

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of:)
)
Altec Petroleum Group, Inc.)
)
) Docket No. CWA-06-2008-1832
)
Respondent.)

**COMPLAINANT'S MOTION FOR ACCELERATED DECISION AS TO BOTH
LIABILITY AND PENALTY**

COMES NOW, the Complainant, the Director of the Compliance Assurance and Enforcement Division, through his attorney, in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the Consolidated Rules), 40 C.F.R. § 22.1 *et seq.*, and hereby moves the Court to render an accelerated decision pursuant to 40 C.F.R. § 22.20 granting full judgment in favor of the Complainant as to both liability for violations of the Clean Water Act (CWA), 33 U.S.C § 1251 *et seq.*, for discharges of pollutants to waters of the United States and as to the penalty assessed for these violations. In particular, it is alleged that Respondent discharged pollutants to waters of the United States. In support of its Motion for Accelerated Decision, Complainant states the following.

I. ADMINISTRATIVE PROCEDURES TO DATE

1. Complainant issued an Administrative Complaint pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), on May 20, 2008.
2. A request by Respondent for a hearing was filed with the Regional Hearing Clerk on June 26, 2008.¹ (Exhibit B).

¹ The Respondent's Answer did not comply with 40 C.F.R. § 22.15(b), in that the Answer failed to admit, deny, or explain the material factual allegations contained in the Complaint.

3. The Presiding Officer issued a Scheduling Order on June 30, 2008. On July 23, 2008, the parties filed a joint status report and requested an extension of time for filing prehearing exchanges.

4. On July 31, 2008, the Presiding Officer filed the First Amended Scheduling Order, resetting the deadline for filing prehearing exchanges to September 26, 2008.

5. Complainant filed its prehearing exchange on September 26, 2008. Respondent did not file a prehearing exchange.

6. On October 28, 2008, Complainant filed a Motion to Amend the Complaint.

7. On June 9, 2009, the Presiding Officer filed an order granting Complainant's Motion to Amend the Complaint.

8. On July 13, 2009, Complainant filed Complainant's Motion for an Extension of Time to File its Amended Complaint. Complainant filed the Amended Complaint on July 15, 2009. (Exhibit A).

9. On October 20, 2009, the Presiding Officer issued an Order stating that the Complainant's Motion for an Extension of Time to File its Amended Complaint was granted and the Amended Complaint is considered timely filed. Additionally, the Presiding Officer Ordered Respondent to file its Answer to the Amended Complaint on or before November 23, 2009 and advised that the contents of the answer are described in 40 C.F.R. § 22.15(b). The Presiding Officer further advised that failure of Respondent to admit, deny, or explain any material factual allegation contained in the Complaint will be deemed an admission of the allegation. The Presiding Officer concluded by stating that if Respondent has not filed an Answer by November 23, 2009, the Complainant is Ordered to file a Motion for Default or, in the alternative, a motion to withdraw the case on or before December 23, 2009.

10. To date, EPA has no knowledge that the Respondent has filed an answer to the Amended Complaint.

II. DESCRIPTION OF FACILITY

11. Respondent owns and operates an oil field facility located in the Northwest Quarter of Section 36, Township 28 North, Range 9 East, Osage County, Oklahoma (“the facility”). (Exhibit C).

12. The facility is an oil and/or gas well drilling location. On this drilling location there was a reserve pit (pit) constructed to catch or contain drilling fluids and drill cuttings. Drilling fluids include but are not limited to the following: oil field brine, drilling muds, drilling returns, produced fluids, cement, etc. At the time of the EPA’s inspection on September 21, 2007, the entire drilling location had been bulldozed over. The drilling location was approximately an acre in size. During the inspection the soil located on the drilling location was contaminated from oil field brine and was wet and saturated at various locations. (*Id.*) (Exhibit J-Sanborn Affidavit).).

13. The pit is located at the northwest corner of the facility at Latitude 36° 51.70’ North and Longitude 96° 17.49’ West. (Exhibit C).

14. According to the inspector’s notes, the pit seeped oil field brine west approximately 10 feet into the drainage of the tributary. The fluids then traveled south down the drainage approximately 470 feet into the tributary of the South Fork of Pond Creek. The oil field brine which was seeped or was discharged from the pit was high in salts. Also since the entire location was contaminated from oil field brine, every time it rains the salts in the contaminated soil will re-dissolve and mix with and contaminate the rainwater which will then runoff from the facility and discharge into the tributary. (*Id.* and Exhibit J-Sanborn Affidavit).

III. ADMINISTRATIVE ENFORCEMENT HISTORY

15. The oil field production facility is located on the Osage Wildlife Management Area, which is state land that is regulated and managed by the Oklahoma Department of Wildlife Conservation (ODWC). ODWC is responsible for managing fish and wildlife in the state of Oklahoma. This area is an extremely environmentally sensitive area which had a creek contaminated from this facility. (Exhibit K- Rudolph Affidavit).

16. The facility was inspected by the EPA on September 21, 2007, and on March 10, 2008. On both inspection dates the EPA inspector observed high salinity in the tributary of the South Fork of Pond Creek. The reason why the EPA initially inspected the facility was in response to a complaint received from a biologist working for the ODWC on the Osage Wildlife Management Area. The biologist was concerned about the activities at this drilling location and about a pit at the facility. The biologist informed the EPA that the pit located at the facility was not lined properly and was polluting a creek which runs directly adjacent to the location. The inspection conducted on March 10, 2008 was a follow-up inspection to the September 21, 2007 inspection. (Exhibits C, D and Exhibit J-Sanborn Affidavit).

17. EPA issued an Administrative Order (AO) (Docket No. CWA-06-2008-1737) on November 16, 2007 ordering Respondent to cease and desist all discharges of pollutants into the tributary of the South Fork of Pond Creek and to remove all brine from the tributary of the South Fork of Pond Creek which was discharged from the facility. Additionally, EPA Ordered the Respondent to install a catchment structure that will catch and prevent the discharges of contaminated fluids to the tributary of the South Fork of Pond Creek; neutralize or extract all the brine contaminated soil located in the drainage between the facility and the discharge point of

entry; and to notify EPA Region 6 representatives within thirty (30) days of the effective date of the AO that the activities were completed. (Exhibit E).

18. On March 10, 2008, an EPA inspector inspected the facility to ascertain whether Docket No. CWA-06-2008-1737 was complied with. (Exhibit D).

19. As a result of the inspection, EPA representatives determined that no catchment structure was constructed and that discharges from the facility had not ceased. Some efforts were made to neutralize the brine contaminated soil by what appeared to be applying gypsum to the surface. Nothing was submitted to the EPA indicating that the soil was neutralized. For example, no samples were taken to show or prove that the soil was neutralized. Evidence in the creek showed high salinity levels indicating the facility had continued to discharge brine. (*Id.* and Exhibit J–Sanborn Affidavit)

20. EPA issued a Complaint (Docket No. CWA-06-2008-1832) on July 15, 2009 alleging unauthorized discharges to the tributary of the South Fork of Pond Creek. (Exhibit A).

IV. STANDARD OF REVIEW

21. An accelerated decision is issued pursuant to 40 C.F.R. § 22.20 “if no genuine issue of material fact exists and a party is entitled to judgment as a matter of law.” This decision is similar to summary judgment under Rule 56(c) of the Federal Rules of Civil Procedure. Rule 56(c) case law thus provides appropriate guidance for accelerated decisions. *In re CWM Chemical Services, Inc.*, 6 E.A.D.1, 12 (EAB 1995).

22. Under Rule 56(c), the movant has the initial burden of showing that there exists no genuine issue of material fact by identifying those portions of “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show[ing] that there is no genuine issue as to any material fact and that the moving party is entitled to

judgment as a matter of law.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986) (quoting Rule 56(c)). An issue of fact is “material” if it “might affect the outcome of the suit under governing law.” *Anderson v. Liberty Lobby Inc.*, 477 U.S. 242, 248 (1986). An issue of fact is “genuine” if “the evidence is such that a reasonable jury could return a verdict for the non-moving party.” *Id.* Evidence that is “merely colorable” or not “significantly probative” is incapable of overcoming the standard for denying summary judgment. *Id.* at 249-50. Once the moving party meets its burden, the nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The nonmoving party must come forward with “specific facts showing that there is a genuine issue for trial.” *Id.* at 587. If the nonmoving party is unable to prove its burden, the moving party is entitled to a judgment of an accelerated decision as a matter of law when it establishes there are no genuine issues of material fact.

V. ARGUMENT

A. **COMPLAINANT IS ENTITLED TO JUDGMENT AS A MATTER OF LAW BECAUSE RESPONDENT IS A PERSON THAT HAS DISCHARGED POLLUTANTS FROM A POINT SOURCE INTO WATERS OF THE U.S. IN VIOLATION OF THE CWA.**

23. Under Section 301 of the CWA, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source into a water of the U.S., unless it is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. As such, any person who discharges from a point source is required to have a NPDES permit and must comply with the specific terms and conditions of that permit. Respondent did not have coverage under the Region 6 NPDES program to discharge to waters of the U.S. Complainant alleged in its Amended Complaint that Respondent discharged pollutants to waters of the United States based upon an inspection conducted on September 21, 2007 by an EPA inspection officer.

1. RESPONDENT IS A PERSON WITHIN THE MEANING OF THE CWA.

24. Altec Petroleum Group, Inc. (“Respondent”) is a Corporation which is incorporated under the laws of the State of Oklahoma.

25. The term “person” is defined in Section 502(5) to include an “individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.”

26. As such, Respondent is a “person” as that term is defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

27. Respondent’s failure to deny this allegation in its original Answer and its failure to respond to the Amended Complaint deems this allegation admitted pursuant to 40 C.F.R. § 22.15(d).

2. RESPONDENT DISCHARGED OIL FIELD BRINE WHICH IS A POLLUTANT.

28. Respondent discharged pollutants (oil field brine) within the meaning of the CWA. Under Section 502(12) of the CWA, 33 U.S.C. § 1362(12), the “discharge of a pollutant” is defined to be “any addition of any pollutant to navigable waters from any point source.”

29. Section 502(6), 33 U.S.C. § 1362(6) of the CWA, defines pollutant as:

. . . dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

30. In the instant case, Respondent discharged oil field brine which is a pollutant. Oil field brine is made from oil and gas drilling and/or production activities. Oil field brine is a term used to describe fluids high in salts and is an industrial waste product associated with oil field

exploration and production activities. Oil field brine can include but not limited to the following: drilling muds, drilling returns, produced fluids, cement, etc. (Exhibit K-Rudolph Affidavit).

31. The EPA inspector used an YSI 30 conductivity meter to measure fluids in the impacted water body. These fluids measured 30,000 parts per million (ppm) total soluble salts. The state biologist also took physical samples and submitted them to Oklahoma State University Soil, Water & Forage Analytical Laboratory for analysis on October 1, 2007. The biologist's sample results also showed high salinity levels of over 22,000 ppm total soluble salts in the impacted water body. (Exhibit F).

32. Courts have interpreted the definition of "pollutant" "to encompass substances not specifically enumerated but subsumed under the broad generic terms" listed in Section 502(6). *Hudson River Fisherman's Ass'n v. City of N.Y.*, 751 F.Supp. 1088, 1101 (S.D.N.Y. 1990), *aff'd*, 940 F.2d 649 (2d Cir. 1991). The broad definition of pollutant is meant to "leave out very little" as confirmed by the statutory definition found in Section 502(19), 33 U.S.C. § 1362(19), defining pollution as "the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of the water." *Sierra Club, Lone Star Chapter v. Cedar Point Oil Co.*, 73 F.3d 546, 566-68 (5th Cir. 1996). Courts have also emphasized that when a case involves the meaning of terms in agency regulation and not statutory construction, "unless plainly erroneous or inconsistent, an agency's interpretation of an ambiguous term in its own regulations is entitled to deference." *United States Public Interest Research Group v. Atlantic Salmon of Maine, LLC*, 215 F.Supp. 2d 239, 243 (D. Me. 2002), *aff'd*, 339 F.3d 23 (1st Cir. 2003).

33. In considering whether coal bed methane (CBM) water was a "pollutant" under the CWA, one Court focused on how to define the general categories listed under "pollutant,"

specifically “industrial waste.” *Northern Plains Resource Council v. Fidelity Exploration & Development Co.*, 325 F.3d 155 (9th Cir. 2003). The Court noted that “industrial waste” is not limited to the most heinous and toxic forms of industrial byproducts. *Id.* at 1161. By looking at the combined effect of the dictionary definitions of “industrial” and “waste,” the Court found that “industrial waste” is “any useless byproduct derived from the commercial production and sale of goods and services.” *Id.*

34. The Court also looked to its prior decision in *Association to Protect Hammersley Eld, and Totten Inlets v. Taylor Resources, Inc. (APHETI)* to further clarify the meaning of “pollutant.” *Id.* at 1162-63. The Court in *Northern Plains* rejected the defendant’s interpretation of *APHETI* to argue that its CBM water is “unaltered” and naturally occurring and therefore not a pollutant. *Northern Plains*, 325 F.3d at 1162. In *APHETI*, the Court focused on whether “materials, although naturally occurring, are altered by a human or industrial process and, as waste material in significant amounts, might affect the biological composition of water.” *APHETI*, 299 F.3d 1007, 1017 (9th Cir. 2002). The Court in *Northern Plains* reaffirmed this interpretation but noted there was no requirement that all materials identified in the definition of “pollutant” be transformed by human activity. *Northern Plains*, 325 F.3d at 1163.

