

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION 7

11 JUL 28 PM 2:10
ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

In the matter of:)	
)	
)	
B & A Petroleum Corporation)	U.S. EPA Docket No.:
d/b/a Infinite Oil)	RCRA-07-2010-0019
1349 Park Avenue)	
Omaha, Nebraska 68105)	
)	
Respondent)	

COMPLAINANT'S RESPONSE TO ORDER TO SUPPLEMENT RECORD

Complainant, the Environmental Protection Agency, Region 7 and, in response to the Regional Judicial Officer's "Order to Supplement Record" (Order) issued in this matter, states as follows:

1. Complainant hereby submits the "penalty calculation worksheet" requested in the Order. The "penalty calculation worksheet" is attached hereto and is marked "Exhibit 1".
2. Complainant states that the motion filed herein on June 13, 2011 was intended to be filed as a "replacement" of the motion filed herein on May 27, 2010, rather than as an amendment. Because of a typographical error, the May 27th motion (Original Motion) contained the incorrect docket number of RCRA-07-2010-0020, rather than the true and correct docket number of this action which is RCRA-07-2010-0019. The replacement motion of June 13, 2011 (Replacement Motion) corrects this typographical error. The Replacement Motion is attached hereto and is marked "Exhibit 2". Complainant hereby requests the Regional Judicial Officer accept the Replacement Motion in place of the

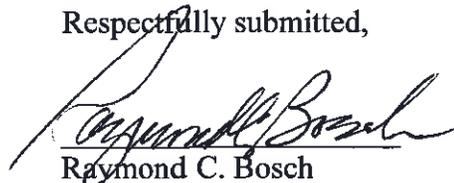
Original Motion.

3. The Original Motion was sent via United Parcel Service (UPS) to the residence of Mohammed Ali (Ali), Registered Agent of Respondent B & A Corporation, in Streamwood, Illinois. In the past, service of documents filed in this matter has been effective at this address (i.e., see “Memorandum in Support of Motion for Default Order as to Liability and Penalty” Exhibits 1 and 3 that show successful deliveries to that address). According to return receipt information from UPS, the Original Motion was placed upon the “Porch” of the Streamwood, Illinois residence of Ali (Exhibit 3). Subsequently, UPS attempted to deliver the Replacement Motion of June 13, 2011 to a business address, where it was thought that said Mohammed Ali might be found, however the address was declared by UPS to be “Vacant” and the Replacement Motion not delivered (Exhibit 4). The inclusion of the Replacement Motion with this supplementary information represents Complainant’s second attempt to deliver the Replacement Motion to the Respondent and is being sent to Ali’s home address in Streamwood, Illinois.

Date

July 28, 2011

Respectfully submitted,



Raymond C. Bosch
Assistant Regional Counsel
U.S. EPA Region 7
901 North Fifth Street
Kansas City, Kansas 66101
Bosch.Raymond@epa.gov
(913) 551-7501 Voice
(913) 551-7925 FAX

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct copy of the foregoing were hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 901 North Fifth Street, Kansas City, Kansas 66101; and a true and correct copy were sent by U.P.S., receipt information requested, to Mohammed Ali, Registered Agent, B & A Corporation, 215 North Prospect Avenue, Streamwood, ILL 60107 on this 28th day of July 2011.



Raymond C. Bosch
Assistant Regional Counsel

B&A Petroleum Corporation - 1349 Park Ave

Exhibit 1

Summary of Violations

Violations Cited

Violation #1

§40 CFR 280.31(d) - Failure to maintain records of corrosion protection (CP) inspections for tank #1

Violation #2

§40 CFR 280.31(a) - Failure to operate and maintain corrosion protection(CP) system. EPA inspector performed test on the system and it did not m therefore the CP system was not operational and was not providing corrosion protection to tank #1 system

Violation #3

§40 CFR 280.44(a) - Failure to provide adequate testing for piping system. The required annual function test (FT) has not been performed in the pa

Violation #4

§40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping. The required annual line tightness test (LTT) has not been performe

Violation #5

§40 CFR 280.41(a) - Failure to monitor tanks at least every 30 days. Tanks must be monitored at least every 30 days for releases using one of the

Violation #6

§40 CFR 280.45 - Failure to maintain records of release detection monitoring. UST system owners and operators must maintain records in accorda compliance with all applicable requirements of this subpart.

