

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2009 OCT 20 PM 3: 24
REGIONAL HEARING CLERK
EPA REGION VI

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

ORDER

This action, initiated by the Complainant, the Director of the Compliance Assurance and Enforcement Division, United States Environmental Protection Agency Region 6 ("EPA"), seeks to assess a Class I administrative penalty under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Class I penalty actions are governed by procedures set forth in the revised rules for non-Administrative Procedures Act (non-APA) cases. *See* 40 C.F.R. Part 22, Subpart I. I have been assigned to act as Presiding Officer in this case.

Complainant filed the Administrative Complaint ("Complaint") in this action on May 20, 2008. A request by Respondent Altec Petroleum Group, Inc., for a hearing in this matter was filed with the Regional Hearing Clerk on June 26, 2008. A Scheduling Order for this case was filed on June 30, 2008, which, among other things required the parties to confer regarding the possibility of settlement and to report on the status of their settlement negotiation. As required by the Scheduling Order, the parties filed a Joint Status Report on July 23, 2008. In their report, they stated that they had conferred regarding settlement, that settlement had not been reached, but the parties believe that settlement of the matter is likely. Based on their assessment of the prospects for settlement, the parties requested an extension of the deadline for filing prehearing exchanges.¹ On July 31, 2008, the Presiding Officer filed the First Amended Scheduling Order, which reset the deadline for filing pre-hearing exchanges to September 26, 2008, and scheduled a prehearing conference for October 28, 2008 at 2:00 p.m. central time. As required by the Amended Scheduling Order, Complainant filed Complainant's Pre Hearing Exchange on September 26, 2008. Respondent has not filed a prehearing exchange. On October 23, 2008, Complainant filed a Motion to Amend Complaint. Both parties failed to appear for the prehearing conference on October 28, 2008. On June 9, 2009, the Presiding Officer filed an order granting Complainant's Motion to Amend Complaint, and ordering Complainant to file its Amended Complaint on or before July 8, 2009. On July 13, 2009, Complainant filed Complainant's Motion for an Extension of the Time to File its Amended Complaint, in which

¹The Scheduling Order also required the Respondent to file an answer to the Complaint, as described in 40 C.F.R. § 22.15, on or before July 30, 2008. Respondent failed to comply with this requirement of the Scheduling Order, and the parties did not request an extension of this deadline. Respondent has not filed an answer to the Complaint as of the date of this Order.

Complainant indicated it would file its Amended Complaint no later than July 18, 2009. Complainant filed the Amended Complaint on July 15, 2009. The Certificate of Service attached to the Amended Complaint states that the Amended Complaint was mailed to the Respondent by Certified Mail, Return Receipt Requested on July 15, 2009. A United States mail return receipt, commonly referred to as a "green card," filed with the Regional Hearing Clerk indicates that the Amended Complaint was served on the Respondent on July 17, 2009, making the apparent due date for Respondent's answer to the Amended Complaint August 6, 2009. As of the date of this Order, Respondent has not filed an answer to the Amended Complaint.

THEREFORE, IT IS ORDERED:

1. In order to make the record in this matter clear, Complainant's Motion for an Extension of Time to File its Amended Complaint is granted, and the Amended Complaint is considered timely filed.

2. **Respondent is ordered to file its answer to the Amended Complaint on or before November 23, 2009.** Respondent is advised that the contents of an answer are described in 40 C.F.R. § 22.15(b) as follows:

The answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which respondent has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state: The circumstances or arguments which are alleged to constitute the grounds of any defense; the facts which Respondent disputes; the basis for opposing any proposed relief; and whether a hearing is requested.

According to 40 C.F.R. § 22.15(d), failure of Respondent to admit, deny, or explain any material factual allegation contained in the Complaint will be deemed an admission of the allegation.

3. If Respondent has not filed its answer to the Amended Complaint, 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.

SO ORDERED, this 20th day of October 2009.



MICHAEL C. BARRA
REGIONAL JUDICIAL OFFICER

CERTIFICATE OF SERVICE

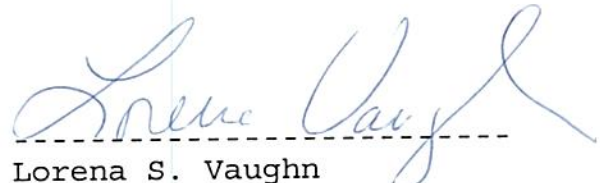
I, Lorena S. Vaughn, the Regional Hearing Clerk, do hereby certify that a true and correct copy of the foregoing Order for Docket No. Class I - CWA 06-2008-1832 was provided to the following persons on the date and in the manner stated below:

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

CERTIFIED MAIL

Lorraine Dixon
U.S. Environmental Protection Agency
Office of Regional Counsel
1445 Ross Avenue
Dallas, Texas 75202-2733

HAND DELIVERED



Lorena S. Vaughn
Regional Hearing Clerk

10/20/09
Date