35. Another Court determined that foods being fed to fish on a salmon farm were “pollutants” within the meaning of the CWA. *Atlantic Salmon of Maine*, 215 F.Supp. 2d at 248 (D. Me. 2002). Although it was noted that the feed contained fish parts, making it “biological materials” or “solid waste,” the Court appears to have been influenced by the presence of chemicals in the feed. These uneaten chemicals that flowed from the salmon pens became waste and led the Court to conclude that the feed was subsumed in the category of “chemical wastes,” and therefore a pollutant. *Id.*

36. Thus, based upon the above, oil field brine is a pollutant as defined within the meaning of the CWA under Section 502(12), 33 U.S.C. § 1362(12).

37. Further, Respondent's failure to deny this allegation in its original Answer and its failure to respond to the Amended Complaint deems this allegation admitted pursuant to 40 C.F.R. § 22.15(d).

3. RESPONDENT'S OIL FIELD BRINE IS A POINT SOURCE THAT IS SUBJECT TO REGULATION UNDER THE CWA.

38. The CWA requires that any party that discharges pollutants from a point source into waters of the U.S. must have a NPDES permit unless the discharges fall into an exception. Point source is defined in Section 502(14) of the CWA, 33 U.S.C. § 1342(14) as:

. . . any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

The oil field production facility is a point source because the facility is a "discernible, confined and discrete conveyance" of a pollutant. Discharges from the facility are not exempt from the CWA. As such, a NPDES permit is necessary for the oil field discharges from the facility.

39. Discharge of a pollutant, for which a NPDES permit is required, includes point sources that do not themselves generate pollutants; a point source need only convey the pollutant to navigable waters. *South Florida Water Mgmt. Dist. v. Miccosukee Tribe of Indians*, 541 U.S. 95, 105 (2004). In the present case, the facility conveyed oil field brine into a tributary of the South Fork of Pond Creek, then to Pond Creek, and then into Hulah Lake which is built on the Caney River which is a water of the U.S. The facility was a discernible, confined and discrete conveyance, or a point source, which discharged a pollutant, specifically oil field brine, to waters of the U.S. (Exhibit K-Rudolph Affidavit).

40. Thus, based upon the above, the oil field production facility is a point source subject to the CWA regulations.

41. Respondent's failure to deny this allegation in its original Answer and its failure to respond to the Amended Complaint deems this allegation admitted pursuant to 40 C.F.R. § 22.15(d).

4. RESPONDENT'S FAILURE TO PROPERLY OPERATE AND MAINTAIN THE FACILITY AND CONTAMINATION AT THE FACILITY CAUSED RESPONDENT'S DISCHARGES.

42. The Pit located at the facility was not lined properly and seeped oil field brine. (Exhibits J& K-Sanborn & Rudolph Affidavits).

43. At times as the well was being drilled, oil field brine in the form of drilling returns was spayed from the drilling rig's return line over the location and not into the pit. (Exhibit J-Sanborn Affidavit).

44. The brine contaminated soil located at the facility was not properly removed or neutralized resulting in a discharge every time it rained. (Exhibit K-Rudolph Affidavit).

45. Thus, based upon the above, Respondent's failure to properly operate and maintain the Facility caused Respondent's discharges.

46. Respondent's failure to deny this allegation in its original Answer and its failure to respond to the Amended Complaint deems this allegation admitted pursuant to 40 C.F.R. § 22.15(d).

5. RESPONDENT DISCHARGED POLLUTANTS INTO WATERS OF THE U.S.

47. Respondent discharged pollutants into waters of the U.S. within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2. This was personally observed by EPA during the September 21, 2007 inspection. Specifically, the EPA inspector observed that the operator drilled a well on state land. Additionally, two storage pits were constructed to hold drilling fluids. At some point the pits began leaking out of the bottom along the rock shelf on which they were constructed. (Exhibit C). The pits were not lined. Brine entered the small creek over a period of weeks to the objection of the State. (Exhibits C and G). BIA then closed the pits by draining and backfilling with dirt. EPA then inspected and found the pits restored. There is evidence of brine in the creek. There is also a wet area next to the creek that probably was the discharge path. TSS in the creek was 30K ppm and dropped to about 2500 ppm about 200 yards south. The EPA inspector told the operator to dig a containment pit to catch any runoff from the site and haul it off with a truck. As of the date of the September 21, 2007 inspection, the pit was not dug, and rain was expected in the area. (Exhibit C).

48. The oil field brine discharged into waters of the U.S. Pond Creek is a perennial stream, and at the time of the inspection, water was flowing through it. Pond Creek is perennial downstream from the tributary. The tributary of the South Fork of Pond Creek is seasonal as per the state biologist. The hydrologic connection is evidenced by the facts that the tributary of the South Fork (seasonal and flowing at time of inspection) flows into the South Fork of Pond Creek (perennial), which flows into Pond Creek (perennial), which flows into Hulah Lake/Caney River (perennial) (Exhibit K-Rudolph Affidavit). Pond Creek is navigable and is approximately 50 feet in width and 10 feet deep in the center and flows into the Hulah Lake, which is built on the

Caney River. The Caney River had water flowing in it at the time of the inspection. The following are the distances from the tributary of the South Fork of Pond Creek to Hulah Lake: 2.2 miles to the South Fork of Pond Creek; 3.1 miles from the South Fork of Pond Creek to Pond Creek; 13.4 miles from Pond Creek to Hulah Lake. The total distance from the tributary of the South Fork of Pond Creek to Hulah Lake is approximately 18.4 miles. (Exhibit K-Rudolph Affidavit).

49. The discharges from the facility eventually discharged into the Caney River, which is a water of the U.S. (Exhibit K-Rudolph Affidavit).

50. Thus, based upon the above, Respondent discharged pollutants, oil field brine, into waters of the U.S.

51. Respondent's failure to deny this allegation in its original Answer and its failure to respond to the Amended Complaint deems this allegation admitted pursuant to 40 C.F.R. § 22.15(d).

6. RESPONDENT'S FAILURE TO ANSWER THE COMPLAINT HAS RESULTED IN AN ADMISSION TO THE COMPLAINANT'S ALLEGATIONS, INCLUDING COMPLAINANT'S PROPOSED PENALTY

52. Pursuant to 40 C.F.R. § 22.15(b), "[T]he answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the complaint..." 40 C.F.R.

§ 22.15(d) continues, "[F]ailure to admit, deny, or explain any material allegation contained in the complaint constitutes an admission of the allegation".

53. As discussed above, Respondent has failed to admit, deny or explain the factual allegations of the Complaint. (Exhibit B). Further, Respondent failed to comply with the Presiding Officer's October 20, 2009, Order, which required the Respondent to file its Answer to the Amended Complaint on or before November 23, 2009. As required by the regulations, the

Presiding Officer further advised that failure of Respondent to admit, deny, or explain any material factual allegation contained in the Complaint will be deemed an admission of the allegation.

54. In addition to the above, 40 C.F.R. § 22.18 states, a motion for default may seek resolution of all or part of the proceeding. Where the motion requests the assessment of a penalty....the movant must specify the penalty...and state the legal and factual grounds for the relief requested.

55. In the instant case, Complainant seeks a penalty in the amount of \$19,500.00. The penalty was calculated using the statutory factors in accordance with Section 309(g)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(3). (See Exhibit K- Rudolph Affidavit). Applying the factors noted in Section 309(g) of the CWA, Complainant applied the Penalty Policy to the alleged factors and proposed a penalty in the amount of \$19,500. (Id.).

56. To date, EPA has no knowledge that Respondent filed an answer.

57. Respondent's failure to deny Complainant's allegations, including its proposed penalty in its original Answer and its failure to respond to the Amended Complaint deems Complainant's allegation admitted pursuant to 40 C.F.R. § 22.15(d). Further, the proposed penalty of \$19,500 should also be assessed against the Respondent.

VI. PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully prays the Court will issue the following order:
Respondent, Altec Petroleum Group, Inc., is found to be in violation of Section 301 of the CWA for the unlawful discharge of pollutants to waters of the U.S. and a civil penalty in the amount of \$19, 500 is assessed against Respondent.

Respectfully submitted,



Lorraine Dixon
Assistant Regional Counsel (6RC-EA)
U.S. EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, Texas 75202-2733
Dixon.Lorraine@epa.gov
Tel: (214) 665-7589
Fax: (214) 665-3177

12.22.09
Date

CERTIFICATE OF SERVICE

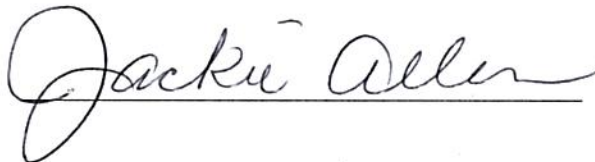
I certify that the original of the foregoing COMPLAINANT'S MOTION FOR ACCELERATED DECISION AS TO BOTH LIABILITY AND PENALTY was hand-delivered to and filed with the **Regional Hearing Clerk**, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and a true and correct copy was sent to the following on this 22nd day of December, 2009, in the following manner:

Via Certified Mail – Return Receipt Requested: 7004 1160 0003 0354 4389 and
7004 1160 0003 0354 4396

Mr. Patrick Adams
President
Altec Petroleum Group
323 County Road 3460
Pawhuska, OK 74056

and

Mr. Patrick Adams
President
Altec Petroleum Group
6035 Freemont St
Riverside, CA 92504-1114

Handwritten signature of Jackie Allen in cursive script, underlined.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

Altec Petroleum Group, Inc.
an Oklahoma Corporation

Respondent

Facility No. OKU000636

§ Docket No. CWA-06-2008-1832
§
§
§ Proceeding to Assess a Class I
§ Civil Penalty under Section 309(g)
§ of the Clean Water Act
§
§ ADMENDED COMPLAINT
§

I. Statutory Authority

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(g). The Administrator of EPA has delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who has further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Class I Administrative Complaint is issued in accordance with, and this action will be conducted under, "the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," including rules related to Administrative Proceedings not Governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. §§ 22.50 - 22.52.

Based on the following Findings, Complainant finds that the Respondent has violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Altec Petroleum Group, Inc. ("Respondent") is a Corporation which was incorporated under the laws of the State of Oklahoma, and as such, Respondent is a "person," as that term is defined at Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

2. At all times relevant to the violations alleged herein, Respondent owned or operated an oil field production facility located in the Northwest Quarter of Section 36, Township 28 North, Range 9 East, Osage County, Oklahoma ("the facility"), and was therefore an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

3. At all relevant times, the facility was a "point source" of a "discharge" of "pollutants," (i.e., oil field brine), to receiving waters of a tributary of the South Fork of Pond Creek, which is a water of the United States within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

4. Because the Respondent owned or operated a facility which acted as a point source of a discharge of pollutants to waters of the U.S., the Respondent and the facility are subject to the Act and the National Pollutant Discharge Elimination System (NPDES) program.

5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342. According to the NPDES program, the discharge of oil field brine to "waters of the U.S." is a non-permitted discharge.

6. On September 21, 2007, the facility was inspected by an EPA inspector. The inspector observed that oil field brine had been discharged from the production area at the facility, located at

Latitude 36° 51.70' North and Longitude 96° 17.49' West, to a tributary of the South Fork of Pond Creek, located at Latitude 36° 51.94' North and Longitude 96° 17.58' West. The inspector determined that the water at the discharge point of entry into the tributary was contaminated from brine discharges and measured 30,000 parts-per-million (ppm) total soluble salts (TSS). The inspector noted the facility previously had two drilling pits which had been backfilled. The inspector observed an area adjacent to the point of entry to be saturated.

7. On March 10, 2008, the facility was inspected by an EPA inspector. The inspector determined that water located inside the tributary measured 3,700 to 6,700 ppm TSS. The inspector noted that there was no catchment structure to prevent contaminated runoff from the facility from entering the tributary.

8. Each day of unauthorized discharge was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

9. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), the Respondent is liable for a civil penalty in an amount not to exceed \$11,000 per day for each day during which a violation occurs or continues, up to a maximum of \$32,500.

