



Attorneys and Counselors

JOHN F. PEISERICH
jpeiserich@perkinstrotter.com

POST OFFICE BOX 251618
LITTLE ROCK, ARKANSAS 72225-1618
TEL 501-603-9000
FAX 501-603-0556
www.perkinstrotter.com

Street Address
101 Morgan Keegan Drive,
Suite A
Little Rock, Arkansas 72202

October 29, 2010

Regional Hearing Clerk (6RC-D)
US EPA Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

RE: Enerco Operating Corporation
Fouke Field Salt Water Injection Well
Section 31, T16S, R26W, Miller County, Arkansas
Docket No.: CWA-06-2010-1901

To Whom It May Concern,

Enclosed please find an original and one (1) copy of Respondent, Enerco Operating Corporation's Answer for filing in the above-referenced matter. Please return a file-marked copy in the self-addressed postage paid envelope I have enclosed for your convenience.

Should you have questions or comments regarding the information presented herein, please contact me.

Sincerely,

John F. Peiserich

/cb

cc: Mr. Efren Ordonez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2010 NOV -3 PM 4: 00

REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of)

Enerco Operating Corp.)
Respondent)

) Docket No. CWA-06-2010-1901
)
)
)
)

ANSWER OF RESPONDENT

Respondent, Enerco Operating Corporation, by and through its attorneys, Perkins & Trotter, PLLC, and for its response states as follows:

1. Enerco Operating Corporation (“Enerco”) admits that the statement of Statutory Authority recited by the United States Environmental Protection Agency (“EPA”) is a correct statement of law. Notwithstanding, Enerco denies that the “Findings” referenced in the Administrative Complaint are a true or accurate statement of fact, that Enerco has violated the Clean Water Act (the “Act”), and that Enerco should be ordered to pay a civil penalty.

2. Enerco admits Paragraph 1, Finding of Fact and Conclusions of Law.

3. Enerco admits Paragraph 2, Findings of Fact and Conclusions of Law.

4. Enerco denies Paragraph 3, Findings of Fact and Conclusions of Law, specifically Enerco denies that a discharge occurred from its operations.

5. Enerco denies Paragraph 4, Findings of Fact and Conclusions of Law.

6. Enerco admits that Paragraph 5, Findings of Fact and Conclusions of Law, is a correct statement of the Act, however Enerco denies that it discharged any pollutant from a point source to waters of the United States.

7. Enerco does not have sufficient knowledge to admit or deny if an EPA field inspector inspected the facility on January 20, 2010 or the results from that inspection, and therefore denies Paragraph 6, Findings of Fact and Conclusions of Law.

8. Enerco denies Paragraph 7, Findings of Fact and Conclusion of Law.

9. Enerco admits that Paragraph 8, Findings of Fact and Conclusions of Law, is a correct statement of the Act, however Enerco denies that it is liable for a civil penalty.

10. Enerco does not have sufficient knowledge to admit or deny if the EPA has notified the Arkansas Department of Environmental Quality, and therefore denies Paragraph 9, Findings of Fact and Conclusions of Law.

11. Enerco does not have sufficient knowledge to admit or deny if the EPA has notified the public of the filing of this Complaint, and therefore denies Paragraph 10, Findings of Fact and Conclusions of Law.

12. Enerco denies Paragraph 11, Proposed Penalty.

13. Enerco does not have sufficient knowledge to admit or deny how the penalty amount was determined and therefore denies Paragraph 12, Proposed Penalty. Stating further, EPA has not provided Enerco with its penalty calculations.

14. Enerco admits that Paragraph 13, Proposed Penalty, is a correct statement of procedure.

15. Enerco admits that Paragraph 14, Failure to File an Answer, is a correct statement of procedure and takes this opportunity to Answer the Complaint.

16. Enerco admits that Paragraph 15, Failure to File an Answer, is a correct statement of procedure.

17. Enerco admits that Paragraph 16, Failure to File an Answer, is a correct statement of law, however Enerco denies that it applies in this instance as Enerco is filing this responsive pleading.

18. Enerco admits that Paragraph 17, Failure to File an Answer, is a correct statement of procedure and is filing a copy of this Answer with the Regional Hearing Clerk.

19. Enerco admits that Paragraph 18, Failure to File an Answer, is a correct statement of procedure and is sending a copy of this Answer to Mr. Efren Ordonez.

20. Enerco admits that Paragraph 20, Failure to File an Answer, is a correct statement of procedure and Counsel for Enerco has signed this responsive pleading.

21. Enerco requests a hearing to contest each and every material allegation contained in the Complaint and to contest the appropriateness of the amount of the proposed penalty in accordance with Paragraph 21, Notice of Opportunity to Request a Hearing.

22. Pursuant to Paragraph 22, Notice of Opportunity to Request a Hearing, Enerco is filing this responsive pleading which includes a request for hearing.

23. Enerco admits that Paragraphs 23 through 25, Settlement, are correct statements of law and procedure, however Enerco has attempted to communicate with EPA regarding the alleged facts in this Complaint prior to the filing of this Administrative Complaint. EPA declined to participate in site inspections requested by Enerco or to address material errors in the facts alleged. As previously reported by Enerco to EPA, including to Mr. Matt Rudolph and his staff, Enerco's facility was flooded by rain events during December 2009 and January 2010 at the same time the adjoining third-party pipeline facility suffered at least two failures. The combined rainfall events and third-party pipeline ruptures resulting in in-flow into the Enerco facility unrelated to Enerco's operations. The very documentary evidence produced by EPA demonstrates these facts. Despite Enerco's attempts to resolve this matter, EPA, despite its purported settlement policy, refused to meet and confer to that end.

AFFIRMATIVE DEFENSES

24. Enerco affirmatively pleads that the damages alleged are solely the responsibility of a third party.

25. Enerco affirmatively pleads that the inundation of its facility was an Act of God, an unanticipated natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight on the part of the Respondent.

26. Enerco affirmatively pleads coverage under Permit No. 0000-WG-SW issued by the Arkansas Department of Environmental Quality "*Authorization to Construct and Operate the Surface Facilities Associated with a Disposal System for Injection of Sale Water and Other Oil Field Wastes under the Provisions of the Arkansas Water and Air Pollution Control Act*" which permits the operation

of the facility in question. The permit is issued under the delegated authority of Region 6 EPA to the Arkansas Department of Environmental Quality.

REQUEST FOR HEARING

27. Enerco hereby requests a hearing on this matter.

Respectfully submitted this 29th day of October, 2010.

Attorneys for Enerco Operating Corporation

PERKINS & TROTTER, P.L.L.C.

P. O. Box 251618

Little Rock, AR 72225-1618

Phone: (501) 603-9000

Facsimile: (501) 603-0556

jpeiserich@perkinstrotter.com



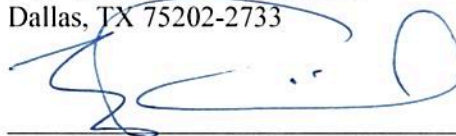
JOHN F. PEISERICH, AR Bar #2002009

CERTIFICATE OF SERVICE

I certify that the foregoing Answer, dated October 29, 2010, was sent this day in the following manner to the addresses listed below:

Original & 1 copy by Regular Mail to: Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by Regular Mail to: Mr. Efren Ordonez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733



John F. Peiserich, AR Bar #2002009

Dated: October 29, 2010