



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

September 6, 2012

8ENF-UFO

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kristie M. Tice
Senior Counsel, Environmental & Safety Law Group
Law Department
Chevron U.S.A. Inc.
1400 Smith Street, 5th Floor
Houston, Texas 77002
Mail: P.O. Box 4368, Houston, TX 77210

Re: Transmittal of Administrative Complaint and Opportunity to Request Hearing

Dear Ms. Tice:

Enclosed is a filed copy of the Administrative Complaint and Opportunity to Request Hearing entitled, *In The Matter Of Chevron Pipe Line Company*. Pursuant to section 311(b)(6)(B)(ii) of the Clean Water Act (the Act), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, and in accordance with 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) codified at 40 CFR Part 22 (Part 22), Complainant proposes that the Administrator assess a civil penalty against Respondent for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in a quantity that has been determined may be harmful, in violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), and notice of Respondent's opportunity to file an Answer to this Complaint and to request a hearing on the proposed penalty assessment.

Sincerely,

A handwritten signature in cursive script that reads "Brenda L. Morris".

Brenda L. Morris, Senior Attorney
Legal Enforcement Program

Enclosure:

- 1) Administrative Complaint and Opportunity to Request Hearing w/public notice and Consolidated Rules attached

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 SEP -6 PM 1:32

Docket No.: CAA-08-2012-0032

FILED
EPA REGION 8
MAKING IN EPK

IN THE MATTER OF)	ADMINISTRATIVE COMPLAINT AND
)	OPPORTUNITY TO REQUEST A HEARING
Chevron Pipe Line Company)	
4800 Fournace Place)	(Proceeding to Assess Class II
Houston, TX 77401)	Civil Penalty Under Section 311
<u>Respondent.</u>)	of the Clean Water Act)

LEGAL AUTHORITY

1. This Administrative Complaint is issued to Chevron Pipe Line Company (Respondent) under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 311(b)(6)(B)(ii) of the Clean Water Act (the Act"), 33 U.S.C.

§ 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990. The Administrator has delegated this authority to the Regional Administrator of EPA, Region 8, who in turn has delegated it to the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice of EPA, Region 8.

2. Pursuant to section 311(b)(6)(B)(ii) of the Act, and in accordance with 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) codified at 40 CFR Part 22 (Part 22), Complainant hereby provides notice of its proposal that the Administrator assess a civil penalty against Respondent for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in a quantity that has been determined may be harmful, in violation of section

311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), and notice of Respondent's opportunity to file an Answer to this Complaint and to request a hearing on the proposed penalty assessment.

ALLEGATIONS

3. Respondent is a corporation organized under the laws of Delaware, and authorized to do business in Utah.

4. 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).

5. At all times relevant to this Complaint, the Respondent has owned and operated an 8-inch diameter pipeline (hereinafter, "the facility") on the Salt Lake Products Pipeline System which transports gasoline, an "oil" as defined at section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1) near Corinne, Utah.

6. 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).

7. 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).

8. This facility is a "non-transportation related" onshore facility as those terms are defined at 40 CFR § 112.2.

9. 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.

10. 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; and/or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

11. On or before December 17, 2009, Respondent discharged approximately 80 barrels (3,360 gallons) of gasoline that ran alongside the railroad bed, southeast into a wetland, as defined in 40 CFR § 110.1, that contained several inches of pooled water before proceeding to a second wetland area that forms the freshwater emergent and lake wetland region located adjacent to the Great Salt Lake, a traditional navigable water of the United States.

12. The wetlands located north and northeast of the Great Salt Lake and the Great Salt Lake are “navigable waters” of the United States as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 CFR § 110.1.

13. Respondent’s discharge of 80 barrels of oil is a quantity that violated applicable water quality standards, caused a film or sheen upon or discoloration of the surface of the water in the wetlands and adjoining shorelines, and/or 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.

