

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER

In the Matter of Davis Bros. Oil Producers, Inc. (Respondent)
Docket Number: CWA-06-2020-1766; Facility Number: OKU000890

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 delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who delegated such authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. Davis Bros. Oil Producers, Inc. ("Respondent") is a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to the violation alleged herein ("relevant time period"), Respondent owned and operated an oil field facility known as the Davis-Ringwald-Shannon Tank Battery, located near Ripley, Payne County, Oklahoma, (Latitude 36.0193 North and Longitude -96.9551 West) ("facility") and designated as Facility Number OKU000890.

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 and brine generated from oil production activities, to a tributary of Spring Creek and Spring Creek, which are 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.

5. At no time during the relevant time period did Respondent have National Pollutant Discharge Elimination System permit coverage under the Act which authorized the discharge of a pollutant from the facility to waters of the United States.

6. On March 12, 2020, an EPA inspector observed that produced water and brine had been discharged from the facility to waters of the United States. The inspector determined that the water located at the point of entry (36.018873 North and Longitude -96.955575 West) was contaminated from produced water discharges and measured

10,058 milligrams per Liter ("mg/L") Total Dissolved Solids ("TDS").

7. During the relevant time period, it was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1311(a), for any person to discharge a pollutant from a point source to a water of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

8. On or about March 12, 2020, the facility discharged or caused the discharge of pollutants from point sources within the facility to a water of the United States without permit coverage under the Act, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

SECTION 309(a)(3) COMPLIANCE ORDER

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

a. Any continued discharge of pollutants is unauthorized and must cease immediately;

b. Remove all pollutants from the flow paths located between the point of discharge and the point of entry into the tributary of Spring Creek; and

c. Remove sufficient amounts of pollutants from the tributary of Spring Creek and Spring Creek, which were discharged from the facility on or about March 12, 2020, so that the TDS in the tributary and creek downstream of the discharge is at or below background TDS levels.¹

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.

All correspondence should be addressed to:

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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 other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any remedy available under the law which it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state, and local laws.

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

June 18, 2020

Date

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

¹ Compliance with this paragraph of the Order will be achieved after completing the required removal actions and once the TDS measured values, sampled by using an approved method, such as a calibrated conductivity meter, at a point upstream of the point of entry and at a point downstream of the point of entry are relatively similar demonstrating that the stream is no longer affected by the pollutant.