Violation #7

§40 CFR 280.31(b) - Failure to ensure proper operation of corrosion protection system. The three year CP test has not been performed on tank #1

Violation #8

§40 CFR 280.31(c) - Failure to inspect impressed current system every 60 days on tank #1

Penalties (see worksheets for specific information)

Violation #1

\$701.13

Violation #2

\$9,701.03

Violation #3

\$20,206.05

Violation #4
\$20,222.05

Violation #5
\$20,076.05

Violation #6
\$6,692.02

Violation #7
\$3,346.01

Violation #8
\$3,857.01

TOTAL \$84,801.35

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.31(d) - Failure to maintain records of corrosion protection (CP) inspections for tank #1

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.31(d)	100.00	<p>Comments/Basis Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment History of non-compliance - This is the first time the facility has been inspected by EPA Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material. Economic Benefit calculation (BEN) - Annually recurring cost of \$300 for inspection of the CP system. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	1	100.00	
3 Days of Violation	3/17/2009 4/1/2010	380	
4 of Deviation	Moderate	Potential for Harm	
5 TOTAL Matrix Value	Moderate	Minor	
6 Degree of cooperation or non cooperation	0%	100.00	
7 Degree of willfulness or negligence	0%	0.00	
8 History of noncompliance	5%	0.00	
9 Unique factors	0%	0.00	
10 Sum of Specific Adjustments		5.00	
11 Adjustment Matrix Value	Environmental	105.00	

Sensitivity (ESM)			
Multiplier	1.0		\$105.00
Days of Noncompliance Multiplier	3		\$315.00
Inflation Adjustments (see other worksheet)			\$446.13
TOTAL Gravity Based Component		1.4163	\$446.13
Economic Benefit (BEN) calculation			\$255.00
TOTAL PENALTY			\$701.13

Gravity Based Component (GBC)				
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment	GBPenalty
\$105	1.00	3.00	1.4163	\$446.13

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
Degree of Cooperation/Noncooperation	Range of Percentage Adjustment Between 50% Increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW
1.5 = Medium
2.0 = HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.31(a) - Failure to operate and maintain corrosion protection(CP) system, CP system not operational on tank #1 system

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.31(a)	1500.00	<p>Comments/Basis Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment History of non-compliance - This is the first time the facility has been inspected by EPA Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material. Economic Benefit calculation (BEN) - One time capital cost of \$2,361.00 to repair or replace CP system and an Annually recurring cost of \$300 for inspection of the CP system. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010.</p>
2 # of USTs	1	1500.00	
Start of Violation	11/5/2009		
End of Violation	4/1/2010		
3 Days of Gravity	147	1.50	
Matrix Value - Extent			
4 of Deviation	Major Harm	Major	
5 TOTAL Matrix Value		1500.00	
6 Degree of cooperation or non cooperation		0.00	
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		0.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		0.00	
11 Adjustment Matrix Value	Environmental	1500.00	
Sensitivity (ESM)			
Multiplier		1.5	\$2,250.00
Days of Noncompliance Multiplier		3	\$6,750.00
<i>Inflation Adjustments (see other worksheet)</i>			
TOTAL Gravity Based Component		1,4163	\$9,560.03
<i>Economic Benefit (BEN) calculation</i>			
			\$141.00
TOTAL PENALTY			\$9,701.03

Gravity Based Component (GBC)				
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment	GBCPenalty
\$1,500	1.00	1.50	1.4163	\$3,186.88

Violator Specific Adjustment to the Matrix Value	
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW
1.5 =Medium
2.0 =HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
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15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.44(a) - Failure to provide adequate testing for piping system, no annual function test (FT)

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.44(a)	1500.00	<p>Comments/Basis Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment History of non-compliance - This is the first time the facility has been inspected by EPA Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material. Economic Benefit calculation (BEN) - Annually recurring cost of \$50 for an annual function test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	3	4500.00	
Start of Violation	3/17/2009		
End of Violation	4/1/2010		
3 Days of Gravity	380	3.00	
Matrix Value - Extent			
4 of Deviation	Major Harm	Major	
5 TOTAL Matrix Value		4500.00	
6 Degree of cooperation or non cooperation		0.00	
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		225.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		225.00	
11 Adjustment Matrix Value		4725.00	