14. Respondent's release of approximately 80 barrels of oil on December 17, 2009, into navigable waters of the United States constitutes a violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

CIVIL PENALTY

15. As alleged in the preceding Paragraph, and pursuant to section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

16. Based on the forgoing Allegations, and pursuant to the authority of section 311(b)(6)(B)(ii) of the Act, the Complainant proposes that the Administrator, after considering the statutory penalty factors set forth at section 311(b)(8) of the Act, issue a final order assessing administrative penalties against the Respondent in an amount not to exceed \$16,000 per day for each day during which the violation continued, up to a maximum of \$177,500. The violation alleged in Paragraph 14 represents a serious violation of the Act because it reached waters located in an area where endangered species and sensitive habitats could be potentially impacted; the spill was located near the Bear River National Migratory Bird Refuge; and the spill caused the death of minnows in the impacted waters. The booms and absorbent materials employed to contain the oil from the one-day discharge remained on the waters for at least seven days.

OPPORTUNITY TO REQUEST A HEARING

In the Answer to this Complaint Respondent may, pursuant to section 311(b)(6) of the Act and 40 CFR § 22.15(e), request a hearing on any material fact alleged in this Complaint, or on the appropriateness of any penalty it proposes. Even if Respondent does not explicitly request a hearing in the Answer, the Presiding Officer may hold such a hearing if the Answer raises

issues appropriate for adjudication. The procedures for any such hearing and for all proceedings in this action are set out in 40 CFR Part 22, a copy of which is enclosed with this Complaint.

Default constitutes an admission of all facts alleged in this Complaint and a waiver of Respondent's right to a hearing on such factual allegations. In order to avoid default in this matter, Respondent must within 30 days after receipt of this Complaint either (1) settle this matter with the Complainant; or (2) file both an original and one copy of a written Answer to this

Complaint with: Ms. Tina Artemis, Mail Code 8RC
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

Respondent is also required, pursuant to 40 CFR § 22.5(b) of the enclosed Consolidated Rules of Practice, to provide a contemporaneous copy of any Answer to the Complainant. Complainant's counsel, who is authorized to receive service on behalf of the Complainant, shall be served at the

following address: Brenda L. Morris, Mail Code 8ENF-L
Legal Enforcement Program
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

Pursuant to 40 CFR § 22.15, the Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint with regard to which Respondent has knowledge. If Respondent states in the Answer that it has no knowledge of a particular factual allegation, the allegation shall be deemed denied. Otherwise, Respondent's failure to admit, deny, or explain any material factual allegation contained in this Complaint constitutes an admission of the allegation. The Answer shall also state the circumstances or arguments for any

defense Respondent wishes to assert, challenges to any factual allegation in the Complaint, and any basis Respondent may have to oppose the assessment of the statutory maximum penalty of \$16,000 per day for each day during which the violation continued, up to a maximum of \$177,500.

Following receipt of the Answer, a Presiding Officer will be assigned. The Presiding Officer will notify the parties of his/her assignment, and shall notify the parties of the time and place of further proceedings in the case.

PUBLIC NOTICE

Pursuant to section 311(b)(6)(C) of the Act, 33 U.S.C. § 1321(b)(6)(C), the Complainant is providing public notice of and reasonable opportunity to comment on this proposed issuance of a final order assessing administrative penalties against Respondent. If a hearing is held on this matter, members of the public who submitted timely comments on this proceeding have the right under section 311(b)(6)(C) of the Act to be heard and present evidence at the hearing. A copy of the public notice is attached to this Complaint.

SETTLEMENT

The EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of the Act and applicable regulations and is willing to explore this possibility in an informal settlement conference. If Respondent or its attorney, if it chooses to be represented by one, have any questions or wish to have an informal settlement conference with EPA, please contact attorney Brenda Morris at the telephone number listed below. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an answer and request for hearing as set out above. The settlement process,

however, may be pursued simultaneously with the administrative litigation procedures found in the Consolidated Rules. If a settlement can be reached, its terms must be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Regional Judicial Officer.

If Respondent has any questions concerning this Administrative Complaint or wishes to arrange for an informal conference, please contact Brenda Morris at 303-312-6891 or via email at morris.brenda@epa.gov.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**
Complainant.

