onshore facilities to the Administrator of the EPA by section 2(b)(1) of

Executive Order No. 12777 (56 Fed. Reg. 54757, October 21, 1991), which superseded Executive Order No. 11735 (38 Fed. Reg. 21243, August 7, 1973).

9. In response to the directive referenced in paragraph 8, above, the EPA promulgated 40 C.F.R. part 112 .

10. A facility subject to 40 C.F.R. part 112 is required to prepare a written spill prevention, control, and countermeasure (SPCC) plan and to adhere to the discharge prevention and containment procedures specified in that regulation.

The Respondent

11. The Respondent is a corporation organized under the laws of the State of Oklahoma.

12. The Respondent is a “person” as defined in section 311(a)(7) of the Act, 33 U.S.C. §§ 1321(a)(7).

13. The Respondent owns and/or operates (or has owned and/or operated) various “production facilities” as defined in 40 C.F.R. § 112.2, including, but not limited to, wells, flowlines, tank batteries, separation units, and/or associated piping in Montana, North Dakota, and Wyoming, including production facilities identified in paragraphs 17, 24, and 43, below, respectively, as the CCU 42 Facility, David 1-17H Facility and the Lowe 44-9 Facility (collectively, the Facilities).

14. The Respondent is engaged in drilling, producing, gathering, storing, processing, transferring, and/or distributing oil at each Facility.

15. Each Facility is an “onshore facility” as defined in section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), and a “non-transportation related” facility as defined in 40 C.F.R. § 112.2.

16. The oil referenced in paragraph 14, above, meets the definition of “oil” in 40 C.F.R. § 112.2 and section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1).

CCU 42 Facility

17. The Cottonwood Creek Unit Phosphoria No. 42 Facility (CCU 42 Facility) is located in the NENE Quarter of Section 9, T47N, R91W, in Washakie County, Wyoming.

18. Prior to selling the CCU 42 Facility in February of 2012, Respondent was an “owner or operator” of that facility as defined in section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6).

19. On March 5, 2011, Respondent discharged approximately 13 barrels of crude oil from the CCU 42 Facility, at least some of which entered Sand Creek Draw.

20. As a result of the discharge described in paragraph 19, above, a sludge or emulsion was deposited on the adjoining shorelines of Sand Creek Draw.

21. The discharge described in paragraph 19, above, was not authorized by any permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342, did not result from circumstances identified with respect to any such permit, was not identified in any application for such a permit, and was not incidental to any removal authorized pursuant to section 311(c) of the Act, 33 U.S.C. § 1321(c).

22. The discharge described in paragraph 19, above, constituted a “discharge” as defined in section 311(a)(2) of the Act, 33 U.S.C. § 1321(a)(2).

23. The discharge described in paragraph 19, above, constituted a discharge of oil in such quantities as may be harmful as determined under section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), and, therefore, was in violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

David 1-17H Facility

24. The David 1-17H Facility is located in the SWSW Quarter of Section 17, T25N, R55E, in Richland County, Montana.

25. The David 1-17H Facility began operations in May of 2005.

26. For the David 1-17H Facility, the Respondent is an “owner or operator” as defined in section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6).

27. The David 1-17H Facility has a total oil storage capacity of approximately 1,700 barrels (equivalent to 71,400 gallons), based on four 400-barrel storage tanks and one 100-barrel, six-foot by 20-foot heater/treater. The David 1-17H Facility also includes a separator, a flare, and a pumping unit.

28. Due to its location, the David 1-17H Facility could reasonably be expected to discharge oil and/or other pollutants to East Charlie Creek, and/or its adjoining shorelines in quantities that would (a) violate applicable water quality standards or (b) cause a film or sheen upon or discoloration of the surface of the navigable waters of the United States or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of such water or adjoining shorelines.

29. East Charlie Creek is a perennial tributary of Charlie Creek.

30. Charlie Creek is a perennial tributary of the Missouri River.

31. The Missouri River is a navigable-in-fact and interstate water.

32. East Charlie Creek is a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 110.1 and 112.2.

33. Charlie Creek is a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 110.1 and 112.2.

34. The Missouri River is a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 110.1 and 112.2.

35. At all relevant times, the David 1-17H Facility has been subject to the oil pollution prevention requirements of 40 C.F.R. part 112.