10. EPA has notified the Osage Nation Environmental and Natural Resources Department of the issuance of this Complaint and has afforded the tribe an opportunity to consult with EPA regarding the assessment of an administrative penalty against the Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

11. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by

Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

12. Based on the foregoing Findings, and pursuant to the authority of Sections 309(g)(1) and (g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(A), EPA Region 6 hereby proposes to assess against the Respondent a civil penalty of nineteen thousand five hundred dollars (\$19,500).

13. The proposed penalty amount has been determined based on the statutory factors specified in Section 309(g)(3), 33 U.S.C. § 1319(g)(3), which includes such factors as the nature, circumstances, extent and gravity of the violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act.

IV. Failure to File an Answer

14. If the Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, the Respondent must file an Answer to this Complaint within thirty (30) days after service, whether or not the Respondent requests a hearing as discussed below.

15. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service, shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to

hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R.

§ 22.15(d).

16. If the Respondent does not file an Answer to this Complaint within thirty (30) days after service, a Default Order may be issued against the Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by the Respondent without further proceedings sixty (60) days after a Final Default Order is issued.

17. The Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

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

18. The Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Ms. Lorraine Dixon (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

19. The Answer must be signed by the Respondent, the Respondent's counsel, or other representative on behalf of the Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of the Respondent and the Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

20. The Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50 through 22.52.

21. Any request for hearing should be included in the Respondent's Answer to this Complaint; however, as discussed above, the Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

22. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

23. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, the Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. The Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

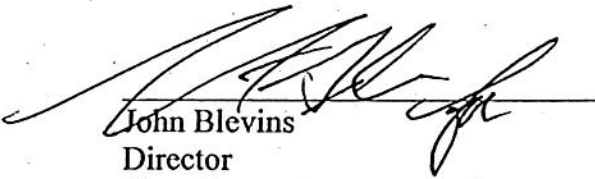
24. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a

Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive the Respondent's right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

25. Neither assessment nor payment of a penalty in resolution of this action will affect the Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

7-14-07

Date


John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

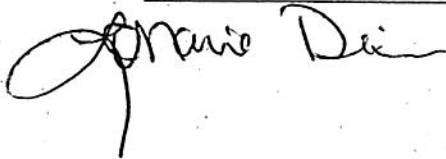
Original hand-delivered: Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
return receipt requested: Mr. Patrick Adams, President
Altec Petroleum Group, Inc.
323 County Road 3460
Pawhuska, OK 74056

Copy by mail: Ms. Diane Daniels, Environmental Director
Osage Nation Environmental
and Natural Resources Department
P.O. Box 1495
Pawhuska, OK 74056

Hand-delivered: Ms. Lorraine Dixon (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: 7-15-09

A handwritten signature in cursive script, appearing to read "Lorraine Dixon", written over a horizontal line.



Testing & Engineering, Inc.

Michael

June 16, 2008

Mr. John Blevins, Director
Compliance Assurance and Enforcement Division
United States Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

RECEIVED

JUN 23 2008

6EN-W

Re: Notice of Proposed Assessment of Class I Civil Penalty
Docket Number CWA-06-2008-1832
Facility Number OKU000636

Dear Mr. Blevins,

I am in receipt of your May 20, 2008 letter and would like to request a hearing in order to present our side of the complaint. I'm not sure what options that we have other than a formal hearing, however, for the record, I have spoken to Mr. Matt Rudolph on at least two other occasions and he was not very receptive to hearing another side of the story. On a second note, please update your files to reflect Altec's corporate office located at:

Altec Petroleum Group, Inc.
c/o Altec Testing & Engineering, Inc.
6035 Fremont Street
Riverside, CA 92504
Ph (951) 352-6510
Fx (951) 352-6514

The address in Oklahoma is a field office and although it is a manned field office, papers of this time sensitive nature should come directly to my attention at our corporate office.

Thank you for your immediate attention in this matter and I look forward to discussing the case further.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick S. Adams", is written over a horizontal line.

Patrick S. Adams
President

INSPECTION REPORT

REPORT DATE: 10/2/2007

INCIDENT NO: 09212007-2

INSPECTION DATE: 9/21/2007

INVESTIGATOR: Kent Sanborn

LOCATION: NW /4, Sec. 36 , T 28N, R 9E

COUNTY: OSAGE

SPILL OR DISCHARGE DATE:

MATERIAL SPILLED: Brine

AMOUNT: UNKNOWN

REPORTED BY:

OWNER/OPERATOR: ALTEC TESTING AND ENGINEERING, INC.

6035 Fremont Street

Riverside, CA 92504-1114

951-367-9055

SURFACE OWNER: STATE OF OKLAHOMA

PHONE: Unknown

EMERGENCY HOTLINE NOTIFIED:

POINT SOURCE: DRILLING PITS

LATITUDE/LONGITUDE: 36 51.970N, 96 17.492W

RECEIVING WATER: ROCK CREEK TRIBUTARY

LATITUDE/LONGITUDE: 36 51.939N, 96 17.582W

INSPECTION OBSERVATIONS:

OPERATOR DRILLED WELL ON STATE LAND. 2 STORAGE PITS WERE CONSTRUCTED TO HOLD DRILLING FLUIDS. AT SOME POINT THE PITS BEGAN LEAKING OUT THE BOTTOM ALONG THE ROCK SHELF THEY WERE CONSTRUCTED ON. THEY WERE NOT LINED. BRINE ENTERED THE SMALL CREEK OVER A PERIOD OF WEEKS TO THE OBJECTION OF THE STATE. BIA THEN CLOSED THE PITS BY DRAINING AND BACKFILLING WITH DIRT. I THEN INSPECTED AND FOUND THE PITS RESTORED. THERE IS EVIDENCE OF BRINE IN THE CREEK. THERE IS ALSO A WET AREA NEXT TO THE CREEK THAT PROBABLY WAS THE DISCHARGE PATH. TSS IN THE CREEK WAS 30K PPM AND DROPPED TO ABOUT 2500 PPM ABOUT 200 YARDS SOUTH. I TOLD OPERATOR TO DIG A CONTAINMENT PIT TO CATCH ANY RUNOFF FROM THE SITE AND HAUL OFF WITH A TRUCK. AS OF TODAY THAT PIT WAS NOT DUG. RAIN IS EXPECTED TODAY.

HE WAS TOLD TO RESTORE THE SURFACE USING GYP AND COMPOST. I SUGGESTED HE TERRACE THE SITE TO PREVENT SOIL EROSION.

SUPPORTING VIDEO, PICTURES, OR SAMPLES: Photos

OTHER AGENCIES OR PARTIES CONTACTED OR INVOLVED:

BIA, OK DEPT OF WILDLIFE, AG (OK)

REGIONAL COMMENTS/INFORMATION OBTAINED:

Rudolph contacted Respondent on 10/3/07 and informed them of the inspection findings and the resulting enforcement actions.

**ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007**

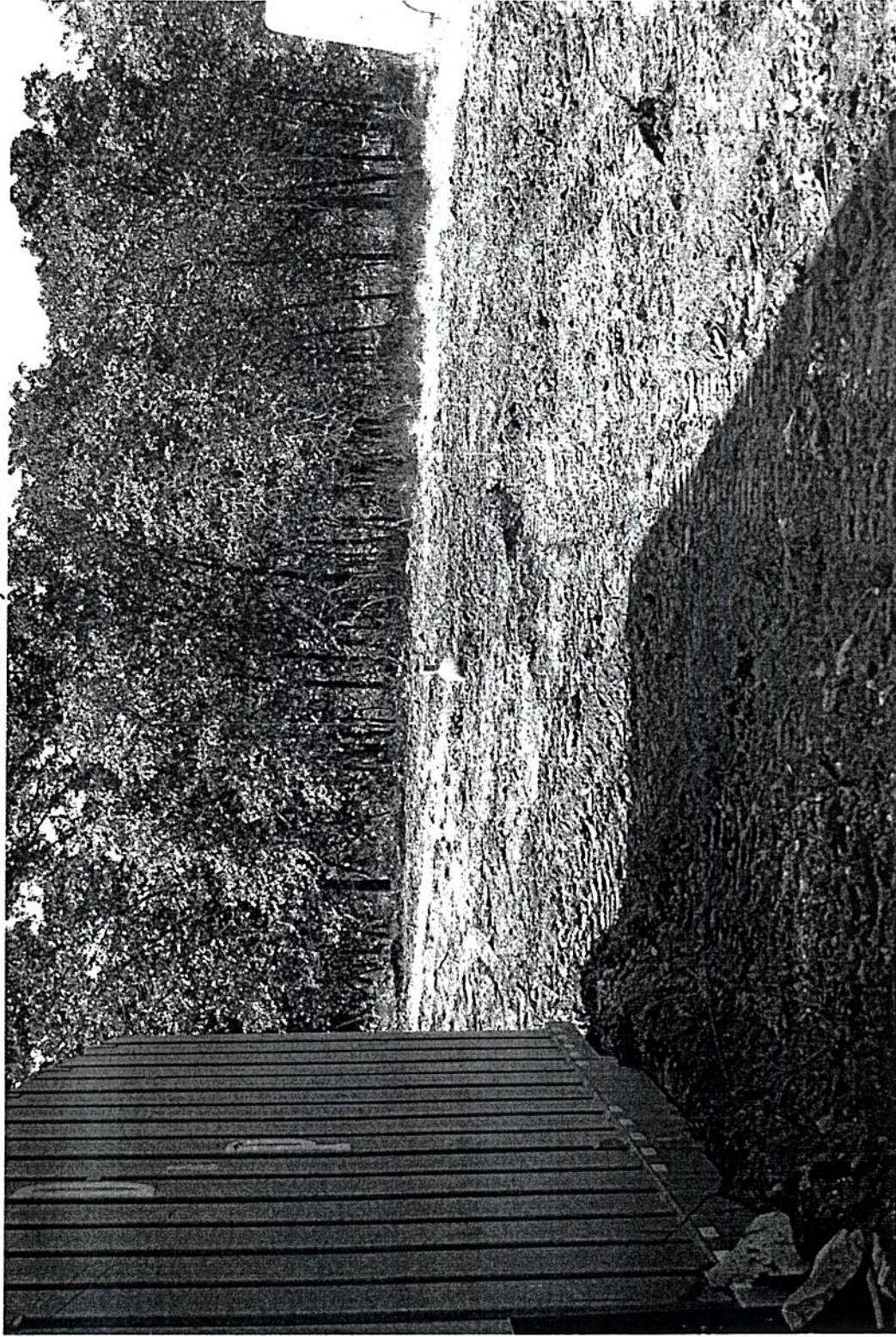


Photo 1 taken southwest. Newly drilled well. No production casing set yet.

**ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007**



Photo 2 taken southwest. Old pit locations were present here before being filled with dirt.

ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007

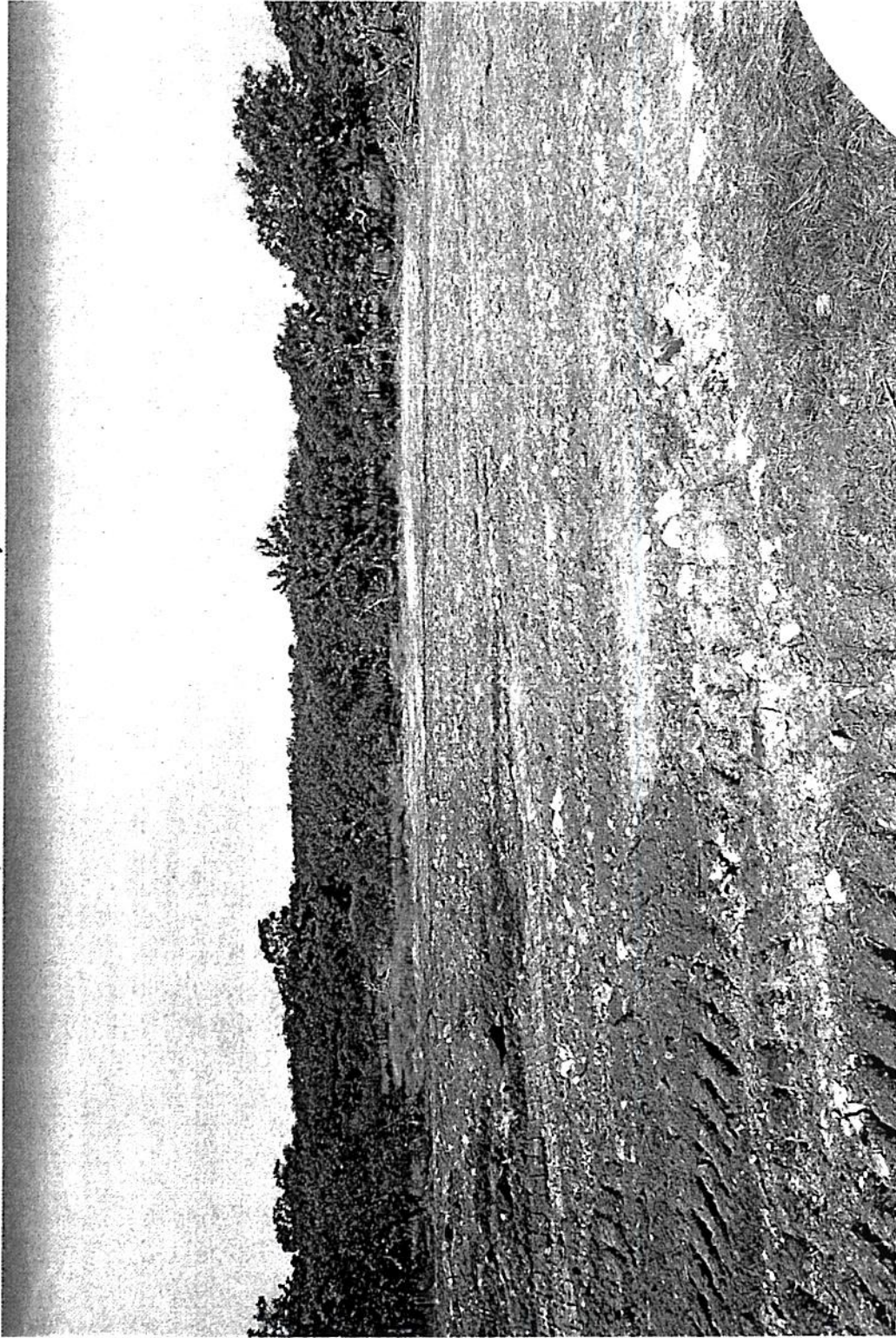


Photo 3 taken west. Location cleared for drilling. Some wet spots were pits were filled in.

**ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007**



Photo 4 taken north. Trees were piled in one location on the north side of the drilling site.

ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007

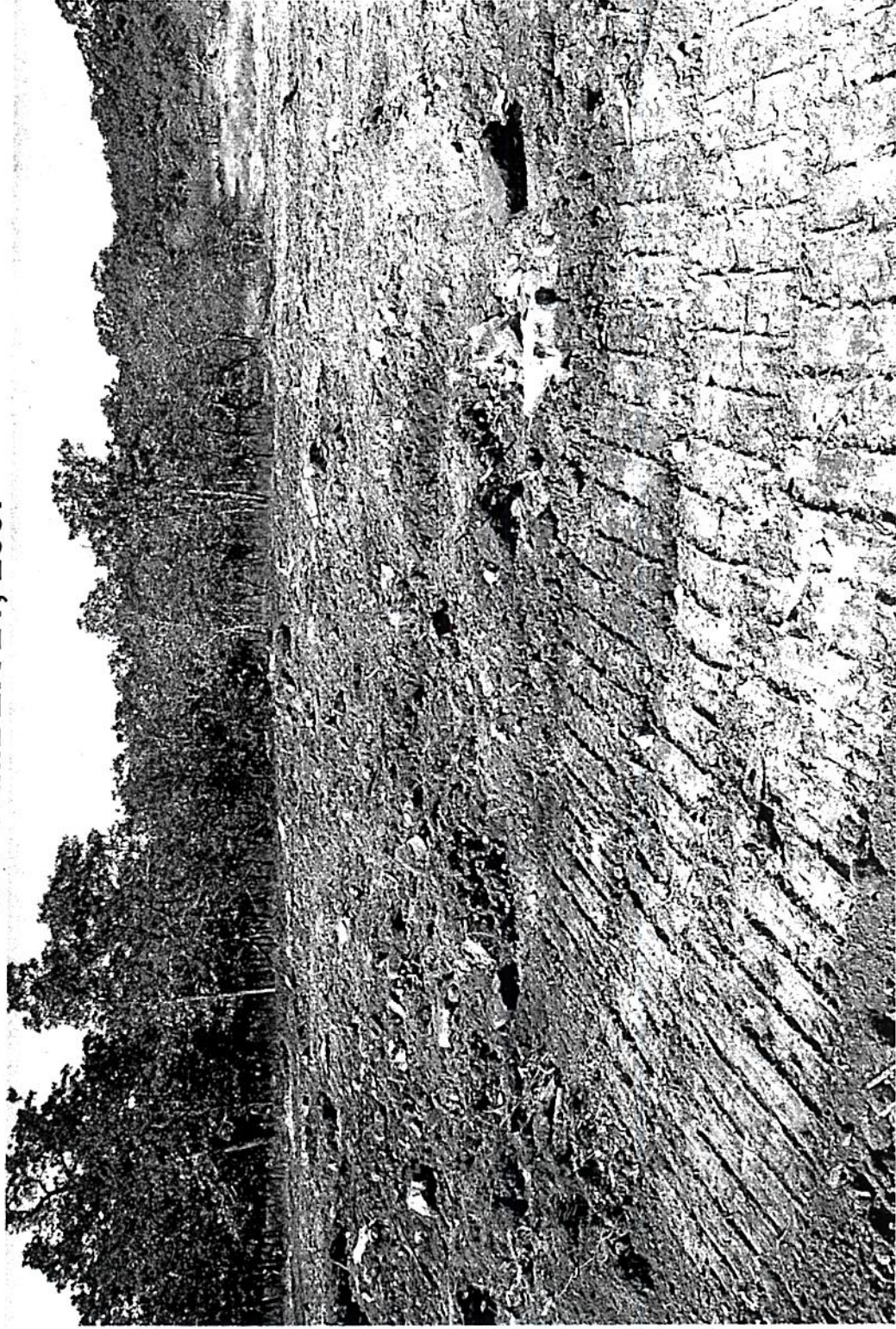


Photo 5 taken west. Close-up of soft and mushy area wet from pit soaked soils.

**ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007**



Photo 6 taken west. Before pits were filled they reportedly seeped out their base here into the small creek. Note dead trees.

**ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007**



Photo 7 taken east. Reverse angle photo from creek entry point showing wet ground from seeps and size of drilling location.

**ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007**



Photo 8 taken south. This part of the creek was drained by a tank truck. TSS was 30k ppm. No oil seen.

ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007



Photo 9 taken southwest. Another part of the creek sucked out by tank truck.

**ALTEC TESTING AND ENGINEERING
NW 36 28N-9E OSAGE CO., OKLAHOMA
SEPTEMBER 21, 2007**



Photo 10 taken south. This is creek farther south. TSS here is 2500 ppm.

FOLLOW-UP INSPECTION REPORT

INSPECTION DATE: 3/10/2008

INCIDENT NO: 09212007-2

INVESTIGATOR: Kent Sanborn

LOCATION: NW/4, Sec. 36, T 28, R 9

COUNTY: OSAGE

SPILL OR DISCHARGE DATE:

MATERIAL SPILLED: Brine

AMOUNT: UNKNOWN

REPORTED BY:

OWNER/OPERATOR: ALTEC PETROLEUM GROUP, INC.
323 CR 3460
PAWHUSKA, OK 74056
951-367-9055

SURFACE OWNER: STATE OF OKLAHOMA

PHONE: Unknown

EMERGENCY HOTLINE NOTIFIED:

POINT SOURCE: DRILLING PITS

LATITUDE/LONGITUDE: 36 51.970N, 96 17.492W

RECEIVING WATER: ROCK CREEK TRIBUTARY

LATITUDE/LONGITUDE: 36 51.939N, 96 17.582W

INSPECTION OBSERVATIONS:

ENTIRE LOCATION HAS BEEN GRADE AND WORKED WITH GYPSUM. NO NEW GRASS. NO DAM WAS EVER BUILT TO CONTAIN THE HIGHEST OF THE BRINE. NO WATER WAS EVER REMOVED FROM THE CREEKS FIRST HOLE. TSS AT THAT HOLE TODAY IS 3700-6700 PPM. CREEK DOWNSTREAM IS 1200-2200 PPM TSS. WELL IS TA WITH TEST TANK NEARBY.

SUPPORTING VIDEO, PICTURES, OR SAMPLES: Photos

OTHER AGENCIES OR PARTIES CONTACTED OR INVOLVED:

BIA

ALTEC PETROLEUM GROUP, INC.
NW 36-28N-9E OSAGE COUNTY, OK
MARCH 10, 2008

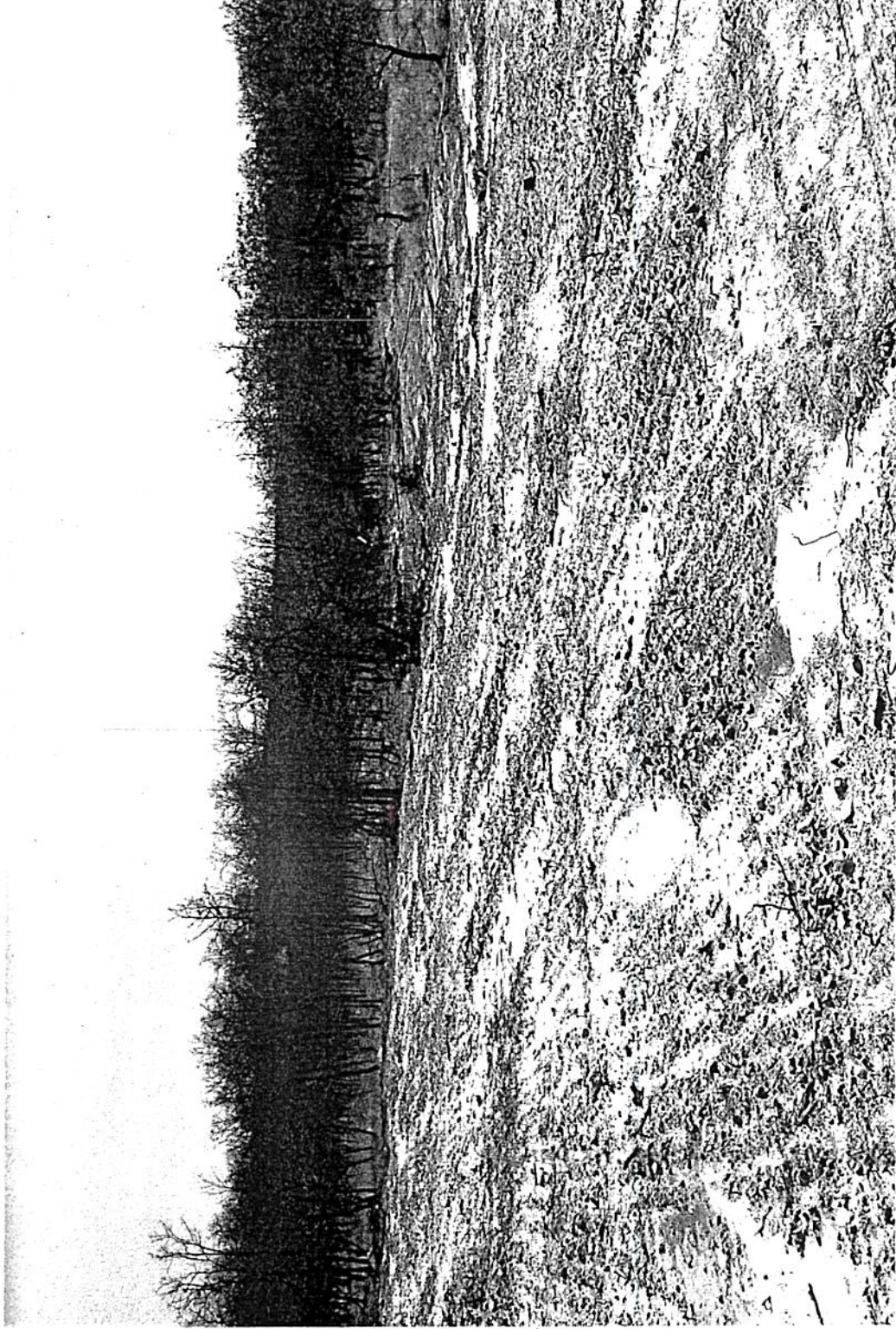


Photo 1 taken south. Area graded and treated with gypsum. Little if any grass growth. No cover to prevent erosion.

ALTEC PETROLEUM GROUP, INC.
NW 36-28N-9E OSAGE COUNTY, OK
MARCH 10, 2008



Photo 2 taken south. Another view of location. Well and test tank in the background.

**ALTEC PETROLEUM GROUP, INC.
NW 36-28N-9E OSAGE COUNTY, OK
MARCH 10, 2008**



Photo 3 taken south. Creek at entry point. No catch basin or dam was ever build here to catch runoff. No recent effort to removed runoff from creek. TSS ranges from 3700-6700 ppm.

