



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 13 2009

CERTIFIED MAIL RETURN RECEIPT

Steven T. Schlotterbeck
EQT Production Company
225 North Shore Drive
Pittsburgh, Pennsylvania 15212

SUBJ: EQT Production Company
Docket Number CWA-04-2009-5143(b)

Dear Mr. Schlotterbeck:

Enclosed please find a fully executed Consent Agreement and Final Order (CA/FO) issued pursuant to Section 311(b)(6)(B)(i) of the Clean Water Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990.

Please note: According to paragraph 13 of this CA/FO, no later than 30 days effective date of this CA/FO, the penalty of \$8,771.20 is due. Additionally, according to paragraph 20, the supplemental environmental project shall be completed within 90 days effective date of this CA/FO.

Thank you for your assistance in the resolution of this matter. Please feel free to contact me at (404) 562-8976, or contact Nancy McKee at (404) 562-8674, if you have any additional questions or comments.

Sincerely,

A handwritten signature in cursive script that reads "Caroline Y. F. Robinson".

Caroline Y. F. Robinson, Chief
RCRA & OPA Enforcement and Compliance Branch
RCRA Division

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

2009 AUG 13 AM 8:39
RECEIVED
EPA REGION 4
PITTSBURGH

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
EQT Production Company	)	FINAL ORDER
225 North Shore Drive	)	UNDER 40 C.F.R. § 22.13(b)
Pittsburgh, Pennsylvania 15212)	
)	
Respondent	)	Docket No.: CWA-04-2009-5143(b)
_____)	

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 311(b)(6)(B)(i) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, of EPA Region 4, pursuant to Clean Water Act delegation 2-52-A ("Complainant").

CONSENT AGREEMENT

Stipulations

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

1. Respondent, EQT Production Company, is a corporation organized under the laws of the Commonwealth of Pennsylvania doing business in the Commonwealth of Kentucky. The 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), and 40 C.F.R. § 110.1.

2. The Respondent was at all times relevant to the Consent Agreement the owner or operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), of a natural gas well, identified as Well #747236, located approximately 500 feet from the Right Fork of Mill Branch, Pike County, Ashcamp, Kentucky (the facility). The latitude and longitude for this well location is 37.25466538 north and 82.43350252 west, respectively.

3. The facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10).

4. Mill Branch is a navigable water as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1 and is subject to the jurisdiction of Section 311 of the Act.

5. 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.

6. For purposes of Section 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 of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that (1) violate applicable water quality standards or (2) cause a film or a 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.

7. Respondent admits the jurisdictional statements contained herein.

Allegations

Complainant alleges, and Respondent neither admits nor denies, that:

8. On October 29, 2006, Respondent discharged approximately 800 gallons or 19 barrels of "oil" (a crude oil/brine mixture), as that term is defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 110.1, from its facility into or upon Mill Branch and adjoining shorelines.

9. Respondent's October 29, 2006, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Mill Branch and/or its adjoining shorelines and, therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. § 110.3, in violation of Section 311(b)(3) of the Act.

Waiver of Rights

10. Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this Consent Agreement or the Final Order.

Penalty

12. The Complainant proposes, and Respondent consents to the assessment of a civil penalty of Eight Thousand Seven Hundred Seventy-One Dollars and Twenty Cents (\$8,771.20) and to perform the Supplemental Environmental Project (SEP) described herein, which shall constitute a full and final settlement and resolution of all of the causes of action alleged in this Consent Agreement.

Payment Terms

Based on the foregoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

13. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of Eight Thousand Seven Hundred Seventy-One Dollars and Twenty Cents (\$8,771.20).

14. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearhouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, bearing the notation "OSLTF-311" and the facility name and docket number for this matter shall be referenced on the face of the check. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
314-418-1028

If paying by EFT, the Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, the Respondent shall remit payment to:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
Environmental Protection Agency
808 17th Street NW
Washington, D.C. 20074
Contact: Jesse White, 301-887-6548

15. Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

And to:

Doug McCurry, Chief
North Section, RCRA & OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.

c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is

not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

16. Penalties paid pursuant to this Consent Agreement and Final Order (CA/FO) are not deductible for federal purposes under 28 U.S.C. § 162(f).

17. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

Supplemental Environmental Project

18. Respondent shall undertake the Supplemental Environmental Project (SEP) as described in Attachment 1 and incorporated herein by reference. The parties agree that the SEP is intended to secure environmental and/or public health protection and improvements.

19. The SEP shall involve the donation of an approved list of emergency response equipment to the Elkhorn City Fire Department, Elkhorn City, Kentucky.

20. The SEP shall be completed within ninety days (90) of the effective date of this Consent Agreement.

21. The total expenditure for the SEP, including capital costs and one-time, non-depreciable expenses shall be at least \$8,828.00, as specified in Attachment 1. Respondent shall provide EPA with documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

22. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the activities in the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement or grant, in any other case, or in compliance with any state or local requirement. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for this SEP.

23. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt to claim a deduction for the civil penalty payment or SEP cost made pursuant to this Consent Agreement and Final Order.

24. Respondent shall submit to EPA a SEP Completion Report for the SEP within thirty (30) calendar days after completion of all activities required for the SEP. The SEP Completion Report shall contain the following information:

- a. A detailed description of the equipment purchased and to whom provided;
- b. A description of any problems encountered and the solutions thereto;
- c. Itemized costs, documented by copies of purchase orders and receipts or canceled checks not previously submitted;
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order;
- e. A signed letter from the Elkhorn City Fire Department, documenting receipt of each of the items described in Attachment 1; and
- f. A description of the environmental and public health benefits resulting from the implementation of the SEP.

25. Any public statement, oral or written, in print, film, or other media made by Respondent with reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the Clean Water Act."

General Provisions

26. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

27. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty and performance of the SEP pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

28. The undersigned representative of Respondent hereby certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and attached Final Order and to execute and legally bind Respondent to this Consent Agreement and attached Final Order.

29. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Susan Capel
Associate Regional Counsel
U.S. EPA – Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
404-562-9567

30. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is to receive service for the Respondent in this proceeding:

Joseph Dawley
Counsel
Equitable Production Company
225 North Shore Drive
Pittsburgh, PA 15212
412-553-7708


Effective Date

31. This Consent Agreement and attached Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

EQUITABLE PRODUCTION COMPANY

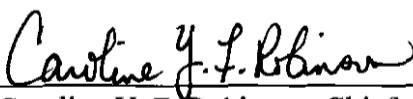
Date: 7/29/09



Steven T. Schlotterbeck, President
Equitable Production Company
a.k.a. EQT Production

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/12/2009



Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

ATTACHMENT 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)
)
EQT Production Company)
225 North Shore Drive)
Pittsburgh, Pennsylvania 15212)
)
)
Respondent)
)
Docket No.: CWA-04-2009-5143(b)

Terms of Supplemental Environmental Project

I. Purchase and Donation

Respondent shall purchase the following equipment for donation:

Items	Quantity	Cost
7' X 14' Cargo Trailer	1	\$5,880.00
Pool Skimmer	1	\$50.00
Prime Sorb (Bales)	20	\$568.00
Oil only Pads (100 Count)	5	\$290.00
Polypropylene Booms (5" X 10')	10	\$300.00
Jon Boat (12')	1	\$800.00
Nylon Rope (100')	1	\$100.00
Universal Pads	4	\$280.00
Life Jackets	2	\$40.00
Paddles	2	\$60.00
16' Extension Ladder	1	\$300.00
55-Gallon Plastic Drum with Lid	2	\$100.00
Heavy Mil Waste Bags (Case)	1	\$25.00
Leaf Rake	1	\$35.00
TOTAL		\$8,828.00

All purchases shall be completed and delivered to the Elkhorn City Fire Department, Elkhorn City, Kentucky as soon as practicable after the effective date of the CA/FO, but no later than ninety (90) days after the effective date of the CA/FO.

Respondent shall record and track all costs associated with the implementation of the SEP and shall include those costs in the SEP Completion Report.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
EQT Production Company	)	FINAL ORDER
225 North Shore Drive	)	UNDER 40 C.F.R. § 22.13(b)
Pittsburgh, Pennsylvania 15212)	
)	
Respondent	)	Docket No.: CWA-04-2009-5143(b)
<hr/>		

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 12th day of August 2009.

BY: Susan B. Schub
Susan Schub
Regional Judicial Officer
U.S. EPA, Region 4

In the Matter of EQT Production Company
Docket Number: CWA-04-2009-5143(b)

CERTIFICATE OF SERVICE

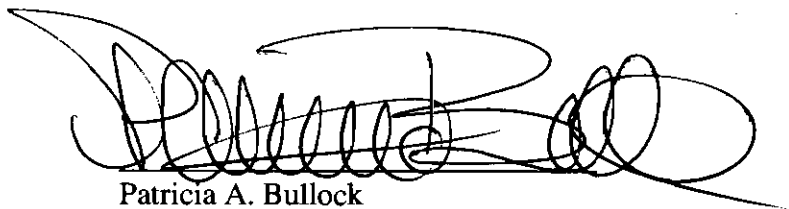
I hereby certify that on AUG 1 8 2009, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of EQT Production Company, Docket Number: CWA-04-2009-5143(b), and that on AUG 1 8 2009, I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Via Certified Mail - Return Receipt Requested

Joseph Dawley
Counsel, Energy & Environmental Law
EQT Production Company
225 North Shore Drive
Pittsburgh, Pennsylvania 15212
412-553-7708

Via EPA's Internal Mail

Susan Capel
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-9566



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-9511