36. For the David 1-17H Facility, the Respondent has prepared an SPCC plan (the Plan), which consists of an overall SPCC plan for the Respondent’s Montana facilities dated July of 2012 and information specific to the David 1-17H Facility dated September 6, 2011.

37. The Plan:

a. included notification forms that omitted the quantity of oil spilled to water, in violation of 40 C.F.R. § 112.7(a)(4), which requires SPCC plans to include information and procedures to enable a person reporting a discharge to relate, among other things, estimates of the total quantity discharged;

b. failed to include in its flowline maintenance program provisions to ensure that flowlines and intra-facility gathering lines and associated valves and equipment are compatible with the type of production fluids, their potential corrosivity, volume, and pressure, and other conditions expected in the operational environment, in violation of 40 C.F.R. § 112.9(d)(4)(i);

c. failed to include in its flowline maintenance program provisions to promptly remove or initiate actions to stabilize and remediate any accumulations of oil discharges associated with flowlines, intra-facility gathering lines, and associated appurtenances, in violation of 40 C.F.R. § 112.9(d)(4)(iv);

d. did not address drilling or workover activities at associated well sites, in violation of 40 C.F.R. § 112.10(b)-(d); and

e. did not include a Substantial Harm Certification Form, in violation of 40 C.F.R. § 112.20(e).

38. On June 9, 2011, Respondent discharged approximately seven barrels of crude oil from the David 1-17H Facility, at least some of which entered East Charlie Creek.

39. The discharge described in paragraph 38, above, was not authorized by any permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342, did not result from circumstances identified with respect to any such permit, was not identified in any application for such a permit, and was not incidental to any removal authorized pursuant to section 311(c) of the Act, 33 U.S.C. § 1321(c).

40. The discharge described in paragraph 38, above, constituted a “discharge” as defined in section 311(a)(2) of the Act, 33 U.S.C. § 1321(a)(2).

41. As a result of the discharge described in paragraph 38, above, a sheen was observed on East Charlie Creek.

42. The discharge described in paragraph 38, above, constituted a discharge of oil in such quantities as may be harmful as determined under section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), and, therefore, was in violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

Lowe 44-9 Facility

43. The Lowe 44-9 production facility (the Lowe 44-9 Facility) is located in the SESE Quarter of Section 9, T130N, R106W, in Bowman County, North Dakota.

44. The Lowe 44-9 Facility includes two wellheads and associated pumping units.

45. For the Lowe 44-9 Facility, the Respondent is an “owner or operator” as defined in section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6).

46. On April 15, 2009, the Respondent discharged approximately six barrels of drilling mud and approximately four barrels of crude oil from the Lowe Facility, at least some of which entered the Little Missouri River.

47. As a result of the discharge described in paragraph 46, above, a sheen of approximately 1,100 feet in length and 500 feet in width was observed on the Little Missouri River.

48. The Little Missouri River is a navigable-in-fact water.

49. The Little Missouri River is a perennial tributary of the Missouri River.

50. The Little Missouri River is a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 110.1 and 112.2.

51. As stated in paragraph 34, above, the Missouri River is a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 110.1 and 112.2.

52. The discharge described in paragraph 46, above, was not authorized by any permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342, did not result from circumstances identified with respect to any such permit, was not identified in any application for such a permit, and was not incidental to any removal authorized pursuant to section 311(c) of the Act, 33 U.S.C. § 1321(c).

53. The discharge described in paragraph 46, above, constitutes a “discharge” as defined in section 311(a)(2) of the Act, 33 U.S.C. § 1321(a)(2).

54. The discharge described in paragraph 46, above, constitutes a discharge of oil in such quantities as may be harmful as determined under section 311(b)(4) of the Act, 33 U.S.C. § 1321(b)(4), and, therefore, was in violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

Enforcement

55. Any person who discharges oil in violation of section 311(b) of the Act, 33 U.S.C. § 1321(b), may be assessed a Class I administrative penalty by the EPA, according to section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i). As adjusted for inflation pursuant to 40 C.F.R. part 19, the penalty is up to \$16,000 per violation after January 12, 2009, with a total maximum of \$37,500.

56. Any person who fails or refuses to comply with any regulation issued under section 311(j) of the Act, 33 U.S.C. § 1321(j), may be assessed a Class I administrative penalty by the EPA, according to section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i). As adjusted for inflation pursuant to 40 C.F.R. part 19, the penalty is up to \$16,000 per violation, with a total maximum of \$37,500.

