



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

SEP 19 2014

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7005 1820 0003 7451 4247

Mr. Ronald L. Rickaway, President
Rickaway Energy, Corp.
205 Los Robles Dr.
Pleasanton, TX 78064

Re: Notice of Proposed Assessment of Class I Civil Penalty
Docket Number: CWA-06-2014-1752
Facility Numbers: TXU010998; TXU010999; TXU011000;
TXU011001; TXU010970
Permit Number: TX0133990

Dear Mr. Rickaway:

Enclosed is an Administrative Complaint (Complaint) issued to Rickaway Energy, Corp. for violation of Section 301(a) of the Clean Water Act. Violations were identified as the result of inspections, conducted by the Environmental Protection Agency (EPA), at your facilities located in Wilson County, Texas. The violations alleged are for the unauthorized discharge of pollutants, specifically produced wastewater, to waters of the United States and for violations of your National Pollutant Discharge Elimination System (NPDES) Permit number TX0133990. An Administrative Order, Docket Number CWA-06-2013-1733, was issued on March 22, 2013, addressing some of the violations alleged in this Complaint.

You have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please pay particular attention to Section V of the Complaint entitled "Notice of Proposed Assessment of Class I Civil Penalty." Note that should you fail to request a hearing, you will waive your right to such a hearing, and an assessment of a civil penalty may be assessed against you without further proceedings.

Whether or not you request a hearing, you may wish to consider the consequences of the alleged violation and the amount of the civil penalty. You may represent yourself or be represented by an attorney. EPA encourages all parties against assessment of a penalty to pursue the possibility of a settlement conference.

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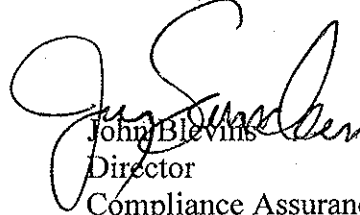
Sent To Rickaway Energy, Corp.
Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

Re: Administrative Complaint
Rickaway Energy, Corp.

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EPA is committed to ensuring compliance with the requirements of the NPDES program, and my staff will assist you in any way possible. If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely,


John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: w/complaint-Regional Hearing Clerk

Mr. Tom Melville, Director
Districts 1 and 2
Railroad Commission of Texas
115 East Travis Street, Suite 1610
San Antonio, TX 78205-1689

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2014 SEP 23 AM 9:46
REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of	§ Docket No. CWA-06-2014-1752
	§
Rickaway Energy, Corp.	§ Proceeding to Assess a Class I
	§ Civil Penalty under Section 309(g)
Respondent	§ of the Clean Water Act
	§
Facility Nos: TXU010998; TXU010999;	§ ADMINISTRATIVE COMPLAINT
TXU011000; TXU011001;	§
TXU010970; TX0133990	§
	§
NPDES Permit No: TX0133990	§

I. Statutory Authority

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(g). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Class I Administrative Complaint is issued in accordance with, and this action will be conducted under, 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, including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50–22.52.

Based on the following Findings, Complainant finds that Respondent violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Rickaway Energy, Corp. ("Respondent") is a corporation operating under the laws of the State of Texas, and as such, 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 this action (“all relevant times”), Respondent owned or operated several oil field production facilities located in Wilson County, Texas (“facilities”), and was therefore an “owner or operator” within the meaning of 40 C.F.R. § 122.2. The facilities will be referenced in accordance with the following table:

Facility Reference No.	Facility Name	EPA Facility No. or Permit No.
Facility #1	Hierholzer Lease	TXU010970; TX0133990
Facility #2	Minnie Stewart Lease	TXU010998
Facility #3	M.C. Stroud Lease	TXU010999
Facility #4	Mrs. E. Wheeler Lease	TXU011000
Facility #5	Hardin-Slaughter Lease	TXU011001

3. At all relevant times, the facilities acted as “point sources” of “discharges” of “pollutants,” specifically produced wastewater, to the receiving waters of Borrego Creek and a tributary of Clifton Branch, all considered “waters 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. Facility # 1 discharged produced wastewater to a tributary of Borrego Creek then to Borrego Creek then to the Atascosa River (water course #1). Facilities #2, #3, #4, and #5 discharged produced wastewater to a tributary of Clifton Branch then to Clifton Branch then to Cibola Creek (water course #2).

