



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

http://www.epa.gov/region08

2007 AUG 30 PM 1:43

RECEIVED  
AUG 30 2007

DOCKET NO.: CWA-08-2007-0012

IN THE MATTER OF: )

CHEVRON PIPELINE CO. )

4800 Fournance Place )

Houston, TX 77401 )

RESPONDENT )

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 30<sup>th</sup> DAY OF AUGUST, 2007

Elyana R. Sutin  
Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2007 JUN 29 PM 3:04

Docket No.: **CWA-08-2007-0012**

IN THE MATTER OF	)	<b>COMPLAINT AND</b>
	)	<b>SETTLEMENT AGREEMENT</b>
Chevron Pipe Line Company	)	
4800 Fournace Place	)	(Proceeding to Assess Class II
Houston, TX 77401	)	Civil Penalty Under Section 311
Respondent.	)	of the Clean Water Act)

Complainant, United States Environmental Protection Agency, Region 8 ("EPA") or ("Complainant"), and Chevron Pipe Line Company (hereinafter "Respondent") by their undersigned representatives, hereby consent and agree as follows:

**A. PRELIMINARY MATTERS**

1. This Complaint and Settlement Agreement ("CASA") is issued to Respondent for violating section 311(b)(3), 33 U.S.C. §1321(b)(3) of the Clean Water Act ("CWA" or "the Act") and the implementing regulations at 40 CFR part 112.
2. The undersigned Environmental Protection Agency ("EPA"), Region 8 officials have been properly delegated the authority to issue this CASA under the authority vested in the Administrator of EPA by section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990.
3. EPA is authorized to bring an action under section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii), for civil administrative penalties against a respondent who has violated, or is in violation of, a requirement or prohibition of the CWA or its implementing regulations.
4. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action

Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”) set forth at 40 CFR part 22.

5. This CASA is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 CFR §22.13(b), and executed pursuant to 40 CFR §22.18(b)(2) and (3) of the Consolidated Rules.

6. Respondent admits the jurisdictional allegations in this CASA and neither admits nor denies the specific factual allegations contained herein.

7. Respondent waives its rights to a hearing before any tribunal, to contest any issue of law or fact set forth in this CASA.

8. Complainant and Respondent agree that this CASA proposing to issue an order assessing a Class II civil penalty is subject to public notice of and reasonable opportunity to provide comment.

9. Complainant asserts that settlement of this matter is in the public interest, and Complainant and Respondent agree that entry of this CASA and Final Order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.

10. This CASA, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent, and Respondent’s officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent’s responsibilities under this agreement.

11. This CASA contains all terms of the settlement agreed to by the parties.

**B. ALLEGED VIOLATION**

1. Respondent is a corporation organized under the laws of Delaware, and authorized to do business in Utah.
2. Respondent is a "person" within the meaning of sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§1321(a)(7) and 1362(5).
3. At all times relevant to this CASA, the Respondent has owned and operated an 8-inch diameter pipeline (hereinafter, "the facility") on the Salt Lake to Spokane Products System Pipeline which transports unleaded gasoline, an "oil" as defined at §311(a)(1) of the Act, 33 U.S.C. §1321(a)(1) near Tremonton, Utah.
4. Respondent is an "owner and operator" of the facility referenced in the paragraph above, within the meaning of sections 311(a)(6)(B) of the Act, 33 U.S.C. §1321(a)(6)(B).
5. The pipeline owned and operated by Respondent constitutes an "onshore facility" within the meaning of section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).
6. This facility is a "non-transportation related" onshore facility as those terms are defined at 40 CFR §112.2.
7. At this facility, Respondent is engaged in transporting distilled, unblended, unleaded gasoline, which is an "oil" as defined in section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 CFR § 110.1.
8. Section 311(b)(3) of the Act, 33 U.S.C. § 1321 (b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

9. For purposes of sections 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters or adjoining shorelines of the United States, in such quantities that have been determined may be harmful to the public health or welfare or the environment of the United States are defined in 40 CFR §110.3 to include discharges of oil that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

10. On or before November 2, 2002, Respondent discharged approximately 450 barrels (18,900 gallons) of unleaded gasoline into Pintail Marsh, Blue Springs Wildlife Habitat, and tributary areas of Bear River, a perennial water and its adjoining shoreline, when a leak occurred in its pipeline at milepost 69, near Corrine, Utah. Respondent has provided documentation to Complainant alleging that the discharge occurred at a location where a third party had installed a water culvert beneath the pipeline.

11. The Pintail Marsh, Bear River, and its tributaries are “navigable waters” of the United States as defined in § 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 CFR § 110.1.