EPA’s Findings of Violation

57. Each of discharge of oil described in paragraphs 19, 38 and 46, above, was a violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), for which the Respondent is liable for civil administrative penalties pursuant to section 311(b)(6)(A)(i) of the Act, 33 U.S.C. § 1321(b)(6)(A)(i).

58. Each instance described in paragraph 37, above, constitutes a violation of 40 C.F.R. part 112, for which the Respondent is liable for civil administrative penalties pursuant to section 311(b)(6)(A)(i) of the Act, 33 U.S.C. § 1321(b)(6)(A)(i).

TERMS AND CONDITIONS

59. The Respondent consents and agrees to pay a civil administrative penalty in the amount of twenty-two thousand dollars (\$22,000) as described below:

- a. The payment is due no later than thirty calendar days from the date that the Regional Judicial Officer of EPA Region 8 issues a final order (the Final Order) incorporating this Consent Agreement. If the due date for the payment falls on a weekend or legal federal holiday, then the due date is the next business day. The date a payment is made is considered to be the date processed by U.S. Bank, described below. Payment must be received by 11:00 AM Eastern Standard Time to be considered as received that day.
- b. Payment shall be made by check, or making a wire transfer or on-line payment, including the name and docket number of this case. The payment shall be payable to the "Oil Spill Liability Trust Fund-311."

If remitted by regular U.S. mail:

U.S. Environmental Protection Agency / Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:

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

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

If remitted through the Automated Clearing House (ACH) for receiving US currency:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 -- checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737

Contacts: John Schmid (202-874-7026) and REX (Remittance Express)
800-234-5681

If remitted on-line with a debit card or credit card: No user name, password, or account number is necessary for this option. On-line payment can be accessed via WWW.PAY.GOV, entering 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen.

- c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Mark A.R. Chalfant, Acting Director
UIC/FIFRA/OPA Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

and

Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

- d. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 and will continue to accrue until payment in full is received (e.g., on the 1st late day, 30 days of interest will have accrued).
- e. A handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be

assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, second to penalty assessments, third to accrued interest, and then to the outstanding principal amount.

- f. The Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

60. Nothing in this Agreement shall relieve the Respondent of the duty to comply with the Act and its implementing regulations.

61. Any failure by the Respondent to comply with any term of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

62. Nothing in this Agreement 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 any failure by the Respondent to comply with this Agreement.

63. The undersigned representative of the Respondent certifies that he is fully authorized to enter into the terms and conditions of this Agreement and to bind the Respondent to the terms and conditions of this Agreement.

64. Each party shall bear its own costs and attorney fees in connection with this matter.

65. This Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full settlement of the Respondent's liability for federal civil penalties for the violations alleged in this Agreement.

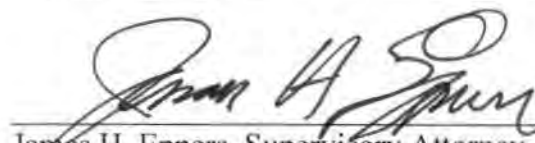
66. This Agreement may be signed in multiple counterparts, each of which shall have the force and effect of an original.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant**

Date: April 14, 2014.




Mark A.R. Chalfont, Acting Director
UIC/FIFRA/OPA Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202

Date: 4/14, 2014.


James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202

**CONTINENTAL RESOURCES, INC.,
Respondent**

Date: 4/11, 2014.

By:  
Richard E. Muncrief
Senior Vice President of Operations
and Resource Development
Continental Resources, Inc.
20 N. Broadway
Oklahoma City, OK 73102

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT/ CONSENT AGREEMENT** in the matter of **CONTINENTAL RESOURCES, INC.;** **DOCKET NO.: CWA-08-2014-0022** was filed with the Regional Hearing Clerk on April 14, 2014; the **FINAL ORDER** was filed on April 18, 2014.


Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Peggy Livingston, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were resent and placed in the United States mail certified/return receipt and emailed on April 18, 2014 to:

Jim Farrell, Senior HS&E Corporate Attorney
Continental Resources, Inc.
20 N. Broadway
Oklahoma City, OK 73102
Jim.farrell@clr.com

And emailed to:

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

April 18, 2014


Tina Artemis
Paralegal/Regional Hearing Clerk