4. Because Respondent owned or operated facilities that acted as point sources of discharges of pollutants to waters of the United States, Respondent and the facilities were subject to the Act and the National Pollutant Discharge Elimination System (“NPDES”) program.

5. 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. According to the NPDES program, the discharge of produced wastewater to “waters of the United States” is a non-permitted discharge.

6. The point source discharges from the five facilities are described below:

- (a) Facility #1, also known as the Hierholzer Lease, has a pond which discharges produced wastewater from an overflow located at Latitude N29.0336 and Longitude W98.3011 that flows along water course #1.
- (b) Facility #2, also known as the Minnie Stewart Lease, has a pit which discharges produced wastewater through a discharge pipe. The discharge pipe is located at Latitude N29.2542 and Longitude W97.9531 that flows along water course #2.
- (c) Facility #3, also known as the M.C. Stroud Lease, has two pits (Stroud Pit #1 and Stroud Pit #2) and a pond (Stroud Pond). Facility #3 discharges produced wastewater from Stroud Pit #2 at Latitude N29.2518 and Longitude W97.9576. The discharge then flows to the Stroud Pond. The Stroud Pond discharges produced water from a discharge pipe located at Latitude N29.2526 and Longitude W97.9602 and two overflows that flow along water course #2.
- (d) Facility #4, also known as the Mrs. E. Wheeler Lease, has a series of three pits (Wheeler Pit #1, Wheeler Pit #2, and Wheeler Pit #3). Facility #4 discharges produced wastewater from Wheeler Pit #3 overflow/discharge pipe located at Latitude N29.2471 and Longitude W97.9638 that flows along water course #2.
- (e) Facility #5, also known as the Hardin-Slaughter Lease, has a pit (“HS Pit”). The HS Pit discharges produced wastewater from a discharge pipe located at Latitude N29.2445 and Longitude W97.9667 that flows along water course #2.

7. On September 11, 2012, Facility #1 was inspected by an EPA inspector. The inspector observed that Facility #1 was discharging produced wastewater that flows along water course #1.

8. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

9. On November 27, 2012, Facility #2 was inspected by EPA inspectors. The inspectors observed that Facility #2 was discharging produced wastewater to water course #2 without permit authorization.

10. On November 27, 2012, Facility #3 was inspected by EPA inspectors. The inspectors observed that Facility #3 was discharging produced wastewater to water course #2 without permit authorization.

11. On November 27, 2012, Facility #4 was inspected by EPA inspectors. The inspectors observed that Facility #4 was discharging produced wastewater to water course #2 without permit authorization.

12. On November 27, 2012, Facility #5 was inspected by EPA inspectors. The inspectors observed that Facility #5 was discharging produced wastewater to water course #2 without permit authorization.

13. On August 15, 2013, Facility #2 was inspected by EPA inspectors. The inspectors observed that Facility #2 was discharging produced wastewater to water course #2 without permit authorization.

14. On August 15, 2013, Facility #3 was inspected by EPA inspectors. The inspectors observed that Facility #3 was discharging produced wastewater to water course #2 without permit authorization.

15. On August 15, 2013, Facility #4 was inspected by EPA inspectors. The inspectors observed that Facility #4 was discharging produced wastewater to water course #2 without permit authorization.

16. On August 15, 2013, Facility #5 was inspected by EPA inspectors. The inspectors observed that Facility #5 was discharging produced wastewater to water course #2 without permit authorization.

17. On April 28, 2014, Facility #2 was inspected by EPA inspectors. The inspectors observed that Facility #2 was discharging produced wastewater to water course #2 without permit authorization.

18. On April 28, 2014, Facility #3 was inspected by EPA inspectors. The inspectors observed that Facility #3 was discharging produced wastewater to water course #2 without permit authorization.