ALTEC PETROLEUM GROUP, INC.
NW 36-28N-9E OSAGE COUNTY, OK
MARCH 10, 2008

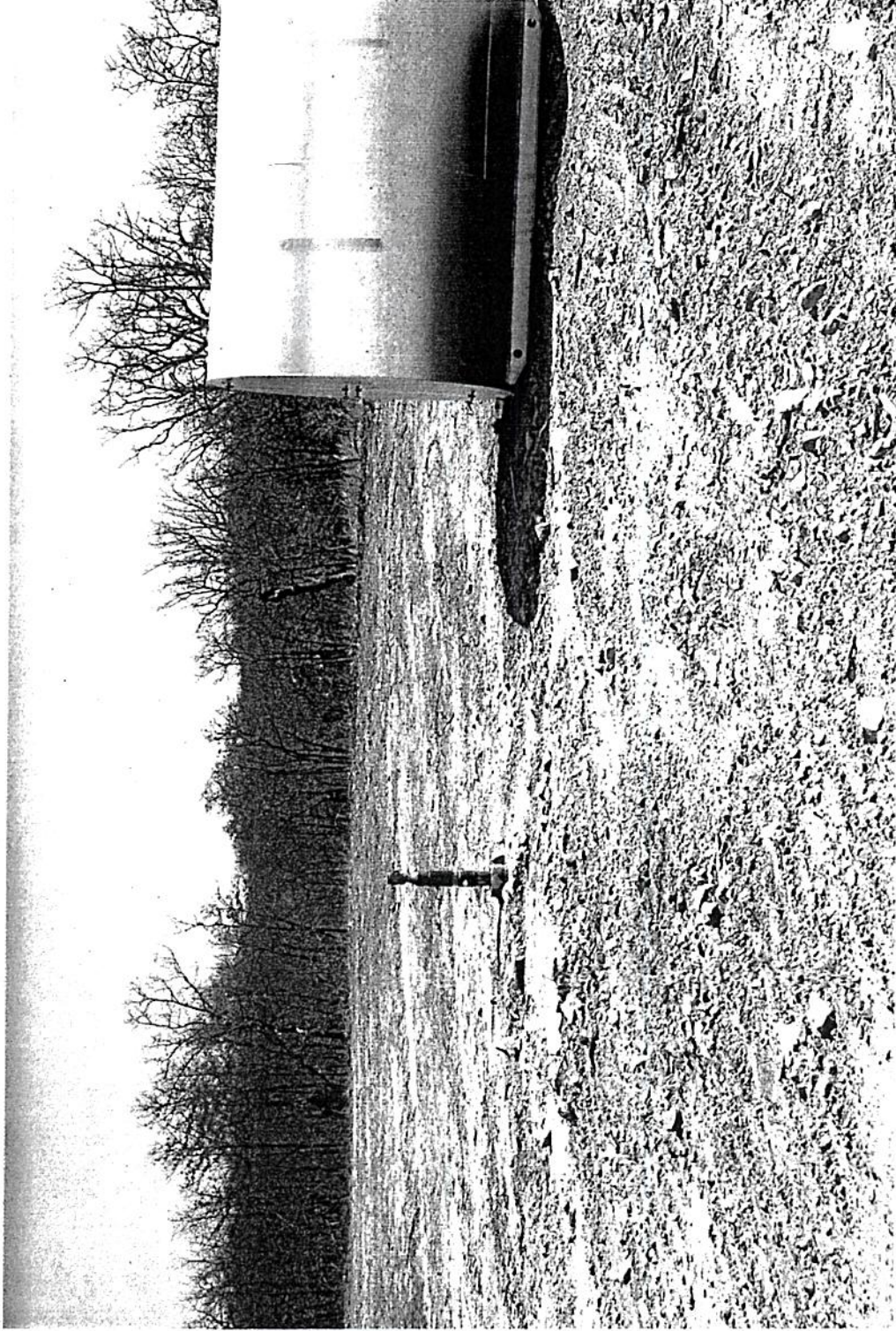


Photo 4 taken southeast. Close-up of well and tank. No vegetation growth or ground cover.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

NOV 16 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 5223

Mr. Patrick Adams, President
Altec Testing and Engineering, Inc.
6035 Fremont Street
Riverside, CA 92504-1114

Re: Cease and Desist Administrative Order
Docket Number CWA-06-2008-1737
Facility Number OKU000636

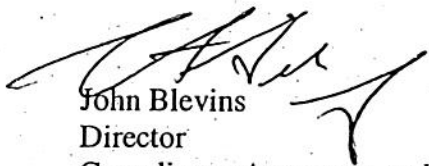
Dear Mr. Adams:

Enclosed is an Administrative Order (AO) issued to Altec Testing and Engineering, Inc. for violation of the Clean Water Act (33 U.S.C. § 1251 et seq.). The violation was identified based on our September 21, 2007, inspection of your facility located in the Northwest Quarter Section 36, Township 28 North, Range 9 East, Osage County, Oklahoma, designated as Facility Number OKU000636. The inspection results were discussed with you on October 3, 2007. The violation found consists of an unauthorized discharge of a pollutant, specifically oil field brine, to waters of the United States.

Effective upon receipt of this AO, you shall immediately cease and desist all discharges of pollutants into the identified tributary of Rock Creek, and comply with the provisions of this AO. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the Clean Water Act, and my staff will assist you in any way possible.

If you have any questions, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely yours,


John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure(s)

cc: Ms. Diane Daniels, Environmental Director
Osage Nation Environmental
and Natural Resources Department
P.O. Box 1495
Pawhuska, OK 74056

Altec Petroleum Group Inc.
323 CR 3460
Pawhuska, OK 74056

SECTION U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
ND CO FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of Altec Testing and Engineering, Inc., Respondent
Docket No. CWA-06-2008-1737

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 319(a). The Administrator has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Respondent, Altec Testing and Engineering, Inc., is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 362(5).

2. At all times relevant to the violation alleged herein (relevant time period) Respondent operated an oil field facility located in the Northwest Quarter Section 36, Township 28 North, Range 9 East, Osage County, Oklahoma (facility), designated as Facility Number OKU000636.

3. On September 21, 2007, an EPA inspector observed that pollutants, namely, oil field brine generated by oil field activities, had been recently discharged from leaking storage pits within the facility to "waters of the United States" as that term is defined by 40 C.F.R. § 122.2. Pollutants were discharged to a tributary of Rock Creek, located approximately 475 feet down gradient and southwest from the facility. The inspector determined that the water located at the discharge point of entry into the tributary of Rock Creek was contaminated from brine discharges and contained 30,000 parts-per-million total soluble salts.

4. The storage pits referred to in paragraph 3 above are "point sources" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

5. At no time during the relevant time period did Respondent have National Pollutant Discharge Elimination System (NPDES) program coverage under the Act which prohibited the discharge of a pollutant from the facility to waters of the United States.

6. During the relevant time period, it was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1319(a), for any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

7. On or about September 21, 2007, Respondent discharged and caused the discharge of pollutants from point sources within the facility to waters of the United States without permit coverage under the Act in violation of Section 301(a) of the Act, 33 U.S.C. § 1319(a).

ORDER

Based on these findings and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA orders that Respondent take the following actions upon receipt of this Order:

1. cease all discharges of pollutants from the facility;
2. remove all brine from the tributary of Rock Creek, located at Latitude 36° 51.94' North and Longitude 96° 17.58' West, which was discharged from the facility on or about September 21, 2007;
3. install a catchment structure that will catch and prevent the discharges of contaminated fluids from the facility to the tributary of Rock Creek;
4. neutralize or extract all the brine contaminated soil located in the drainage between the facility and the discharge point of entry;
5. within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to the EPA Region 6, that these activities have been completed.

GENERAL PROVISIONS

Issuance of this Order shall not be deemed an election by EPA to waive any administrative, judicial, civil or criminal action to seek penalties, fines or other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any remedy available under the law which it deems appropriate.

Failure to comply with this Order or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state and local laws.

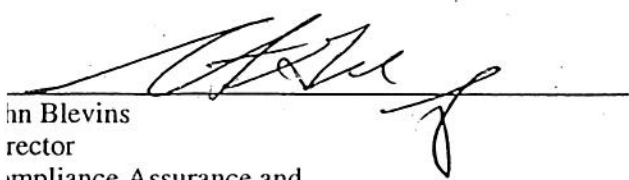
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IND CO

SECTION
IND CO

The effective date of this Order is the date it is
by the Respondent.

NOV 1 0 2007

ite



John Blevins
Director
Compliance Assurance and
Enforcement Division

NOV 16 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 5223

Mr. Patrick Adams, President
Altec Testing and Engineering, Inc.
6035 Fremont Street
Riverside, CA 92504-1114

Re: Cease and Desist Administrative Order
Docket Number CWA-06-2008-1737
Facility Number OKU000636

Dear Mr. Adams:

Enclosed is an Administrative Order (AO) issue for violation of the Clean Water Act (33 U.S.C. § 1251 on our September 21, 2007, inspection of your facility in Township 28 North, Range 9 East, Osage County, Oklahoma OKU000636. The inspection results were discussed with you and found consists of an unauthorized discharge of a pollutant into the United States.

Effective upon receipt of this AO, you shall immediately cease and desist all discharges of pollutants into the identified tributary of Rock Creek, and comply with the provisions of this AO. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the Clean Water Act, and my staff will assist you in any way possible.

If you have any questions, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely yours,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure(s)

cc: Ms. Diane Daniels, Environmental Director
Osage Nation Environmental
and Natural Resources Department
P.O. Box 1495
Pawhuska, OK 74056

Altec Petroleum Group Inc.
323 CR 3460
Pawhuska, OK 74056

CONCURRENCES: H:\6EN\6EN-W\WR\Rudolph\Altec\06_2008_1737\AltecAOcvlt.doc

5225 9542 E000 029T 5002
7005 1820 0003 7458 5223

**U.S. Postal Service™
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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

11/16/07

Sent To: *Altec Testing and Engineering*
Street, Apt. No., or PO Box No.: *6035 Fremont Street*
City, State, ZIP+4: *Riverside CA 92504*

PS Form 3800, June 2002 See Reverse for Instructions

6EN-WR	6EN-W	6EN-RC			
SAUNDERS	MCDONALD	McDonald			

bcc: [Handwritten signatures and initials]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of Altec Testing and Engineering, Inc., Respondent
Docket No. CWA-06-2008-1737

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a). The Administrator has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Respondent, Altec Testing and Engineering, Inc., is a person" as defined by Section 502(5) of the Act, 33 U.S.C. 1362(5).
2. At all times relevant to the violation alleged herein (relevant time period) Respondent operated an oil field facility located in the Northwest Quarter Section 36, Township 28 North, Range 9 East, Osage County, Oklahoma (facility), designated as Facility Number OKU000636.
3. On September 21, 2007, an EPA inspector observed that pollutants, namely, oil field brine generated by oil production activities, had been recently discharged from leaking storage pits within the facility to "waters of the United States" as that term is defined by 40 C.F.R. § 122.2. Pollutants were discharged to a tributary of Rock Creek, located approximately 475 feet down gradient and southwest from the facility. The inspector determined that the water located at the discharge point of entry into the tributary of Rock Creek was contaminated from brine discharges and measured 30,000 parts-per-million total soluble salts.
4. The storage pits referred to in paragraph 3 above are point sources" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).
5. At no time during the relevant time period did Respondent have National Pollutant Discharge Elimination System (NPDES) program coverage under the Act which authorized the discharge of a pollutant from the facility to waters of the United States.
6. During the relevant time period, it was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1319(a), for any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

7. On or about September 21, 2007, Respondent discharged and caused the discharge of pollutants from point sources within the facility to waters of the United States without permit coverage under the Act in violation of Section 301(a) of the Act, 33 U.S.C. § 1319(a).

ORDER

Based on these findings and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA orders that Respondent take the following actions upon receipt of this Order:

1. cease all discharges of pollutants from the facility;
2. remove all brine from the tributary of Rock Creek, located at Latitude 36° 51.94' North and Longitude 96° 17.58' West, which was discharged from the facility on or about September 21, 2007;
3. install a catchment structure that will catch and prevent the discharges of contaminated fluids from the facility to the tributary of Rock Creek;
4. neutralize or extract all the brine contaminated soil located in the drainage between the facility and the discharge point of entry;
5. within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to the EPA Region 6, that these activities have been completed.

GENERAL PROVISIONS

Issuance of this Order shall not be deemed an election by EPA to waive any administrative, judicial, civil or criminal action to seek penalties, fines or other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any remedy available under the law which it deems appropriate.

Failure to comply with this Order or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state and local laws.

TRON J

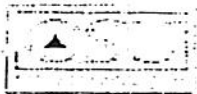
SON A

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state and local laws.

The effective date of this Order is the date it is received by the Respondent.