Environmental			
Sensitivity (ESM)			
Multiplier	1.0		\$4,725.00
Days of Noncompliance Multiplier	3		\$14,175.00
Inflation Adjustments (see other worksheet)		1.4163	\$20,076.05
TOTAL Gravity Based Component			\$20,076.05
Economic Benefit (BEN) calculation			\$130.00
TOTAL PENALTY			\$20,206.05

Gravity Based Component (GBC)			
Adjusted Matrix Value	X Enviro Sensitivity	X Days of NonCompliance	X 2009 Adjustment
\$4,725	1.00	3.00	1.4163
			\$20,076.05

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
Degree of Cooperation/Noncooperation	Range of Percentage Adjustment Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW
1.5 =Medium
2.0 =HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
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15%
20%
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35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163





UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping, no annual line tightness test (LTT)

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.41(b)(1)(ii)	1500.00	<p>Comments/Basis</p> <p>Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation</p> <p>Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment</p> <p>History of non-compliance - This is the first time the facility has been inspected by EPA</p> <p>Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.</p> <p>Economic Benefit calculation (BEN) - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	3	4500.00	
Start of Violation	3/17/2009		
End of Violation	4/1/2010		
3 Days of Gravity	380	3.00	
Matrix Value - Extent			
4 of Deviation	Major Harm	Major	
5 TOTAL Matrix Value		4500.00	
6 Degree of cooperation or non cooperation		0.00	
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		225.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		225.00	
11 Adjustment Matrix Value		4725.00	

Environmental			
Sensitivity (ESM)			
Multiplier	1.0		\$4,725.00
Days of Noncompliance	3	1.4163	\$14,175.00
Limitation Adjustments (see other worksheet)			
TOTAL Gravity Based Component			\$20,076.05
Economic Benefit (BEN) calculation			\$146.00
TOTAL PENALTY			\$20,222.05

Gravity Based Component (GBC)			
Adjusted Matrix Value	X Enviro Sensitivity	X Days of NonCompliance	X 2009 Adjustment
\$4,725	1.00	3.00	1.4163
			\$20,076.05

Violator Specific Adjustment to the Matrix Value	
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% Increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW
1.5 =Medium
2.0 =HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

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30%
35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.41(a) - Failure to monitor tanks at least every 30 days

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.41(a)	1500.00	<p>Comments/Basis Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment History of non-compliance - This is the first time the facility has been inspected by EPA Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material. Economic Benefit calculation (BEN) - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	3	4500.00	
3 Start of Violation	3/17/2009		
4 End of Violation	4/1/2010		
5 Days of Gravity	380	3.00	
6 Matrix Value - Extent			
7 4 of Deviation	Major	Potential for Major	
8 5 TOTAL Matrix Value	Major	4500.00	
9 6 Degree of cooperation or non cooperation		0.00	
10 7 Degree of willfulness or negligence		0.00	
11 8 History of noncompliance		0.00	
12 9 Unique factors		0.00	
13 10 Sum of Specific Adjustments		225.00	
14 11 Adjustment Matrix Value		4725.00	
Environmental			
Sensitivity (ESM)			
Multiplier	1.0	\$4,725.00	
Days of Noncompliance Multiplier	3	\$14,175.00	
Inflation Adjustments (see other worksheet)		\$20,076.05	
TOTAL Gravity Based Component		\$20,076.05	
Economic Benefit (BEN) calculation		\$0.00	
TOTAL PENALTY		\$20,076.05	

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment
\$4,725	1.00	3.00	1.4163
			\$20,076.05

Violator Specific Adjustment to the Matrix Value	
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW
1.5 =Medium
2.0 =HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

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20%
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35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.45 - Failure to maintain records of release detection monitoring

