

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
08 JUN 30 PM 3:32
REGIONAL HEARING CLERK
EPA REGION VI

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

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.

THEREFORE, IT IS ORDERED:

1. If the parties have not discussed the possibility of settlement of this matter prior to the date of this Order, the parties shall confer regarding the possibility of settlement of this matter on or before **July 23, 2008**. This conference may be in person or by telephone.
2. On or before **July 30, 2008**, the parties shall file a report on the status of settlement negotiations in this matter (without disclosing the substance of settlement negotiations), including, at a minimum, the date and outcome of the settlement conference ordered in paragraph 1 above, a summary of other contacts between the parties regarding this case, an assessment of whether settlement of this matter is likely or if negotiations are at an impasse, a statement of whether a settlement in principle has been reached, and, if applicable, a projected date for the filing of a consent agreement and final order. If the parties cannot agree on a joint status report, they shall file separate reports.
3. On or before **July 30, 2008**, Respondent shall file an answer to the Complaint, as described in 40 C.F.R. § 22.15, which responds paragraph by paragraph to the Complaint, clearly and directly admitting, denying, or explaining each of the

factual allegations in the Complaint with regard to which the Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation and so states, the allegation will be deemed to be denied. The answer shall also set out the circumstances or arguments which are alleged to constitute the grounds of any defense. Failure of Respondent to admit, deny, or explain any material factual allegation contained in the Complaint will be deemed an admission of the allegation.

4. 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 **August 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.

5. Any response by a party to the prehearing exchange filed by the other party shall be filed not later than **September 12, 2008**.
6. The parties shall participate in a prehearing conference with the Presiding Officer on **September 23, 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 30th day of June 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 Scheduling Order CWA 06-2008-1832 as served upon the parties on the date and in the manner set forth below:

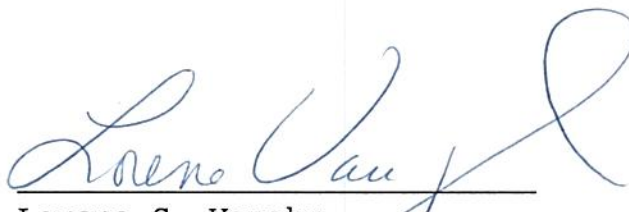
Patrick S. Adams
President
Altec Testing & Engineering, Inc.
6035 Fremont Street
Riverside, CA 92504

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: 6-30-08



Lorena S. Vaughn
Regional Hearing Clerk