



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2008 APR 29 11:13 AM

DOCKET NO.: SDWA-08-2007-0082

ASSINIBOINE & SIOUX TRIBES
OF THE FORT PECK RESERVATION

Respondents

)
)
)
)
)
)
)

FINAL ORDER

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 Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

SO ORDERED THIS 28th DAY OF April, 2008

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 SEP 23 11:18:32

Docket No. SDWA-08-2007-0082

In the Matter of:)
)
Assiniboine & Sioux Tribes) CONSENT AGREEMENT
of the Fort Peck Reservation)
)
)
Respondents)

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondents, Assiniboine & Sioux Tribes of the Fort Peck Reservation (Respondents), by their undersigned representative, hereby consent and agree as follows:

1. On September 10, 2007, Complainant issued to Respondents a Complaint With Notice Of Opportunity For Hearing (complaint) alleging certain violations of the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26. The Complaint proposed a civil penalty for the violations alleged therein.

2. Respondents admit the jurisdictional allegations of the complaint and neither admit nor deny the specific factual allegations of the complaint.

3. Respondents waive their right to a hearing before any tribunal, to contest any issue of law or fact set forth in the complaint, or this Consent Agreement.

4. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondents and Respondents' successors or assigns. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. For the purposes of settlement, Respondents consent and agree to perform the Supplemental Environmental Project more fully described in paragraph 6, below, comply with the requirements of paragraph 7, below, and pay a civil penalty in the amount of Four Thousand Six Hundred Thirty Four Dollars (\$4,634.00) in the manner described below in this paragraph:

- a. Payment is due within thirty (30) calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, which adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket issued by the bank or finance center described below. Payments must be received by 11:00 a.m. Eastern Time to be considered as received that day.

- b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for this amount, payable to "Treasurer, United States of America," to:

REGULAR MAIL:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. 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:

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"

ONLINE PAYMENTS:

www.pay.gov

Enter SFO 1.1 in the "search public forms" field
Open form and enter the information

- c. A copy of the check shall be sent simultaneously to:

Nathan Wiser
Technical Enforcement Program (8ENF-T)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

and

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

- d. In the event 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. (i.e., on the 1st late day, 30 days of interest accrues).
 - e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the date of the final order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.
 - f. Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.
6. Supplemental Environmental Project (SEP) Description
- a. Respondents agree to perform work at the following injection well:

Phillip Red Eagle #2-25 Salt Water Disposal Well, bearing EPA Permit No. MT20080-00182, located 1320 feet from the south section line and 1050 feet from the east section line, in the Southeast quarter of the Southeast quarter of Section 25, Township 30 North, Range 47 East, in Roosevelt County, Montana.
 - b. Respondents, within sixty (60) calendar days from the date written on the

Final Order, issued by the Regional Judicial Officer, which adopts this Consent Agreement, shall expend no less than \$25,923 to investigate the mechanical integrity status of and attempt to restore mechanical integrity to the Phillip Red Eagle #2-25 well, long-abandoned by Roosevelt Disposal, Inc. Respondents shall determine the cause of the loss of mechanical integrity, which loss was confirmed during a mechanical integrity test that took place on January 11, 2008.

- c. If Respondents can restore the well's mechanical integrity, then the Respondents shall promote the Phillip Red Eagle #2-25 well as a viable salt water disposal or other well to a company capable of managing it.
- d. If Respondents cannot restore the well's mechanical integrity, then the Respondents, within ninety (90) calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, which adopts this Consent Agreement, shall apply for funding from available sources, such as the Montana Reclamation and Development Grant Program, in order to properly plug and abandon the Phillip Red Eagle #2-25 well. If successful in obtaining funding, Respondents shall take the lead for plugging and abandoning the well. If unsuccessful in obtaining adequate funding for such purpose, Respondents agree to provide EPA with documentation showing the level of effort expended to obtain funding.
- e. If Respondents fail to expend the amount in paragraph 6.b, the Respondents shall choose to spend the shortfall amount on either:
 - i. within one hundred and twenty (120) calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, which adopts this Consent Agreement, remediating the following site by properly removing and disposing of the oily sludge and visibly impacted soils under and near the oily sludge: South Poplar Sludge Pit, located on Industrial Drive, Poplar, Montana 59255, with coordinates 48° N, 6', 25.54", 105°W, 12', 15.06", or
 - ii. within ninety (90) calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, which adopts this Consent Agreement, paying an additional cash penalty using the procedures set forth in paragraph 5, above.
- f. Respondents agree to furnish EPA with a Final SEP Report(s) no later than December 31, 2008. This report shall contain a brief summary of the work performed under this paragraph, including at a minimum, a tally of expenditures, a well rework summary, all mechanical integrity test results, and a final as-built wellbore diagram showing the configuration of the

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

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

14. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

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

Complainant

Date: 4/25/08

By: Michael T. Resner
for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

**ASSINIBOINE & SIOUX TRIBES OF THE
FORT PECK RESERVATION,**

Respondents

Date: 4-15-08

By: A.T. Stafne
A.T. Stafne
Chairman

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT** in the matter of **ASSINIBOINE & SIOUX TRIBES OF THE FORTPECK RESERVATION**, **DOCKET NO.: SDWA-08-2007-0082** was filed with the Regional Hearing Clerk on April 25, 2008, the **FINAL ORDER** was filed on April 28, 2008.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Jim Eppers, Enforcement Attorney, U.S. EPA - Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on April 28, 2008 to:

Douglas W. Wolf
Sonosky, Chambers, Sachse, Endreson & Perry LLP.
1425 K Street, N. W.
Suite 600
Washington, DC 20005

E-mailed to:

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

April 28, 2008



Tina Artemis
Paralegal/Regional Hearing Clerk