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.45	1500.00
2 # of USTs	1	1500.00
Start of Violation	3/17/2009	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	380	3.00
4 of Deviation	Major Harm	Major
5 TOTAL Matrix Value		1500.00
6 Degree of cooperation or non cooperation		0.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		5%
9 Unique factors		0%
10 Sum of Specific Adjustments		75.00
11 Adjustment Matrix Value		1575.00
Environmental		
Sensitivity (ESM)		
Multiplier	1.0	\$1,575.00
Days of Noncompliance Multiplier	3	\$4,725.00
Inflation Adjustments (see other worksheet)		\$6,692.02
TOTAL Gravity Based Component		\$6,692.02
Economic Benefit (BEN) calculation		\$0.00
TOTAL PENALTY		\$6,692.02

Comments/Basis
Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation
Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment

History of non-compliance - This is the first time the facility has been inspected by EPA
Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.
Economic Benefit calculation (BEN) - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Gravity Based Component (GBC)				
Adjusted Matrix Value	X Enviro Sensitivity	X Days of NonCompliance	X 2009 Adjustment	GBCPenalty
\$1,575	1.00	3.00	1.4163	\$6,692.02

Violator Specific Adjustment to the Matrix Value	
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW
1.5 = Medium
2.0 = HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.31(b) - Failure to ensure proper operation of corrosion protection system, no three year CP test on tanks #1 and #2

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.31(b)	750.00	<p>Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation</p> <p>Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment</p>
2 # of USTs	1	750.00	
Start of Violation	3/17/2009		<p>History of non-compliance - This is the first time the facility has been inspected by EPA</p> <p>Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.</p> <p>Economic Benefit calculation (BEN) - One time capital cost of \$2,361.00 to repair or replace CP system and an Annually recurring cost of \$300 for inspection of the CP system. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010.</p>
End of Violation	4/1/2010		
3 Days of Gravity	380	3.00	
Matrix Value - Extent of Deviation	Major	Harm	
4 of Deviation	Moderate	Moderate	
5 TOTAL Matrix Value		750.00	
6 Degree of cooperation or non cooperation		0.00	
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		5%	
9 Unique factors		0%	
10 Sum of Specific Adjustments		37.50	
11 Adjustment Matrix Value Environmental		787.50	

Sensitivity (ESM)	1.0	\$787.50
Multiplier	3	\$2,362.50
Days of Noncompliance Multiplier	3	\$3,346.01
Inflation Adjustments (see other worksheet)		\$3,346.01
TOTAL Gravity Based Component		\$3,346.01
Economic Benefit (BEN) calculation		\$0.00
TOTAL PENALTY		\$3,346.01

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	x Days of Non Compliance	x 2009 Adjustment
\$788	1.00	3.00	1.4163
			\$3,346.01

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
Degree of Cooperation/Noncooperation	Range of Percentage Adjustment Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW
1.5 = Medium
2.0 = HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 1349 Park Ave. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.31(c) - Failure to inspect impressed current system every 60 days

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.31 (c)	750.00
2 # of USTs	1	750.00
Start of Violation	3/17/2009	
End of Violation	4/1/2010	
3 Days of Gravity	380	3.00
Matrix Value - Extent		
4 of Deviation	Major Harm	Major
5 TOTAL Matrix Value		750.00
6 Degree of cooperation or non cooperation		0.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		37.50
9 Unique factors		0.00
10 Sum of Specific Adjustments		37.50
11 Adjustment Matrix Value		787.50

Environmental

Sensitivity (ESM)	1.0	\$787.50
Multiplier	3	\$2,362.50
Days of Noncompliance Multiplier		\$3,346.01
Inflation Adjustments (see other worksheet)		\$3,346.01
TOTAL Gravity Based Component		\$511.00
Economic Benefit (BEN) calculation		\$3,867.01
TOTAL PENALTY		\$3,867.01

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	x Days of Non Compliance	x 2009 Adjustment
\$788	1.00	3.00	1.4163
			GB Penalty \$3,346.01

Comments/Basis

Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation

Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment

History of non-compliance - This is the first time the facility has been inspected by EPA

Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.