12. Respondent’s discharge of 450 barrels of unleaded gas is a quantity that violated applicable water quality standards, caused a film or sheen upon or discoloration of the surface of the water in Pintail Marsh and tributaries to Bear River and adjoining shorelines, and caused a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines and has been determined to be harmful to the public health or welfare or environment of the United States.

### C. CIVIL PENALTY

1. As alleged in the preceding Paragraphs, and pursuant to section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii), and 40 CFR §19.4, the Respondent is liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum total of \$157,500 for all violations.

2. Based on the foregoing Allegations and pursuant to the authority of section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii), and 40 CFR § 19.4, Complainant proposes the assessment of administrative penalties against the Respondent in the amount of sixty two thousand five hundred dollars (\$62,500).

3. Complainant proposes this penalty amount after considering the applicable statutory penalty factors in section 311(b)(8) of the Act, 33 U.S.C. §1321(b)(8): the seriousness of the violation, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

4. Respondent consents to the issuance of a Final Order and consents for the purposes of settlement to the payment of the civil penalty in the amount of sixty two thousand five hundred dollars (\$62,500) in the manner described below in this paragraph:

a. **Payment is due within 30 calendar days from the date written on the Final Consent Order**, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next

a. **Payment is due within 30 calendar days from the date written on the Final Consent Order**, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by the Bank described below. Payments received by 11:00 AM. EST are processed on the same day, those received after 11:00 AM are processed on the next business day.

b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, referencing "Oil Spill Liability Trust Fund-311," for the amount, **payable to the "Environmental Protection Agency,"** to:

**US checks by regular**

**US postal service mail:** U.S. Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, PA 15251

**Federal Express, Airborne,  
or other commercial carrier:**

Mellon Client Service Center  
ATTN: Shift Supervisor  
Lockbox 371099M Account 9109125  
500 Ross Street  
Pittsburgh, PA 15251-0001

**Wire Transfers:**

Mellon Bank  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh PA 15235

c. A copy of the check, or wire transfer, shall be sent simultaneously to:

Jane Nakad  
U.S. EPA Region 8  
Technical Enforcement Program (8ENF-UFO)  
1595 Wynkoop  
Denver, CO 80202-1129

and

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop  
Denver, CO 80202-1129

d. In the event payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1<sup>st</sup> late day, 30 days of interest accrues).

e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> day from the date the Final Order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

#### **D. TERMS AND CONDITIONS**

1. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.



2. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.
3. Each undersigned representative of the parties to this CASA certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this CASA and to execute and legally bind that party to this CASA.
4. The parties agree to submit this CASA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
5. This CASA, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the violations alleged in this CASA.
6. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this CASA.

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, Office of Enforcement, Compliance  
and Environmental Justice, Complainant.**

Date:

6/29/07

By:

*for* Michael T. Bisbee

Eddie Sierra  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

In The Matter Of Chevron Pipe Line Company.  
(Continued from page 8)

Date: June 29, 2007

By: Brenda L. Morris  
Brenda L. Morris, Attorney  
Legal Enforcement Program

**CHEVRON PIPE LINE CO.**  
**Respondent.**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Authorized Agent)

\_\_\_\_\_  
Print or Type Name of Signatory

Date: \_\_\_\_\_

By: \_\_\_\_\_

Eddie Sierra  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

*In The Matter Of Chevron Pipe Line Company.*  
(Continued from page 8)

Date: June 29, 2007

By: Brenda L. Morris

Brenda L. Morris, Attorney  
Legal Enforcement Program

**CHEVRON PIPE LINE CO.**  
**Respondent.**

Date: May 31, 2007

By: Tana Daughtrey

(Signature of Authorized Agent)

Tana Daughtrey  
Print or Type Name of Signatory

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT/CONSENT AGREEMENT/FINAL ORDER** in the matter **CHEVRON PIPE LINE COMPANY, DOCKET NO.: CWA-08-2007-0012**. The **COMPLAINT AND SETTLEMENT AGREEMENT** was filed with the Regional Hearing Clerk on June 29, 2007; the **FINAL ORDER** was filed on August 30, 2007.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on August 30, 2007, to:

Brian E. Wall  
Counsel Environmental Practice Group  
Chevron U.S.A., Inc.  
6001 Bollinger Canyon Road, T-3256  
San Ramon, CA 94583

And

Commander  
Finance Center  
U.S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

E-mailed to:

Michelle Angel  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

August 30, 2007

  
\_\_\_\_\_  
Tina Artemis  
Paralegal/Regional Hearing Clerk