Date

John Blevins
Director
Compliance Assurance and
Enforcement Division



Soil, Water & Forage Analytical Laboratory
 Oklahoma State University
 048 Agricultural Hall, Stillwater, OK 74078
 Email: Soils_lab@mail.oss.okstate.edu



WATER QUALITY REPORT

OSAGE CTY EXT OFC	Name	LabID	476528
628 KIHEKAH	Osage UIC	CustomerCode	57
SECOND FLOOR	Location	SampleNo	10431
PAWHUSKA	OK - 1	Received Date	10/11/2007
(918) 287-4170		Report Date	10/15/2007

Test Results For Irrigation Water

---Cations---		---Anions---		---Other---	
Sodium(ppm)	5984.5	Nitrate-N(ppm)	<1	pH	4.2
Caicium(ppm)	928.9	Chloride(ppm)	12180.9	EC(µmhos/cm)	34800
Magnesium(ppm)	291.7	Sulfate(ppm)	59.9	Fe	
Potassium(ppm)	45	Boron(ppm)	1.9		
		BiCarbonate(ppm)			

---Derived Values---		---Derived Values(Cont'd)---	
Total Soluble Salts(TSS in ppm)	22968	Sodium Percentage	78.72%
Sodium Adsorption Ratio (SAR)	43.9	Hardness	3517.9
Potassium Adsorption Ratio (PAR)	0.2	Hardness Class	Very Hard
Residual Carbonates (meq)		Alkalinity (ppm as CaCO3)	

Interpretation And Requirements

Water of this quality is not recommended for crop irrigation due to its high total soluble salts and/or sodium level.

- ☐ Boron toxicity may occur in poorly drained soils.

Will Cobby
 Signature

ALTCO
 Creek @ Secp.



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SOIL SALINITY REPORT

OSAGE CTY EXT OFC	Name	LabID	476393
628 KIHEKAH	Osage UIC	CustomerCode	57
SECOND FLOOR	Location	SampleNo	10438
PAWHUSKA	W-D #1	Received Date	9/28/2007
(918) 287-4170		Report Date	10/10/2007

Test Results For Salinity Management :(1:1 Soil to water extraction and converted to saturate paste equivalent)

---Cations---		---Derived Values---	
Sodium(ppm)	4168.1	Total Soluble Salts(TSS in ppm)	19503
Calcium(ppm)	861.9	Sodium Adsorption Ratio (SAR)	35.5
Magnesium(ppm)	110.4	Potassium Adsorption Ratio (PAR)	0.3
Potassium(ppm)	64	Exchangeable Sodium Percentage (ESP)	33.7
		Exchangeable Potassium Percentage (EPP)	6.5

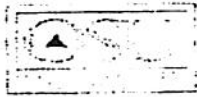
---Other---		---Additional---	
pH	6.8		240.9
EC(µmhos/cm)	9850	BiCarbonate(ppm)	
Boron(ppm)	0.1		
Texture	Coarse		

Interpretation And Requirements

Total soluble salt in this soil is about 7.3875 times higher than normal and sufficiently high to reduce yield of even salt tolerant crops. Exchangeable sodium is much higher than normal and may be responsible for poor water movement in soil. Salts can be leached downward out of the surface soil, if the soil has good drainage. Leaching will be aided by incorporation of 20 to 30 tons of organic matter per acre in the top 6 inches of soil. Incorporation of 5 tons of gypsum into the surface one to two inches will aid in removal of sodium and speed water movement into the soil. During the reclamation period avoid deep tillage such as moldboard plowing and establish a salt tolerant crop (barley, bermudagrass etc.) to provide ground cover for as much of the growing season as possible. If there is a white salty crust on the soil surface, delay planting the salt tolerant crop until the crust no longer forms during a soil drying cycle. Planting while the salty crust remains will likely result in poor stand establishment. The time for reclamation will depend upon the amount and quality of water that moves through the soil profile. Further information can be found in fact sheet 2225.

Will Weber
 Signature

*Wild life Dept.
 Seep point / filled pit*



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WATER QUALITY REPORT

OSAGE CTY EXT OFC
 628 KIHEKAH
 SECOND FLOOR
 PAWHUSKA
 (918) 287-4170

Name	Osage UIC	LabID	476530
Location	OK - 2	CustomerCode	57
		SampleNo	10432
		Received Date	10/11/2007
		Report Date	10/15/2007

Test Results For Irrigation Water

---Cations---		---Anions---		---Other---	
Sodium(ppm)	385.3	Nitrate-N(ppm)	<1	pH	5.1
Calcium(ppm)	95.1	Chloride(ppm)	858.8	EC(µmhos/cm)	2930
Magnesium(ppm)	33.6	Sulfate(ppm)	11.2	Fe	
Potassium(ppm)	13	Boron(ppm)	0.0		
		BiCarbonate(ppm)	2.3		

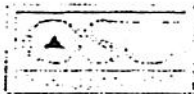
---Derived Values---		---Derived Values(Cont'd)---	
Total Soluble Salts(TSS in ppm)	1933.8	Sodium Percentage	69.06%
Sodium Adsorption Ratio (SAR)	8.6	Hardness	375.5
Potassium Adsorption Ratio (PAR)	0.2	Hardness Class	Very Hard
Residual Carbonates (meq)		Alkalinity (ppm as CaCO3)	1.9

Interpretation And Requirements

- ☐ This water is generally unsatisfactory for irrigation use. It may be used for irrigation only under very special conditions and on the advice of a technician trained in irrigation water use. Use of this water should be confined to occasional use as a supplemental source of water on well-drained soils. It is not recommended for use on medium and heavy textured soils.
- ☐ If this water is used extensively, it is recommended that a soil sample be obtained every few years from the irrigated fields to determine the extent to which sodium or salts may be accumulating and the need for special management practices.

Will Cobby
 Signature

ALTC
 Creek domestic



Soil, Water & Forage Analytical Laboratory

Oklahoma State University
 048 Agricultural Hall Stillwater, OK 74078
 Email: Soils_Lab@mail.pss.okstate.edu



SOIL SALINITY REPORT

OSAGE CTY EXT OFC	Name	LabID	476394
628 KIHEKAH	Osage UIC	CustomerCode	57
SECOND FLOOR	Location	SampleNo	10439
PAWHUSKA	W-D #2	Received Date	9/28/2007
(918) 287-4170		Report Date	10/10/2007

Test Results For Salinity Management : (1:1 Soil to water extraction and converted to saturate paste equivalent)

-----Cations-----		---Derived Values---	
Sodium(ppm)	4252.0	Total Soluble Salts(TSS in ppm)	19859.4
Calcium(ppm)	907.5	Sodium Adsorption Ratio (SAR)	35.8
Magnesium(ppm)	99.7	Potassium Adsorption Ratio (PAR)	0.3
Potassium(ppm)	58	Exchangeable Sodium Percentage (ESP)	33.8
		Exchangeable Potassium Percentage (EPP)	6.2

-----Other-----		--Additional--	
pH	6.8		230.4
EC(µmhos/cm)	10030	BiCarbonate(ppm)	
Boron(ppm)	0.0		
Texture	Coarse		

Interpretation And Requirements

Total soluble salt in this soil is about 7.5225 times higher than normal and sufficiently high to reduce yield of even salt tolerant crops. Exchangeable sodium is much higher than normal and may be responsible for poor water movement in soil. Salts can be leached downward out of the surface soil, if the soil has good drainage. Leaching will be aided by incorporation of 20 to 30 tons of organic matter per acre in the top 6 inches of soil. Incorporation of 5 tons of gypsum into the surface one to two inches will aid in removal of sodium and speed water movement into the soil. During the reclamation period avoid deep tillage such as moldboard plowing and establish a salt tolerant crop (barley, bermudagrass etc.) to provide ground cover for as much of the growing season as possible. If there is a white salty crust on the soil surface, delay planting the salt tolerant crop until the crust no longer forms during a soil drying cycle. Planting while the salty crust remains will likely result in poor stand establishment. The time for reclamation will depend upon the amount and quality of water that moves through the soil profile. Further information can be found in fact sheet 2226.

W. J. Cobley
 Signature

wildlife Dept.

@ Seep point / filled pit



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

Via Facsimile and US Mail

September 20, 2007

Patrick S. Adams, President
Altec Testing & Engineering, Inc.
323 Country Road 3450
Pawhuska, Oklahoma 74056

Dear Mr. Adams:

In my correspondence from yesterday, I asked you to cease and desist your operations on the Osage County Western Wall Wildlife Management Area (the "WMA"). I made this request because your operations at the site are unlawful and have caused a significant amount of environmental damage. I also made this request because I had information that Altec planned to return to the site to conduct more operations, which could have resulted in the same type of damage that was done in August and earlier this month.

Upon receiving this letter, you called me and explained that your employees were presently working on-site. You also told me that if Altec abandoned the site now, then the site would present risks to human health and safety, as well as environmental risks. In short, abandoning the site could cause serious problems and make a bad situation worse.

After our phone call, we had a conference call with Alan Peoples of the Oklahoma Department of Wildlife Conservation. During that call, you agreed to cleanup the site at Altec's expense and abate any and all unsafe conditions as soon as possible. You agreed to (1) finish the casing, (2) cement the casing, and (3) cap the well, as soon as possible. You believe this should take no more than 24 hours. You agreed to notify the Department once the well is capped. After this is completed, you agreed to work with the Department to cleanup the site. This will include closing the pits, removing contaminated soils, and taking any other actions necessary to cleanup the site and correct the damage that Altec has done.

Furthermore, you agreed that there will be no further well drilling or completion activity at the site unless and until this matter is completely resolved with the Department, and only if the Department specifically agrees to allow you to continue operations at the site. It is my understanding that the Department will not agree to any further operations at the site until the site is cleaned up, Altec enters into the proper agreements and stipulations

with the Department, and all of the surface damages are paid. The Department may very well have other requirements and prerequisites, but you will have to address that with them directly at the appropriate time.

Your point-of-contact for the cleanup will be John Rempe and Buck Ray of the Department. Also, to the extent that you are contacted by USEPA or USFWS, please cooperate with their representatives also.

I also informed you that these steps are necessary to abate a present and immediate danger to human health and the environment. The actions that you will take in this regard do not release you from any liability that you may have incurred, or could possibly incur, with respect to the State of Oklahoma and any other governmental agency.

I also advised you to seek legal counsel, and that once representation is obtained, I will communicate with your attorney. If you have any questions please contact me at (405) 522-4405.

Sincerely,



Daniel P. Lennington
Assistant Attorney General

cc: Chris Holloway

MATTHEW RUDOLPH

Home Contact Information:

1108 Peavy Road
Dallas, TX 75218
Phone: 214/404-4663

Work Contact Information:

US EPA Region 6 (6EN-WR)
1445 Ross Ave., Suite 1200
Dallas, TX 75202
Work: 214/665-6434
Email: rudolph.matthew@epa.gov

EDUCATION

Southwest Texas State University, San Marcos, TX
M.S. Computer Science, 05/03

Texas Tech University, Lubbock, TX
B.S. Petroleum Engineering, 12/97

WORK HISTORY

US Environmental Protection Agency Region 6, Dallas, TX – 05/03 – present

Title: Environmental Engineer

Primary job duties in the Region 6 Water Enforcement Branch are as an enforcement officer and inspector for the oil and gas industry. As an enforcement officer develop and act as the lead technical contact for enforcement actions issued for violations of the Clean Water Act (CWA) and the National Pollutant Discharge Elimination System program. Enforcement actions are in the form of Administrative Orders (AOs); Administrative Complaints (penalties); and DOJ referrals. For the development of penalty actions I follow to the CWA Settlement Penalty Policy and to the Supplemental Environmental Project (SEP) policy. Develop SEPs in the form of environmental restoration and protection for oil and gas operators to perform site restoration work and environmental improvements to their facilities.

As an inspector perform inspections at onshore oil and gas facilities and act as the expert witness for violations of the CWA observed or cited during inspections.

Motorola, Austin, TX - 11/99-07/00

Title: Semiconductor Manufacturing Operator

Responsible for the manufacturing and the production of semiconductor wafers. Job duties include: processing wafers on specific recipes; recipe verification; and performing qualifications on manufacturing tools in order to verify the tools are in statistical control with Motorola standards.

Halliburton, Hobbs, NM, and Odessa, TX - 1/98-7/99

Title: Wellsite Engineer

Assisted in the design and the supervision of pumping operations for oil and gas well hydraulic fracturing operations; oil and gas well acidizing operations; and primary and secondary oil and gas well cementing operations. Job duties include: data acquisition; setting up the job site; onsite QA/QC of frac fluids and proppents; and assisting the lab with the pre-testing of fluids for both fracturing and cementing operations.

Penalty Calculation for Altec Petroleum

Under Section 309(g)(3) of the Clean Water Act (CWA) there are several factors specified for determining the amount of the penalty. These factors take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.

The following document will determine the following for this case: the maximum penalty and days of violation; the eight different components under CWA section 309(g)(3); and the penalty which should be assessed at a hearing.