Date: Sept. 6, 2012

By: Eddie A. Sierra

for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one true and correct copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Attachments was hand-carried to the Regional Hearing Clerk:

Tina Artemis, Region 8 Hearing Clerk
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129

And that a true copy of the same was sent via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to

Registered Agent for Chevron Pipe Line Company
Corporation Service Company
2180 South 1300 East, Ste. 650
Salt Lake City, Utah 84106

9/6/2012
Date

Judith McTernan
Judith McTernan

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8
1595 Wynkoop Street; Denver, CO 80202-1129**

**PUBLIC NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND
OPPORTUNITY TO COMMENT ON CLEAN WATER ACT COMPLAINT**

Action: The EPA is providing notice of a proposed administrative penalty assessment and the opportunity to comment on the proposed assessment (complaint) for an alleged violation of the Clean Water Act.

Summary: The EPA is authorized in Class II proceedings under section 311(b)(6) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(6), to issue orders assessing civil penalties for violations of the CWA and implementing regulations, after providing the person subject to the penalty notice an opportunity for a hearing, and after providing the public with notice of the proposed penalty, opportunity to submit written comments and to participate in a Class II penalty proceeding, if any. The deadline for submitting public comment is thirty (30) calendar days after issuance of this notice.

On September 6, 2012, the EPA commenced a civil administrative action by filing a complaint against the Respondent identified below, alleging a violation of the CWA and its regulations. Pursuant to section 311(b)(6)(C) of the CWA, the EPA hereby notifies the public of this proposed penalty assessment:

In the matter of: Chevron Pipe Line Company
4800 Fournace Place
Bellaire, TX 77401

EPA Docket Number: **CWA-08-2012-0032**

Proposed penalty in the Complaint: Up to \$177,500

Alleged violations: The discharge of oil on December 17, 2009, from a pipeline into wetlands adjacent to the Great Salt Lake in Box Elder County, Utah.

Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) days after the publication of this notice. Written comments submitted by the public as well as information submitted by respondent will be available for public review, subject to the provisions of law restricting the disclosure of confidential information. Any person submitting written comments has a right to participate in a hearing, if one is held. The complaint is available for review between 9:00 a.m. and 4:00 p.m. at the address listed below and on the internet at: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

Submit written comments to: Tina Artemis
Regional Hearing Clerk (8RC);
EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Telephone: (303) 312-6765.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the Combined Complaint and Consent Agreement, or other documents in this proceeding (such as the regulations in 40 C.F.R. part 22, which establish procedures for the hearing), or to comment upon the proposed penalty assessment, or any other aspect of the matter, should contact the Regional Hearing Clerk identified above. No action will be taken by EPA to finalize a settlement in this matter until 30 days after this public notice.

§21.13

approve or disapprove the State issued statement, in accordance with the requirements of §21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(i) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

40 CFR Ch. I (7-1-10 Edition)

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

- Sec. 22.1 Scope of this part. 22.2 Use of number and gender. 22.3 Definitions. 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment. 22.5 Filing, service, and form of all filed documents; business confidentiality claims. 22.6 Filing and service of rulings, orders and decisions. 22.7 Computation and extension of time. 22.8 Ex parte discussion of proceeding. 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances. 22.11 Intervention and non-party briefs. 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding. 22.14 Complaint. 22.15 Answer to the complaint. 22.16 Motions. 22.17 Default. 22.18 Quick resolution; settlement; alternative dispute resolution. 22.19 Prehearing information exchange; prehearing conference; other discovery. 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing. 22.22 Evidence. 22.23 Objections and offers of proof. 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard. 22.25 Filing the transcript. 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision. 22.28 Motion to reopen a hearing.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one true and correct copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Attachments was hand-carried to the Regional Hearing Clerk:

Tina Artemis, Region 8 Hearing Clerk
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129

And that a true copy of the same was sent via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to

Registered Agent for Chevron Pipe Line Company
Corporation Service Company
2180 South 1300 East, Ste. 650
Salt Lake City, Utah 84106

9/6/2012
Date

Judith McTernan
Judith McTernan