

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2015 OCT 14 AM 11:22
EPA REGION 6

In the Matter of:

§
§
§
§
§
§
§

Docket No. CAA-06-2015-3354

Halcón Resources Corporation
and its subsidiary
Halcón Operating Co., Inc.

Respondent

NOTICE OF DETERMINATION

Pursuant to the revised final policy on “Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations” (“Audit Policy”), 65 Fed. Reg. 19,618 (Apr. 11, 2000), the United States Environmental Protection Agency, Region 6 (“EPA”) hereby issues this Notice of Determination to Halcón Resources Corporation (“Respondent”) regarding Respondent’s disclosed violations of the Federal Water Pollution Control Act (“Clean Water Act” or “CWA”), 33 U.S.C. §§ 1251–1387, and the Clean Air Act (“CAA”), 42 U.S.C. §§ 7401–7671q.

AUDIT POLICY

EPA issued the Audit Policy to encourage regulated entities to voluntarily discover, promptly disclose and expeditiously correct violations of federal environmental requirements. As an incentive for regulated entities to participate in the Audit Policy’s voluntary disclosure process, EPA may substantially reduce or eliminate the gravity-based component of civil penalties to be assessed for violations which are voluntarily disclosed in accordance with the conditions specified in the Audit Policy. The conditions of the Audit Policy are: (1) discovery of the violation(s) through an environmental audit or compliance management system; (2) voluntary discovery; (3) prompt disclosure; (4) discovery and disclosure independent of government or third-party plaintiff; (5) correction and remediation; (6) prevent recurrence; (7) no repeat violations; (8) other violations excluded; and (9) cooperation.

Pursuant to the Audit Policy, EPA may reduce gravity-based penalties up to 100 percent, if the disclosing entity satisfies all of the conditions described above. EPA may reduce gravity-based penalties up to 75 percent, if the disclosing entity satisfies conditions (2) through (9) above. EPA reserves the right to assess a civil penalty with regard to any economic benefit that may have been realized as a result of such violations, even in those instances when the disclosing entity has met all the conditions of the Audit Policy. In its enforcement discretion, EPA may waive a civil penalty with regard to the economic benefit arising from such violations if EPA determines that the economic benefit is insignificant. Penalty reductions are not available under the Audit Policy for violations that result in serious actual harm or may present an imminent and substantial endangerment of public health or the environment, nor are reductions available for violations of any order or consent agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent took control of RAM Energy Resources, Inc. and its subsidiaries (collectively, “RAM”) as a result of a recapitalization transaction that closed on February 8, 2012.

2. On October 23, 2012, Respondent submitted a self-disclosure to EPA ("Attachment A"). Respondent disclosed violations of the CWA and CAA at the Electra Gas Plant through its purchase of RAM.

3. On January 15, 2013, May 15, 2013, July 15, 2013, September 16, 2013, October 31, 2013, December 27, 2013, and February 25, 2014, Respondent submitted letters providing updates to EPA on corrective action relating to the disclosed violations. These letters, collectively, document Respondent's ongoing implementation and eventual completion of all necessary corrective action measures.

4. Based upon the information provided by Respondent in its initial disclosure and subsequent communications, EPA has determined that Respondent met each of the conditions set forth in the Audit Policy for the violations referenced in paragraph 2.

FINAL DETERMINATION

Pursuant to the Audit Policy and based upon information provided by Respondent, EPA makes the following determinations:

5. Respondent violated 40 C.F.R. § 122.26(c)(1)(iii)(B), 40 C.F.R. Part 52, Subpart SS, and 40 C.F.R. Part 70, as described in Attachment A.

6. Respondent met each of the conditions of the Audit Policy for all violations disclosed to EPA.

7. Respondent meets the definition of a "new owner" under EPA's "Interim Approach to Applying the Audit Policy to New Owners," 73 Fed. Reg. 44991 (August 8, 2008).

8. Because Respondent met each of the conditions of the Audit Policy for all disclosed violations, Respondent qualifies for a one hundred percent (100%) reduction in the gravity-based penalty for the violations referenced in paragraph 2. Therefore, EPA will not assess any gravity-based penalty for the disclosed violations. In making this determination and consistent with the purposes of the Audit Policy, EPA expects Respondent to institute, on a continuing and facility-wide basis, the internal policies and procedures necessary to prevent a recurrence of violations of environmental requirements.

9. Because Respondent meets the definition of "new owner" and corrected the disclosed violations in a timely manner, EPA will not assess penalties for economic benefit accruing during the period prior to Respondent's acquisition of RAM or for economic benefit associated with delayed capital expenditures or unfair competitive advantage.

10. Respondent did not accrue any economic benefit associated with avoided operation and maintenance costs as a result of the disclosed violations.

RESERVATION OF RIGHTS

11. This Final Determination resolves only the potential claims for civil penalties that might arise out of the violations referenced herein. Nothing in this Final Determination is intended, nor shall be construed, to operate in any way to resolve criminal liability, if any, of Respondent. EPA reserves the right to require compliance, corrective action, and/or other remedial measures in connection with any violations, including those referenced in herein, of any federal environmental law. This Final

Determination does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action against Respondent for any other violation of any federal or state statute, regulation or permit.

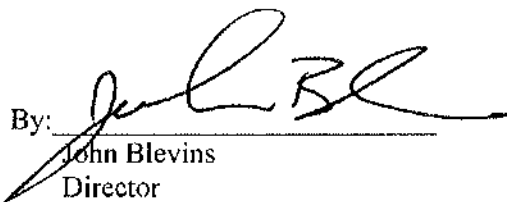
12. This Final Determination shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state and local law, nor shall it be construed as a ruling on, or determination of, any issues relating to any federal, state or local permit. This Final Determination does not constitute a waiver, suspension, or modification of the requirements of any law or regulations promulgated there under.

13. EPA reserves the right to revoke this Final Determination, thereby rendering the Final Determination null and void, if, and to the extent that, any information or statement provided by Respondent upon which this Final Determination is based, or upon which any civil penalty mitigation granted herein is based, was false or inaccurate at the time the information or statement was provided to EPA. In such event, EPA reserves the right to assess and collect any civil penalties for any violation described in herein. Revocation shall be in writing and shall become effective upon receipt by Respondent.

14. Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including Respondent, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare or the environment.

15. In issuing this Notice of Determination, EPA seeks to promote self-auditing and expects Respondent to be in full compliance with all environmental requirements and to continue the internal procedures necessary to prevent recurrence of violations of environmental requirements.

Dated: 10.13.15

By: 
John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of October, 2015, the original and one copy of the foregoing Notice of Determination ("NOD") was hand-delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), U.S. EPA – Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Ashley T.K. Phillips
Thompson & Knight LLP
98 San Jacinto Boulevard, Suite 1900
Austin, TX 78701

A handwritten signature in cursive script that reads "Jackie Allen". The signature is written in black ink and is positioned to the right of the typed name.