

UNITED STATES
ENVIRONMENTAL PROTECTIONS AGENCY
REGION 6
DALLAS, TEXAS

FILED
2011 MAY 24 PM 4: 05
REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of:

Altec Petroleum Group, Inc.,

Respondent.

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CWA-06-2008-1832

ORDER FOR MORE DEFINITE STATEMENT

This is a proceeding under Section 309(g) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g) for violation of Section 301 of the CWA, 33 U.S.C. § 1311, by discharging pollutants into waters of the United States without a permit. The proceeding is governed by procedures set forth in the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“CROP”) codified at 40 C.F.R. Part 22. Complainant, the Director of the Compliance Assurance and Enforcement Division of United States Environmental Protection Agency Region 6, has filed a Motion for Accelerated Decision as to Both Liability and Penalty (“Motion for Accelerated Decision”) seeking an order finding Respondent, Altec Petroleum Group, Inc., granting full judgment in favor of the Complaint as to both liability for violations alleged in the Administrative Complaint (“Complaint”) filed in this matter and assessing a civil penalty in the amount of \$19,500.00 against the Respondent. To date, Respondent has filed no response to the Motion.

The Consolidated Rules of Practice that govern this proceeding, 40 C.F.R. part 22 (“Rules”), provide at 40 C.F.R. § 22.16(b) that a “response to any written motion must be filed within 15 days after service of such motion,” and that “[a]ny party who fails to respond within the designated period waives any objection to the granting of the motion.” The Motion having been

served on December 22, 2009, a response was due on January 6, 2010. Because no response was filed, Respondent has waived any objection to the granting of the Motion. Nevertheless, before accelerated decision may be granted, the Motion and documents in the case file must establish that there is no genuine issue of fact that is material to liability and that Complainant is entitled to judgment as a matter of law. Section 22.20(a) of the Rules states:

The Presiding Officer may at any time render an accelerated decision in favor of a party as to any or all parts of the proceeding, without further hearing or upon such limited additional evidence, such as affidavits, as he may require, if no genuine issue of material fact exists and a party is entitled to judgment as a matter of law.

The factual information on liability in the case file in this matter is somewhat sketchy. It essentially reveals that Mr. Matt Rudolph, an EPA inspector, visited an oil well site operated by Respondent and concluded pollutants had “seeped” into a nearby creek from two reserve pits at the site. Mr. Rudolph’s conclusions were at least in part based on his observations and on subsequent laboratory analysis of water samples taken from the creek. After EPA issued a compliance order to Altec, Mr. Rudolph returned to the site and concluded Altec had not fully complied with the order. The file contains a number of photographs that might be of substantial probative value if explained.


The Regional Judicial Officer might, by reading between the lines, worry out enough kernels of fact from the record to conclude Complainant has established a case worthy of judgment. Perhaps not, however. In any event, a clearer record would assist the Regional Judicial Officer in reaching a decision herein.

ORDER

Complainant shall file a declaration by Mr. Rudolph that clearly describes his actions in this matter, including his observations at the well site and all other facts on which Complainant

bases a conclusion that Respondent discharged pollutants without authorization. If Complainant wishes to rely on photographic evidence, the declaration shall describe the content of each photograph and its relevance to those conclusions.

SO ORDERED, this 24 day of May 2011.



PATRANKIN
REGIONAL JUDICIAL OFFICER

CERTIFICATE OF SERVICE

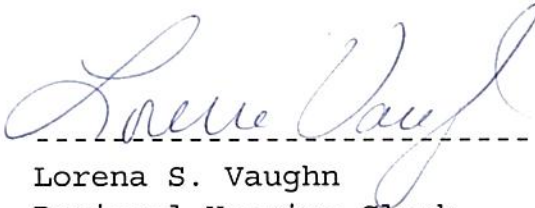
I, Lorena S. Vaughn, the Regional Hearing Clerk, do hereby certify that a true and correct copy of the Order for CWA 06-2008-1832 was provided to the following on the date and in the manner stated below:

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

CERTIFIED MAIL

Lorraine Dixon
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202

INTEROFFICE MAIL



Lorena S. Vaughn
Regional Hearing Clerk

5-24-11

Date