

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

2021 FEB 10 AM 11:18

MARGARET BOTKINS, CLERK
CHEYENNE

Civil Action No.

21cv20-S

UNITED STATES OF AMERICA,

Plaintiff,

v.

FLEUR DE LIS ENERGY, LLC, and
FDL OPERATING, LLC

Defendants.

STIPULATION OF SETTLEMENT AND JUDGMENT

WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed a Complaint concurrently with this Stipulation of Settlement and Judgment (“Stipulation”) against Defendants Fleur de Lis Energy, LLC and FDL Operating, LLC (collectively “Defendants”).

WHEREAS, the Complaint seeks civil penalties for violations of the Clean Water Act (“Act”), arising from:

- (i) Defendants’ unauthorized discharge of: (a) approximately 113 barrels of crude oil and produced water on or about October 5, 2016 from well 02WC2SE34 located in Salt Creek Field, Natrona County, Wyoming; (b) approximately 12 barrels of crude oil and produced water on or about October 27, 2016 from well 13WC1SE26 located in Salt Creek Field, Natrona County, Wyoming; (c) approximately 559 barrels of crude oil and produced water on or about August 12,

2017 from an injection line located in Linch Complex Field, Johnson County, Wyoming; (d) approximately nine barrels of crude oil and produced water on or about January 3, 2018 from piping associated with LACT 11 located in Salt Creek Field, Natrona County, Wyoming; (e) approximately six barrels of crude oil and produced water on or about May 21, 2018 from a well associated with LACT 11 located in Salt Creek Field, Natrona County, Wyoming; and (f) approximately 7,307 barrels of crude oil and produced water on or about May 27, 2018 from a flowline associated with LACT 11 located in Salt Creek Field, Natrona County, Wyoming.

- (ii) Defendants' failure to prepare adequate Spill Prevention Control and Countermeasure ("SPCC") plans for LACT 4, 5, 10, 11, and 20 in Salt Creek Field, Natrona County, Wyoming, and West-Sussex B-1 in Linch Complex Field, Johnson County, Wyoming (collectively the "Facilities"); and
- (iii) Defendants' failure to prepare adequate Facility Response Plans ("FRPs") for LACT 4, 5, 10, and 11 in Salt Creek Field, Natrona County, Wyoming;

WHEREAS, Defendants' responses to the unauthorized discharges were prompt and adequate;

WHEREAS, upon being informed by EPA that the SPCC plans and FRPs for the facilities identified above were inadequate, Defendants submitted to EPA adequate SPCC plans for the Facilities and adequate FRPs for LACT 4, 5, 10, and 11;

WHEREAS, Defendants do not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint, including whether any of the drainages or other water features named in the Complaint fall within federal jurisdiction.

WHEREAS, Plaintiff and Defendants (the “Parties”) agree that settlement of this action without litigation is in the public interest and that entry of this Stipulation is the most appropriate means of resolving this action.

NOW THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Paragraphs 1 and 2, and with the consent of the Parties, it is hereby ORDERED, ADJUDGED, and DECREED:

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355 and Sections 309(d) and 311(b)(7)(E) of the Clean Water Act, 33 U.S.C. §§ 1319(d) and 1321(b)(7)(E), and over the Parties. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1395(a) and Section 311(b)(7)(E) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(E) because Defendants are doing business in Wyoming. For purposes of this Stipulation, and any action to enforce this Stipulation, Defendants consent to this Court’s jurisdiction over this Stipulation and any such action, and over Defendants, and consent to venue in this District.

2. Defendants agree that the Complaint states claims for which relief can be granted.

3. Within 30 days after entry by the Court of this Stipulation, Defendants shall pay the sum of \$1,900,000 to the United States as a civil penalty.

4. Defendants shall pay the civil penalty by FedWire Electronic Funds Transfer (EFT) to the U.S. Department of Justice account, in accordance with instructions provided to Defendants by the Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the District of Wyoming after entry. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which Defendants shall use to identify all payments required to be made in accordance with this Stipulation. The FLU will

provide the payment instructions to Joe Nicholas, 5221 N O'Connor Blvd. Suite 1100, Irving TX 75039, jnicholas@fdlenergy.com, on behalf of Defendants. Defendants may change the individual to receive payment instructions on its behalf by providing written notice of such change to the United States. Such monies are to be deposited in the Oil Spill Liability Trust Fund pursuant to 33 U.S.C. § 1321(s) and 26 U.S.C. § 9609(b)(8).

5. At the time of payment, Defendants shall send notice that payment has been made to:

a. the National Pollution Funds Center by regular mail at CG National Pollution Funds Center (CF), U.S. Coast Guard Stop 7605, 2703 MLK Jr. Avenue, SE, Washington, D.C. 20593-7605; and

b. the United States by email at eescdcopy.enrd@usdoj.gov or regular mail at EES Case Management Unit, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044-7611.

Such notice shall state that the payment is for the civil penalty owed pursuant to the Stipulation in *United States of America v. Fleur de Lis Energy, LLC et al.* and shall reference the civil action number assigned to this case, CDCS Number, and DOJ Case Number 90-5-1-1-12200.

6. If Defendants fail to pay the civil penalty when due, Defendants shall pay a stipulated penalty of \$1,000 for each day that the payment is late. Stipulated penalties shall begin to accrue on the day after the civil penalty is due and shall continue to accrue until payment of the civil penalty is made. Defendants shall pay any stipulated penalties within 30 days of receiving the United States' written demand. Payment of any stipulated penalties shall be made in the manner set forth in Paragraph 4, except that the notice required by Paragraph 5 shall state that the payment is for stipulated penalties for late payment of the civil penalty. The United

States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Stipulation.

7. Interest shall accrue on the balance of any unpaid civil penalty and/or stipulated penalties, as provided for in 28 U.S.C. § 1961, commencing on the day after the deadline for paying such civil penalty and/or stipulated penalties.

8. The payment obligations of this Stipulation apply to and are binding upon Defendants and their successors. Any change in ownership or corporate status shall not alter Defendants' payment obligations under this Stipulation.

9. Defendants shall not deduct any penalties paid under this Stipulation in calculating their federal, state, or local income tax.

10. Nothing in this Stipulation shall be construed to limit the United States from seeking any remedy otherwise provided by law for Defendants' failure to pay the civil penalty or any stipulated penalties when due.

11. This Stipulation resolves the civil claims of the United States against Defendants for the violations alleged in the Complaint.

12. Within 30 days after receipt of all amounts due under this Stipulation, the United States shall provide notice to the Court that full payment has been made, at which time the civil claims of the United States for the violations alleged in the Complaint shall be dismissed with prejudice.

13. This Stipulation in no way affects the right of the United States to bring an action for any violation not alleged in the Complaint.

14. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees)

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