19. On April 28, 2014, Facility #4 was inspected by EPA inspectors. The inspectors observed that Facility #4 was discharging produced wastewater to water course #2 without permit authorization.

20. On April 28, 2014, Facility #5 was inspected by EPA inspectors. The inspectors observed that Facility #5 was discharging produced wastewater to water course #2 without permit authorization.

21. Each instance in which Respondent discharged pollutants (produced wastewater) to waters of the United States without permit authorization was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

22. Respondent applied for and was issued NPDES Permit No. TX0133990 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on August 1, 2013, regarding Facility #1. Once the permit became effective, Respondent was authorized to discharge pollutants from Facility #1 through Outfall 001 to waters of the United States but only in compliance with the specific terms and conditions of the permit.

23. Part I Section C of the permit requires Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or non-compliance with the permit and applicable regulations.

It also requires Respondent to file with EPA certified Discharge Monitoring Reports (“DMRs”) of the results of monitoring, and Non-Compliance Reports when appropriate.

24. Part I, Section C, Paragraph 5 of the permit specifies: “NO DISCHARGE REPORTING – If there is no discharge from any outfall during the sampling month, place an “X” in the NO DISCHARGE box located in the upper right corner of the Discharge Monitoring Report.”

25. In the July through September 2013 DMR submitted by Respondent, Respondent marked and indicated that there was NO DISCHARGE from Facility #1; however, EPA inspectors observed on August 15, 2013 that Facility #1 discharged produced wastewater through Outfall 001. Therefore, Respondent violated Part I, Section C, Paragraph 5 of the permit by incorrectly claiming in the DMR that there was no discharge when in fact a discharge occurred.

26. Part III, Section C, Paragraph 5 of the permit specifies: “FLOW MEASUREMENTS. Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device.”

27. During an August 15, 2013 and an April 29, 2014 inspection of Facility #1 by EPA inspectors, the EPA inspectors observed that Respondent failed to install flow measurement equipment at Facility #1 in violation of Part III, Section C, Paragraph 5 of the permit.

28. Each violation of the conditions of the permit described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

29. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), as modified by 40 C.F.R. Part 19, Respondent is liable for a civil penalty in an amount not to exceed \$16,000 per day for each day during which a violation occurs or continues, up to a maximum of \$37,500.

30. EPA has notified the Railroad Commission of Texas of the issuance of this Complaint and has afforded the State an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

31. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

32. Based on the foregoing Findings, and pursuant to the authority of Sections 309(g)(1) and (g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(A), EPA hereby proposes to assess against Respondent a civil penalty of thirteen thousand five hundred dollars (\$13,500.00).

33. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), which includes such factors as the nature, circumstances, extent and gravity of the violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

34. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act.

IV. Failure to File an Answer

35. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to

this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

36. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

37. If Respondent does not file an Answer to this Complaint within thirty (30) days after service, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a final Default Order is issued.

38. Respondent must send its Answer to this Complaint, including any request for a hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

39. Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Efren Ordoñez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

40. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R.

§§ 22.5 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

41. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50-22.52.

42. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

43. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

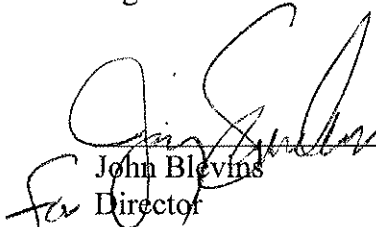
44. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

45. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a

Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent's right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

46. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

9-19-2014
Date


John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
return receipt requested: Mr. Ronald L. Rickaway, President
Rickaway Energy, Corp.
205 Los Robles Dr.
Pleasanton, TX 78064

Copy by mail: Mr. Tom Melville, Director
Districts 1 and 2
Railroad Commission of Texas
115 East Travis Street, Ste. 1610
San Antonio, TX 78205-1689

Copy hand-delivered: Mr. Efren Ordoñez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: **SEP 23 2014**

