

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

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.)

FIRST AMENDED SCHEDULING 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.

THEREFORE, FOR GOOD CAUSE SHOWN, IT IS ORDERED:

1. Both Complainant and Respondent shall submit a prehearing exchange, as provided for in 40 C.F.R. §§ 22.52 and 22.19(a), for use at the hearing to be held in this matter. The prehearing exchange shall be **filed** no later than **September 26, 2008**. This submission, at a minimum, shall include:
 - a.) The name of each witness, including experts, each party intends to present at the hearing, as well as a brief description of the witness' connection to the case, the witness' qualifications (in the case of an expert witness), and a narrative of the witness' expected testimony. If the Respondent does not plan to call any witnesses (and thus rely solely on cross-examination of the Complainant's witnesses), Respondent must affirmatively state that it does not plan to call any

witnesses at the hearing.

b.) A statement as to whether any witness will need an interpreter in order to testify, and, if so, what language.

c.) A statement as to whether any special accommodations under the Americans with Disabilities Act are needed for counsel or any witness or party representative.

d.) Copies of exhibits (including an index of the exhibits) intended for introduction into evidence at the hearing. The documents shall be submitted as part of the prehearing exchange even if they previously have been filed with the Regional Hearing Clerk. The exhibits shall include a resume or curriculum vitae for each proposed expert witness. If the Respondent does not plan to introduce any exhibits into evidence, Respondent must affirmatively state that it does not plan to introduce any exhibits into evidence at the hearing.

The exhibits shall be identified as "Complainant's" or "Respondent's" exhibit, as appropriate, and numbered with Arabic numerals (e.g., "Complainant's Ex. 1").

Documents used solely for purposes of impeachment do not have to be included.

e.) A statement of the party's estimate of how long it will take to put on its case.

f.) A statement of the party's position regarding the location of the hearing, keeping in mind that the rules provide that the hearing shall be held in the county where the Respondent resides or conducts the business which the hearing concerns, in the city in which the relevant Environmental Protection Agency Regional Office is located, or in Washington, D.C., unless the Presiding Officer determines that there is good cause to hold it in another location. 40 C.F.R. §§ 22.21(d) and 22.19(d).

g.) The Complainant shall provide an explanation of how its proposed penalty was calculated in accordance with the criteria set forth in the Clean Water Act.

h.) The Respondent shall provide an explanation of why the proposed penalty should be mitigated or eliminated.

2. Any response by a party to the prehearing exchange filed by the other party shall be filed not later than **October 17, 2008**.

3. The parties shall participate in a prehearing conference with the Presiding Officer on **October 28, 2008, beginning at 2:00 p.m. central time**. The parties should be prepared to address the matters identified in 40 C.F.R. § 22.19(b) during the

conference. The conference will be conducted by telephone. Each party shall join the call by calling the following **dial-in number: 866-299-3188**. At the prompt, enter **conference code 214-665-2143, followed by the # sign**. If a party encounters problems connecting to the call, the customer service number for the conference call is: 888-876-3081.

Failure by the Complainant or the Respondent to comply with the prehearing exchange requirements or to appear for the prehearing conference may result in that party being found in default. 40 C.F.R. § 22.17(a). Failure by a party to list witnesses or submit documents as part of the information exchange may result in exclusion of those witnesses from testifying or the documents not being admitted into evidence. 40 C.F.R. §§ 22.19(a) and 22.22(a).

The Complainant's or the Respondent's failure to comply with any part of this Order may result in any sanction authorized by 40 C.F.R. Part 22.

SO ORDERED, this 31st day of July 2008.



MICHAEL C. BARRA
REGIONAL JUDICIAL OFFICER

CERTIFICATE OF SERVICE

I, Lorena S. Vaughn, the Regional Hearing Clerk for the Region 6 office of the Environmental Protection Agency, do hereby certify that a TRUE AND CORRECT copy of the First Amended Scheduling Order for CWA 06-2008-1832 as served upon the parties on the date and in the manner set forth below:

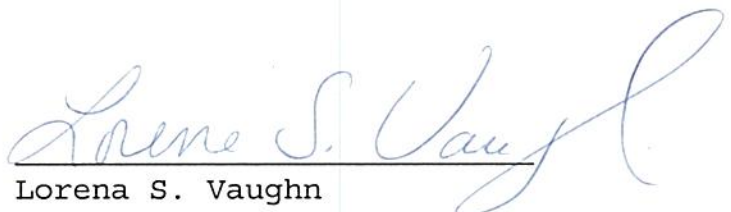
Patrick Adams
President
Altec Testing & Engineering
6035 Fremont Street
Riverside, CA 92504

U.S. First Class Mail
Return Receipt Requested

Lorraine Dixon
Assistant Regional Counsel
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202

HAND-DELIVERED

DATE: 7-31-08



Lorena S. Vaughn
Regional Hearing Clerk