Economic Benefit calculation (BEN) - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
Degree of Cooperation/Noncooperation	Range of Percentage Adjustment Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW
1.5 = Medium
2.0 = HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment
1.1
1.2895
1.4163

Days of Gravity	
0-90	1.0
91-180	1.5
181-270	2.0
271-365	2.5
Each additional 6 months or fraction thereof	0.5

From and including: Start date 3/17/2005 to 4/01/2010

Total number of days of Non-compliance: 380

Each Additional Year Multiplier

Year 2	1
Year 3	1
Year 4	1
Year 5	1

y2=2009&ti=on

Potential for Harm	Extent of Deviation from Requirement		
	Major	Moderate	Minor
	1500	1000	500 Major
	750	500	250 Moderate
	200	100	50 Minor

B&A Petroleum Corporation - 2302 South 13th St.
Summary of Violations
Violations Cited

Violation #1

\$40 CFR 280.45 - Failure to maintain records of release detection monitoring. UST system owners and operators must maintain records in accordance demonstrating compliance with all applicable requirements of this subpart.

Violation #2

\$40 CFR 280.21(c) - Failure to install any cathodic protection for metal piping upgrade requirement. EPA inspector observed that there was no cor installed on the pipe's flex connectors.

Violation #3

\$40 CFR 280.44(a) - Failure to provide adequate testing for piping system. The required annual function test (FT) has not been performed in the pa

Violation #4

\$40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping. The required annual line tightness test (LTT) has not been performe

Penalties (see worksheets for specific information)

Violation #1

\$6,692.02

Violation #2

\$6,477.35

Violation #3

\$13,384.04

Violation #4

\$13,384.04

TOTAL \$39,937.44

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 2302 South 13th St. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.45 - Failure to maintain records of release detection monitoring

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.45	1500.00
2 # of USTs	1	1500.00
Start of Violation	3/17/2009	
End of Violation	4/1/2010	
3 Days of Gravity	380	3.00
Matrix Value - Extent		
4 of Deviation	Major	Potential for Harm
5 TOTAL Matrix Value	Major	Major
6 Degree of cooperation or non cooperation		1500.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		5%
10 Sum of Specific Adjustments		75.00
11 Adjustment Matrix Value		75.00
Environmental		1575.00

Sensitivity (ESM)

Multiplier	1.0	\$1,575.00
Days of Noncompliance Multiplier	3	\$4,725.00
Inflation Adjustments (see other worksheet)		\$6,692.02
TOTAL Gravity Based Component		\$6,692.02
Economic Benefit (BEN) calculation		\$0.00
TOTAL PENALTY		\$6,692.02

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment
\$1,575	1.00	3.00	1.4163
			\$6,692.02

Comments/Basis
Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation
Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment

History of non-compliance - This is the first time the facility has been inspected by EPA
Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.
Economic Benefit calculation (BEN) - Annually recurring cost of \$300 for inspection of the CP system. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Violator Specific Adjustment to the Matrix Value	
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW
1.5 = Medium
2.0 = HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

,

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 2302 South 13th St. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.21(c) – Failure to install any cathodic protection for metal piping upgrade requirement, no corrosion protection on flex connectors.

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.21(c)	Major-Major 1500.00	<p>Comments/Basis</p> <p>Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation</p> <p>Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment</p> <p>History of non-compliance - This is the first time the facility has been inspected by EPA</p> <p>Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.</p> <p>Economic Benefit calculation (BEN) - One time capital cost of \$2,361.00 to repair or replace CP system and an Annually recurring cost of \$300 for inspection of the CP system. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010.</p>
2 # of USTs	2	3000.00	
Start of Violation	11/5/2009		
End of Violation	4/1/2010		
3 Days of Gravity	147	1.50	
Matrix Value - Extent			
4 of Deviation	Major	Major	
5 TOTAL Matrix Value	Major	3000.00	
6 Degree of cooperation or non cooperation		0.00	
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		0.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		0.00	
11 Adjustment Matrix Value	Environmental	3000.00	
Sensitivity (ESM)			
Multiplier		1.0	\$3,000.00
Days of Noncompliance Multiplier		1.5	\$4,500.00
<i>Inflation Adjustments (see other worksheet)</i>			
TOTAL Gravity Based Component		1,4163	\$6,373.35
Economic Benefit (BEN) calculation			\$104.00
TOTAL PENALTY \$6,477.35			

