



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

Docket Number: CWA-06-2024-1771; Facility Number: NMU002195

STATUTORY AUTHORITY

The following findings are made, and Order issued, under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act (the Act), 33 U.S.C. § 1319(a). The Administrator of EPA delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who further delegated such authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. Coterra Energy, Inc. (Respondent) is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
2. At all times relevant to the violation alleged herein (relevant time period), Respondent owned or operated an oil field facility that produced the brine that was released into the Black River, located off Highway 748, Carlsbad, Eddy County, New Mexico (Latitude 32.219170 North and Longitude -104.223050 West) (discharge location) and designated as Facility Number NMU002195. Respondent was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.
3. Pumps, pipes, hoses, flow lines, vents, disposal storage tanks, and associated devices located at the facility acted as "point sources," as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).
4. At all times relevant, the facility acted as a "point source" of a "discharge" of "pollutants," specifically oil field produced water generated from oil production activities, to the Black River, which is considered a "water of the United States" within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.
5. On October 26, 2023, an EPA inspector observed that produced water and brine had been discharged from a transfer truck to waters of the United States. The inspector determined that the water located at the point of entry (Latitude 32.219603 North and Longitude -104.222967 West) was contaminated from the produced water discharge and measured 1,115 milligrams per Liter (mg/L) Total Dissolved Solids (TDS).

6. On December 7, 2023, Respondent provided a response to the Information Request noting that, on or about October 3, 2023, produced water was discharged. The total spill amount was 125 barrels of produced water and that 65 barrels of produced water reached the Black River and was not recovered.

7. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342. At no time during the relevant time period did Respondent have NPDES permit coverage under the Act that authorized the discharge of a pollutant from the facility to waters of the United States.

8. Each instance in which Respondent discharged pollutants to waters of the United States without an NPDES permit was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

9. Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA hereby orders Respondent to take the following actions immediately upon receipt of this Order:

- A. Cease all unpermitted discharges of pollutants from the facility.
- B. Remove all pollutants from the flow path located between the point of discharge and the point of entry into the Black River.
- C. Remediate the flow path from the point of discharge and the point of entry into the Black River.
- D. Within thirty (30) days of the effective date of this Order, Respondent shall provide a written certification including photographs, in-stream salinity, conductivity, or total dissolved solids measurements, manifests, work orders, and/or receipts to document how discharges and the removal of pollutants have been properly addressed. Please verify in the certification that the company name, mailing address and name of the authorized signatory for the company are correct.

E. Within thirty (30) days of the effective date of this Order, Respondent shall develop and submit to EPA a Pollution Prevention Plan to prevent similar occurrences.

F. Any information or correspondence submitted by Respondent to EPA under this Order shall be submitted, via e-mail, to the following:

Mr. Michael Blaha
blaha.michael@epa.gov

GENERAL PROVISIONS

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701–706.

Issuance of this Section 309(a)(3) Compliance Order shall not be deemed an election by EPA to waive any administrative, judicial, civil, or criminal action to seek penalties, fines, or any other relief under the Act for the violations cited herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance Order or the Act can result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 8 of the Section 309(a)(3) Compliance Order Section of this Order is restitution, remediation, or required to come into compliance with the law.

Compliance with the terms and conditions of this Order does not relieve Respondent of its obligations to comply with any applicable federal, state, or local law or regulation.

The effective date of this Order is the date it is received by Respondent.

August 8, 2024

Date

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division