Statutory Maximum Penalty and Days of Violation

Under Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(2)(A), the Respondent is liable for a civil penalty in an amount not to exceed \$11,000 per day during which a violation continues, up to a maximum of \$32,500.

Based on EPA's inspections; information submitted from the Oklahoma Department for Wildlife Conservation; and information submitted from the Respondent there was at a minimum two days of violation.

A drilling reserve pit located at the facility seeped pollutants to a tributary of Rock Creek on or before the EPA's inspection conducted on September 21, 2007. The Oklahoma Department for Wildlife Conservation first documented this seeping pit with photos on or about August 29, 2007. The Respondent submitted documents (Invoice 3005) stating they had spent \$685 cleaning up a spill on September 6, 2007.

It appears the pit was back filled in on or about September 20, 2007, from evidence provided by the Oklahoma Department for Wildlife Conservation and the Respondent.

The same reserve pit was closed out improperly and continued to seep pollutants after September 21, 2007, to the tributary of Rock Creek. This is evident from the EPA's inspection conducted on March 10, 2008; samples taken by the Oklahoma Department for Wildlife Conservation; and documentation submitted by the Respondent (Invoice 3010). Invoice 3010 respondent stated "Sucked out hole" on both October 8, 2007 and October 15, 2007. This hole being referenced is located in the creek and the Respondent knowingly was discharging fluids into it. Each day the pit seeped or discharged pollutants to the tributary of Rock Creek was a violation of the CWA.

Days of violation – At least two

Statutory Maximum Penalty - \$22,000

CWA Section 309(g)(3) Factors

Nature of the violation - unauthorized and unpermitted discharge of oil field brine (brine) in violation of Section 301 of the CWA. The term "oil field brine" is being used to describe fluids associated with oil and gas activities which are high in salts. Brine includes but is not limited to the following: drilling fluids; drilling returns; produced fluids; cementing fluids; hydraulic stimulation fluids; and etc. Brine is a prohibited pollutant and is extremely toxic to a fresh water ecosystem. No permit was issued for this brine discharge. One of the properly ways of disposing of brine is with a permitted Class II injection well.

Circumstances – The "Altec Petroleum" drilled an oil/gas well in a wildlife conservation area, and next to a relatively permanent creek. A seeping reserve pit at the facility located approximately 470 feet up-gradient of the creek acted as a "point source" "discharge" of "pollutants" to "waters of the US."

Extent and gravity of violation – This factor quantifies the gravity of the violation. The gravity of violation factor is broken down into four different components:

Significance of violation - This factor is based on the degree of exceedance of the most significant effluent limit violation in each month.

Health and environmental harm - A value for this factor is selected for each month in which one or more violations present actual or potential harm to human health or to the environment. Fluids located in the reserve pit which were discharged to the creek were extremely high in chlorides, salts, cementing material, drilling returns, and other contaminants.

Number of effluent violations - This factor is based on the total number of effluent limit violations each month.

Number of non-effluent limit violations - There are six types of non-effluent violations: 1) monitoring and reporting; 2) pretreatment program implementation; 3) sludge handling; 4) unauthorized discharges; 5) permit milestone schedules; and 6) other types of non-effluent violations. For this case the non-effluent violations are: monitoring and reporting; and unauthorized discharges.

Ability to pay – The Respondent has not submitted any documentation in regards to this component. It is believed the Respondent can pay the penalty.

Prior history of such violations – EPA has no knowledge of the Respondent having any prior history of similar violations.

Degree of culpability – The Respondent knowingly had a seeping pit, which was discharging harmful pollutants to a creek. The Respondent neglected and made very poor

efforts to correct this problem and neglected to correct any harm this problem had caused to the environment. The Respondent knowingly drilled this well in an environmentally sensitive area. This area is a wildlife conservation area and the reserve pit was constructed close to a relatively permanent creek. The Respondent's parent company is an environmental consulting company and therefore should have known better.

The Respondent made a poor attempt to line the pit to stop the seep. The Respondent also made poor attempts in closing out the pit, which continued to seep pollutants after it was back filled in.

Economic benefit or savings – avoided or delayed costs for being noncompliant. This cost was calculated to be \$740 (BEN model).

Other matters as justice may require – none at this time.

Penalty – \$19,500 as proposed in the Complaint.

Case Name: Altec Petroleum Group Inc.

Prepared by Matt Rudolph and Lorraine Dixon [attorney name].

SETTLEMENT PENALTY CALCULATION WORKSHEET

STEP	AMOUNT
Calculate Statutory Maximum Penalty.	\$22,000
1. Nature of the violation	\$0
2. Circumstances	\$0
3. Economic Benefit calculations ¹	\$740
4. Gravity Amounts ² a. Significance of violation (Monthly Range 0 to 20) b. Health and environmental harm (Monthly Range 0 to 50) c. Number of effluent limit violations (Monthly Range 0 to 5) d. Number of non-effluent limit violations (Monthly Range 0 to 70)	\$16,000
5. Ability to pay	\$0
6. Prior history of such violations	\$0
7. Degree of culpability	\$2,760
8. Other matters as justice may require	\$0
TOTAL	\$19,500

¹ See attached BEN calculation

² See Interim Clean Water Act Settlement Penalty Policy for gravity calculation and tables referenced to determine the Monthly Range amounts for each component.

Facility Name: Altec Petroleum Group Inc.
 Docket Number: CWA-06-2008-1832 Date: March 13, 2008
 Facility No: OKU000636 Policy: 1995 CWA Settlement Policy
 Prepared By: Matt Rudolph Version 10.7

Monthly Gravity Component Calculation Worksheet

Discharge Date	Discharge Volume (bbls)	Documented Fish Kill		Additive Factors				Total Gravity 1+(A+B+C+D) X \$1000	
		Yes	No	A	B	C	D		
21-Sep-07	Unknown		X		3		4.0	8,000	
10-Mar-08	Unknown		X		3		4.0	8,000	
Total = 0								Total =	\$16,000

Case Name: Altec Petroleum Group Inc. Date: March 13, 2008
 Prepared by: Matt Rudolph Attorney: Lorraine Dixon
 Docket Number: CWA-06-2008-1832 Permit: OKU000636

Clean Water Act NPDES Penalty Settlement Calculation Worksheet

Calculate Statutory Maximum Penalty							Version 10.7
From:							
To:				Admin.	Judicial		
Unpermitted violations prior 2/97	0	0	0				
Permitted violations prior 2/97	0	0	0				
Unpermitted violations 2/1/97 to 3/15/200	0	0	0				
Permitted violations 2/1/97 to 3/15/2004	0	0	0				
Unpermitted violations after 3/15/2004	2	22,000	65,000	Admin.:		\$22,000	
Permitted violations after 3/15/2004	0	0	0	Judicial:		\$65,000	
Economic Benefit (attach BEN printouts, with explanations for calculations)							\$740
Total of Monthly Gravity Amounts							\$16,000
Economic Benefit + Gravity Amounts							\$16,740
Gravity Adjustments							
Flow Reduction (0-50%)		0%	\$0				
Recalcitrance Factor (0-150%)		17%	\$2,720				
Quick Settlement Reduction (0-10%)		0%	\$0				
Total gravity adjustments						\$2,720	\$2,720
Preliminary Penalty Amount							\$19,460
Litigation Consideration (if any) Regional Counsel Concurrence:							\$0
Ability to Pay reduction (if any) Attach ABEL, INDIPAY or MUNIPAY report							\$0
Bottom Line without Economic Benefit							\$18,720
Bottom-line Cash Settlement Penalty							\$19,460
National Municipal Litigation (NML) Alternative Penalty Calculation							
Is Respondent a Municipality		No					0
Service Population							#REF!
Actual or Potential Harm							
Months of Violation							
Economic Benefit			\$740				
<i>see Section IV.D.7. of the Settlement Policy</i>							
Bottom Line with NML							
Supplemental Environmental Projects (see above section for NML SEP calculations)							
Bottom-line with Max. SEP Credit							\$4,680

Max. SEP Credit (except for NML calculations)	\$14,780
Max. SEP Value (dividing Max. SEP Credit by Credit Percentage)	\$18,475
Proposed SEP Value	\$18,475
Credit Percentage for SEP (usually 20-80%)	80%
Credit Value for SEP (Credit Percentage X Proposed SEP Value)	\$14,780
Proposed SEP plus Bottom-line Cash Settlement (effective cost of penalty to Respondent)	\$23,155
Bottom-line Cash Settlement with Proposed SEP	\$4,680

The above calculations made based on guidance in EPA's 1995 CWA Settlement Policy

Last updated February 23, 2005

As of March 15, 2004, violations for Class I have a maximum of \$32,500 and Class II a maximum of \$157,500

From Feb. 1997 through March 14, 2004, the maximums were \$27,500 and \$137,500, respectively.

Facility Name:	Altec Petroleum Group Inc.
Docket Number:	CWA-06-2008-1832
NPDES Permit No:	OKU000636
Prepared By:	Matt Rudolph

Penalty Calculation Rationale

Version 10.7

This penalty calculation was determined using the 1995 Clean Water Act Settlement Policy (available at <http://www.epa.gov/region6/gen/w/formentf.htm>). The penalty calculation methodology is based upon the following formula: Penalty = Economic Benefit + Gravity ± Gravity Adjustment Factors - Litigation Considerations - Ability to Pay Supplemental Environmental Projects.

Economic Benefit: \$740

The objective of the economic benefit calculation is to place violators in the same financial position as they would have been in if they had complied on time. The delayed/avoided CWA pollution controls for this case are (e.g., monitoring, reporting, capital equipment improvements, repairs, engineering design, installation and replacement). The economic model used to determine the value of benefit gained is the BEN financial model, which is available online at www.epa.gov/Compliance/civil/programs/econmodels/. Financial summaries of the BEN model are attached to the penalty calculation in this package.

Gravity: \$16,000

The gravity is the deterrence portion of the penalty and is derived by the following formula: Monthly gravity component = $(1+A+B+C+D) \times \$1000$, where A is the Significance of the violation (range of 0-20), B is the Health and Environmental Harm (value of 0-50), C is the Number of Effluent Violations (range of 0-5), and D is the significance of non-effluent limit violations (range of 0-70). Using the associated tables in the policy for each factor and best professional judgment, numbers were assigned for each factor and each month as documented in the Monthly Gravity Component Worksheet.

Gravity Adjustment Factors: \$2,720

Respondent showed severe recalcitrance: by not responding to an AO issued; not wanting to work with the EPA or the Oklahoma Attorney General on this matter.

Page 2 - Penalty Calculation Rationale

Litigation Considerations & Inability to Pay	\$0 The government may reduce the amount of a civil penalty to reflect weaknesses in a case where the facts demonstrate a substantial likelihood that the government will not achieve a higher penalty at trial. This amount is determined by Regional Counsel based on their legal review of the case and their experience in settling similar cases. No litigation consideration amount has been deemed appropriate by Regional Counsel for this case. Additionally, Respondent has not yet claimed an inability to pay. If Respondent makes such a claim, EPA will evaluate the inability to pay according to ABEL and MUNIPAY economic models, and reduce the penalty accordingly.
National Municipal Litigation:	#REF! In those cases against a municipality or other public entity, in which the entity has failed to comply with the CWA, but nevertheless did make good faith efforts to comply, the EPA may mitigate the preliminary penalty amount with this penalty calculation formula using table A of this policy. This facility is not a municipality and does not qualify.
Supplemental Environmental Projects	\$18,475 80%

Based on the above rationale and information documented in the Monthly Gravity Component Calculation Worksheet and the Settlement Calculation Worksheet, the final bottom line penalty is:

\$4,680

ENFORCEMENT MANAGEMENT/SETTLEMENT STRATEGY DOCUMENT

I. EPA Region 6 Initial Position for Settlement:

A. 1. Topic: 2. Case Synopsis: 3. Proposed Penalty: 4. SEP/NO SEP (ideas): No SEP at this time.

AL SETTLEMENT STRATEGY TABLE

Bottomline Cash Penalty with SEP

\$4,680

Bottom Line Cash Penalty w/o SEP (BEN plus Gravi Comment)

\$19,460

Initial Settlement Strategy: Approved by _____ (initial & date by Branch Chief or Director)

Approved by _____ (initial & date by Section Chief)

B.