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment
\$3,000	1.00	1.50	1.4163
			\$6,373.35

Violator Specific Adjustment to the Matrix Value	
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW
1.5 =Medium
2.0 =HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment

1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 2302 South 13th St. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.44(a) - Failure to provide adequate testing for piping system, no annual function test (FT)

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.44(a)	1500.00
2 # of USTs	2	3000.00
Start of Violation	3/17/2009	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	380	3.00
4 of Deviation	Major	
5 TOTAL Matrix Value	Major	3000.00
6 Degree of cooperation or non cooperation	Major	0.00
7 Degree of willfulness or negligence	Major	0.00
8 History of noncompliance	Major	150.00
9 Unique factors	Major	0.00
10 Sum of Specific Adjustments	Major	150.00
11 Adjustment Matrix Value	Major	3150.00
Environmental		
Sensitivity (ESM)		
Multiplier	1.0	\$3,150.00
Days of Noncompliance Multiplier	3	\$9,450.00
Inflation Adjustments (see other worksheet)		\$13,384.04
TOTAL Gravity Based Component		\$13,384.04
Economic Benefit (BEN) calculation		\$0.00
TOTAL PENALTY		\$13,384.04

Comments/Basis
Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation
Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment
History of non-compliance - This is the first time the facility has been inspected by EPA
Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.
Economic Benefit calculation (BEN) - Annually recurring cost of \$50 for an annual function test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment
\$3,150	1.00	3.00	1.4163
			\$13,384.04

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
Degree of Cooperation/Noncooperation	Range of Percentage Adjustment Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW
1.5 =Medium
2.0 =HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment
1.1
1.2895
1.4163

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&A Petroleum Corp. - 2302 South 13th St. facility

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: \$40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping, no annual line tightness test (LTT)

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.41(b)(1)(ii)	1500.00	Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation
2 # of USTs	2	3000.00	
Start of Violation	3/17/2009		
End of Violation	4/1/2010		Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment
3 Days of Gravity	360	3.00	
Matrix Value - Extent			History of non-compliance - This is the first time the facility has been inspected by EPA
4 of Deviation	Major	Major	
5 TOTAL Matrix Value		3000.00	Environmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.
6 Degree of cooperation or non cooperation	0%	0.00	
7 Degree of willfulness or negligence	0%	0.00	Economic Benefit calculation (BEN) - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010
8 History of noncompliance	5%	150.00	
9 Unique factors	0%	0.00	
10 Sum of Specific Adjustments		150.00	
11 Adjustment Matrix Value		3150.00	

Environmental			
Sensitivity (ESM)			
Multiplier	1.0		\$3,150.00
Days of Noncompliance Multiplier	3		\$9,450.00
<i>Inflation Adjustments (see other worksheet)</i>			
TOTAL Gravity Based Component		1.4163	\$13,384.04
Economic Benefit (BEN) calculation			\$0.00
TOTAL PENALTY			\$13,384.04

Gravity Based Component (GBC)			
Adjusted Matrix Value	X Enviro Sensitivity	X Days of Non Compliance	X 2009 Adjustment
\$3,150	1.00	3.00	1.4163
			\$13,384.04

Violator Specific Adjustment to the Matrix Value	
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW
1.5 = Medium
2.0 = HIGH

Major
Moderate
Minor

-25%
-20%
-15%
-10%
-5%
0%

5%
10%
15%
20%
25%
30%
35%
40%
45%

50% Inflation adjustment
1.1
1.2895
1.4163

Days of Gravity	
0-90	1.0
91-180	1.5
181-270	2.0
271-365	2.5
Each additional 6 months or fraction thereof	0.5

From and including: Start date 3/17/2009 to 4/01/2010

Total number of days of Non-compliance:380

Each Additional Year Multiplier

Year 2	1
Year 3	1
Year 4	1
Year 5	1

y2=2009&ti=on

Extent of Deviation from Requirement

**Potential for
Harm**

Major	Moderate	Minor
1500	1000	500 Major
750	500	250 Moderate
200	100	50 Minor

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7

11 JUN 13 PM 3:53

U.S. ENVIRONMENTAL PROTECTION AGENCY REGION VII REGIONAL HEARING CLERK

In the matter of:

B & A Petroleum Corporation
d/b/a Infinite Oil
1349 Park Avenue
Omaha, Nebraska 68105

Respondent

U.S. EPA Docket No.:
RCRA-07-2010-0019

MOTION FOR DEFAULT ORDER AS TO LIABILITY AND PENALTY

Complainant, the Environmental Protection Agency, Region 7 (EPA) hereby moves for a Default Order pursuant to Rule 22.17(a) of EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. § 22.17(a), based upon Respondent's failure to file an answer to the complaint.