SETTLEMENT CONCLUSION TABLE

<i>Bottomline Cash Penalty with SEP</i>	<i>Initial Cash Penalty w/o SEP</i>	<i>Adjusted Amount</i>	<i>Final Cash Penalty</i>	<i>Short Rationale</i>
\$4,680	\$19,460	\$14,780	\$4,680	Collect 25% of the calculated gravity component, if a SEP is performed.
Comment: <div style="border: 1px solid black; height: 30px; width: 100%;"></div>				

Case Conclusion:

Initials	Date of Initials	Name Printed	Title
		Matt Rudolph	Enforcement Officer
		Lorraine Dixon	Attorney

NOTE: Civil Penalty less than \$500,000 or equal to will be approved by the Branch Chief.
Anything over \$500,00 will be approved by the Division Director

- I. Penalty reduction/increase - Section Chief (20 - 35% below bottom line)
- II. Penalty reduction/increase - Branch Chief (35-50% bbl & approves inability to pay below 10%)
- III. Penalty reduction/increase - Division Director (more than 50%bbl)

Version 10.7

ENFORCEMENT SENSITIVE* *INTERNAL* *ANALYTICAL* * DELIBERATIVE

Run Name = OsageLease	
Present Values as of Noncompliance Date (NCD),	21-Sep-2007
A) On-Time Capital & One-Time Costs	\$12,180
B) Delay Capital & One-Time Costs	\$11,788
C) Avoided Annually Recurring Costs	\$287
D) Initial Economic Benefit (A-B+C)	\$679
E) Final Econ. Ben. at Penalty Payment Date,	
01-Sep-2008	\$740
<i>C-Corporation w/ OK tax rates</i>	
Discount/Compound Rate	9.6%
Discount/Compound Rate Calculated By:	BEN
Compliance Date	13-Mar-2008
Capital Investment:	
Cost Estimate	\$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
Consider Future Replacement (Useful Life)	N/A (N/A)
One-Time, Nondepreciable Expenditure:	
Cost Estimate	\$20,000
Cost Estimate Date	16-Nov-2007
Cost Index for Inflation	PCI
Tax Deductible?	Y
Annually Recurring Costs:	
Cost Estimate	\$1,000
Cost Estimate Date	16-Nov-2007
Cost Index for Inflation	PCI
User-Customized Specific Cost Estimates:	N/A
On-Time Capital Investment	
Delay Capital Investment	
On-Time Nondepreciable Expenditure	
Delay Nondepreciable Expenditure	

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS**

IN THE MATTER OF)
) Docket No. CWA-06-2008-1832
Altec Petroleum Group, Inc.)
)
Respondent.)

AFFIDAVIT OF KENT E. SANBORN

I, Kent E. Sanborn, make the following statement truthfully from personal knowledge, under penalty of perjury, in accord with 28 U.S.C. § 1746.

1. I make this statement in my capacity as an Environmental Engineer for the Water Enforcement Branch of the Compliance Assurance and Enforcement Division, U.S. Environmental Protection Agency, Region 6 (EPA).

2. My responsibilities and duties include conducting inspections of oil and gas facilities for regulation under the Clean Water Act.

3. Respondent owned and operated an oil field facility located in the Northwest Quarter of Section 36, Township 28 North, Range 9 East, Osage County, Oklahoma.

4. On September 21, 2007, I inspected Respondent's facility. I observed that brine had been discharged to the adjacent creek from the drilling location. I measured salinity readings from 2500 ppm to 30,000 ppm in the creek. I took 2 water samples and 2 soil samples from the site. All samples confirmed the field readings of high salinity. I instructed the operator to dig a hole next to the creek to retain any future runoff from the pit area and keep empty with a tank truck.

5. On March 10, 2008, I conducted a second inspection at the Respondent's facility. I found salinity readings in the creek of 1200-2200 ppm. Water was pooled at the west edge of the location and measured 6700 ppm. No pit was dug as requested to catch any further brine runoff to the creek. No water was removed from the creek.

Kent E. Sanborn

Kent E. Sanborn

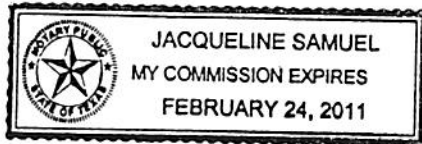
12-17-09

Date

Subscribed and sworn to before me, the undersigned Notary Public,

This 22 day of December, 2009

Jacqueline Samuel



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS**

IN THE MATTER OF)	
)	Docket No. CWA-06-2008-1832
Altec Petroleum Group, Inc.)	
)	
Respondent.)	

AFFIDAVIT OF MATTHEW RUDOLPH

I, Matthew Rudolph, make the following statement truthfully from personal knowledge, under penalty of perjury, in accord with 28 U.S.C. § 1746.

1. I make this statement in my capacity as an Environmental Engineer for the Water Enforcement Branch of the Compliance Assurance and Enforcement Division, U.S. Environmental Protection Agency, Region 6 (EPA).

2. My responsibilities and duties include enforcement of the Clean Water Act (CWA) related to the regulations of the National Pollutant Discharge Elimination System (NPDES) program with regards to the onshore oil and gas industry. This also includes assessing penalties against facilities for noncompliance of the CWA and the related regulations.

3. As the compliance officer for the matter against Respondent, I calculated the penalty based on a consideration of the required statutory factors in Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3).

4. At all times relevant to the alleged violations, Respondent owned or operated an oil field facility located in the Northwest Quarter of Section 36, Township 28 North, Range 9 East, Osage County, Oklahoma, and is therefore, an "owner or operator" within the meaning of 40

C.F.R. § 122.2. Respondent's facility was a "point source" of a "discharge" of "pollutants" to a tributary of the South Fork of Pond Creek, which is a "water of the United States" within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R § 122.2.

5. The oil field facility is located on the Osage Wildlife Management Area, which is state land that is regulated and managed by the Oklahoma Department of Wildlife Conservation (ODWC). ODWC is responsible for managing fish and wildlife in the state of Oklahoma. This area is an extremely environmentally sensitive area which had a creek contaminated from this facility.

6. Under Section 301 of the CWA, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the U.S., except with the authorization of, and in compliance with the NPDES program.

7. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the U.S. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

8. The Respondent does not have NPDES Program coverage to discharge pollutants from its facility to waters of the U.S.

9. The Respondent's facility is a point source as defined by Section 502(14), 33 U.S.C. § 1362(14).

10. On September 21, 2007, in response to a complaint, an EPA Inspector (EPA) inspected the facility.

11. On November 16, 2007, EPA issued Respondent an Administrative Order (AO) requiring Respondent to take actions to cease further discharges, remove all brine from the

tributary discharged from the facility into waters of the U.S., install a catchment structure to prevent discharges of contaminated fluids from the facility to the tributary, neutralize or extract all the brine contaminated soil located between the facility and the discharge point of entry and provide written certification to EPA region 6 that the actions were completed.

12. On March 10, 2008, EPA staff observed that the Respondent had failed to comply with the November 16, 2007 AO, and observed another discharge from the facility.

13. On July 15, 2008, EPA issued Respondent an Administrative Complaint (Complaint) seeking a penalty of \$19,500. The Complaint alleges that Respondent discharged pollutants to waters of the U.S.

Assessment of Civil Penalty Using the Statutory Factors

14. The CWA enumerates in Section 309(g)(3), 33 U.S.C. § 1319(g)(3), the factors that EPA must consider in the assessment of any civil penalty. These statutory penalty factors include: “the nature, circumstances, extent, and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.” 33 U.S.C. § 1319(g)(3).

15. One of the main goals of assessing a penalty against a violator is deterrence. Penalties deter noncompliance and help protect the environment and public health by deterring future violations. By recovering the economic benefit resulting from noncompliance, penalties also help to ensure that violators do not obtain an economic advantage over their competitors. Before a penalty is calculated using the statutory penalty factors I determined the number of days the Respondent was in violation of the CWA. I considered each day where there was an unauthorized discharge of a pollutant to a waters of the US was a violation of the CWA. For this

case I determined there to be at least two days of violation. There was at least one discharge which occurred on or before the September 21, 2007, inspection and there was at least one discharge which occurred in-between the September 21, 2007, inspection and the March 10, 2008, inspection. The discharges were evident based on the high salinity levels in the impacted water body and the Respondent's failure to comply with the November 2007, AO. The statutory maximum penalty is \$11,000 per day per violation. For this case this would give a statutory maximum penalty of \$22,000.

16. Based on my analyses of the statutory factors to this case, I calculated a penalty of \$19,500, which is less than the statutory maximum penalty of \$22,000.

1. Nature, Circumstances, Extent and Gravity of the Violations

Under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(d), EPA must consider the nature, circumstances, extent and gravity of the violations. These factors include the seriousness of the violation and the actual or potential harm resulting from the violation itself, including environmental harm. In this case, there is a risk of environmental harm. Oil field brine is an extremely toxic pollutant to any fresh water ecosystem. Oil field brine was discharged from the facility which then discharged into a tributary of the South Fork of Pond Creek, which flows into the South Fork of Pond Creek, which flows into Pond Creek, which then flows into Hulah Lake/Caney River. Pond Creek is perennial and navigable and is approximately 50 feet in width and 10 feet deep in the center and flows into the Hulah Lake which is built on the Caney River. The Caney River had water flowing in it. This oil field brine is a pollutant in accordance with Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

17. In assessing the penalty, I considered the seriousness of the violation. Oil field brine is a pollutant which is high in salts. In 1988, the EPA's Office of Research and Development

Environmental Research Laboratory in Duluth, Minnesota, performed research and studied the effects chlorides had on aquatic life. From this research the EPA found that freshwater fish were affected from chloride, when associated with sodium (sodium chloride is one form of salt), at levels of 230 ppm if exposed once every three years for a four day period (chronic exposure) and freshwater fish were affected at levels of 860 ppm if exposed once every three years for a period of one hour (acute exposure). The EPA's inspection findings on September 21, 2007, showed salts of 30,000 ppm in the tributary resulting from the discharges. According to the aforementioned research findings freshwater fish exposed to these concentrations would clearly be drastically affected. As previously mentioned this facility is located on the Osage Wildlife Management Area (OWMA) and the facility discharged oil field brine to a waters of the US, which is also located on the OWMA. The OWMA is land managed by the ODWC and is land used for the promotion of fish and wildlife in the state of Oklahoma. These discharges affected a water body which is used for the purposes of promoting fish and wildlife in the state of Oklahoma.

2. Ability to Pay

18. Under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), EPA must consider the violator's ability to pay the civil penalty. This particular factor takes into account the different impacts of a penalty on violators by looking at their financial capability and the size of the business. An inability to pay defense can only be invoked when the violator proves it cannot pay the assessed penalty. EPA believes that the \$19,500 assessed penalty will not be a hardship on Respondent. Nothing has been brought forth by Respondent to indicate an inability to pay.

3. Prior History of Violations and Degree of Culpability

19. Under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), EPA shall consider the

violator's history of violations and the degree of culpability. EPA has no knowledge of the Respondent having any prior history of violations.

20. The EPA should also consider whether the violator made good faith efforts to comply with the statute and the regulations, how quickly the violation was corrected, and how fast the damage was mitigated before the enforcement action was commenced. The Agency must take into regard the degree of effort the violator put forth to remedy the violation and to respond to the enforcement action.

21. Before the Administrative Complaint was issued in July 2008, EPA had previously issued to the Respondent an Administrative Order on November 16, 2007 ordering Respondent to cease discharges from the oil field facility, remove brine from the tributary, install a catchment structure, neutralize and extract the brine from the contaminated soils at the facility, and to provide certification. However, nearly four months after this Administrative Order was issued, Respondent continued to discharge oil field brine from the facility.

22. Respondent failed to properly operate and maintain the oil field facility which resulted in discharges.

23. Respondent did not cease discharges from the facility. Respondent did not install or construct a catchment structure in the drainage area located between the facility and the tributary. Respondent did not remove all the brine from the tributary. Respondent did not properly remove or neutralize the brine contaminated soils located at the facility. Respondent did not submit proper certification within the time requirements set by the AO.

As demonstrated by Respondent's failure to achieve compliance and because Respondent must have known or suspected that additional violations of the CWA would occur by failing to operate and maintain the oil field facility properly, the degree of culpability in this case was

significant and the penalty was assessed accordingly.

5. Economic Benefit

24. Under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), EPA must consider the economic benefit, if any, resulting from the violation. The purpose of the economic benefit factor is to remove any economic advantage that the facility may have gained as a result of noncompliance. This factor was calculated to be \$740 using EPA's BEN computer model.

6. Other Matters as Justice May Require

25. Under Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA can also consider such other matters as justice may require. This particular factor was considered but not used in the calculation of the penalty in this matter.

Conclusion

25. In calculating the penalty, I used the statutory factors set forth in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and applied those factors to this case. These factors included the nature, circumstances, extent and gravity of the violations, the violator's ability to pay, any prior history of violations, the violator's degree of culpability, any economic benefit resulting from the violation, and such other matters as justice may require. Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, by discharging pollutants from its oil field facility into waters of the United States. The penalty I calculated for these violations was \$19,500.

Matthew Rudolph
Matthew Rudolph

12/22/09
Date

Subscribed and Sworn to before me, the undersigned Notary Public, Jacqueline Samuel
this 22 day of December, 2009.