In support of this Motion, attached hereto, is Complainant's Memorandum in Support of Motion for Default Order.

Date

June 13, 2011

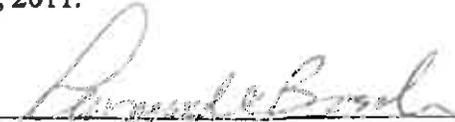
Respectfully submitted,

[Handwritten signature of Raymond C. Bosch]

Raymond C. Bosch
Assistant Regional Counsel
U.S. EPA Region 7
901 North Fifth Street
Kansas City, Kansas 66101
Bosch.Raymond@epa.gov
(913) 551-7501 Voice
(913) 551-7925 FAX

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct copy of the foregoing MOTION FOR DEFAULT ORDER AS TO LIABILITY AND PENALTY were hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 901 North Fifth Street, Kansas City, Kansas 66101; and a true and correct copy were sent by certified mail, return receipt requested, to Mohammed Ali, Registered Agent, B & A Corporation, on this 13th day of June, 2011.



Raymond C. Bosch
Assistant Regional Counsel



UPS Delivery Notification. Tracking Number 1ZW0R3772590322699

UPS Quantum View

To:

Raymond Bosch

05/31/2011 09:55 AM

Hide Details

From: "UPS Quantum View" <auto-notify@ups.com>

To: Raymond Bosch/R?/USEPA/US@EPA

Please respond to auto-notify@ups.com

Security:

To ensure privacy, images from remote sites were prevented from downloading. Show Images

History: This message has been forwarded.



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At the request of ENVIRONMENTAL PROTECTION, this notice is to confirm that the following shipment has been delivered.

Important Delivery Information

Tracking Number: 1ZW0R3772590322699

Delivery Date / Time: 31-May-2011 / 9:31 AM

Driver Release Location: PORCH

Shipment Detail

Ship To:

Mohammed Ali
B&K, B& A, M&A Petroleum Corp.
215 N PROSPECT AVE
STREAMWOOD
IL
60107
US

Number of Packages: 1

UPS Service: NEXT DAY AIR

Shipment Type: Letter

_____2RR2RR2koAvJROn.rAM5oe.jQ_Mi13_akonAV_____

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[Close Window](#)

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number:

1ZW0R3772590322699

Service:

UPS Next Day Air®

Shipped/Billed On:

05/27/2011

Delivered On:

05/31/2011 9:31 A.M.

Delivered To:

STREAMWOOD, IL, US

Left At:

Porch

Thank you for giving us this opportunity to serve you.

Sincerely,

UPS



UPS Exception Notification, Tracking Number 1ZW0R377A299050463

UPS Quantum View

to:

Raymond Bosch

06/15/2011 12:09 PM

[Hide Details](#)

From: "UPS Quantum View" <auto-notify@ups.com>

To: Raymond Bosch/R7/USEPA/US@EPA

Please respond to auto-notify@ups.com

Security:

To ensure privacy, images from remote sites were prevented from downloading. [Show Images](#)

 UPS

At the request of ENVIRONMENTAL PROTECTION, this notice alerts you delivery of the following shipment has been rescheduled.

Important Delivery Information

Tracking Number: 1ZW0R377A299050463

Rescheduled Delivery Date: 16-June-2011

Exception Reason: RECEIVER'S LOCATION IS VACANT

Shipment Detail

Ship To:

d/b/a Infinite Oil

B & K Petroleum Corporation
3924 Hamilton St
OMAHA
NE
681311213
US

UPS Service: NEXT DAY AIR
Shipment Type: Letter

Adult Signature Required - Adult must be at least 21 years of age

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