



STATE OF MISSISSIPPI
HALEY BARBOUR
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR

July 19, 2011

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. J. Bergman
Petco Petroleum Corporation, West Pachuta Creek
108 East Ogden Avenue
Hinsdale, IL 60521

**Re: Petco Petroleum Corporation, West Pachuta Creek
Agreed Order No. 5993 11**

Dear Mr. Bergman:

Enclosed you will find a copy of Agreed Order No. 5993 11, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Tyler Hardy at (601) 961-5685.

Sincerely,

A handwritten signature in blue ink that reads "Chris Sanders".

Chris Sanders, P. E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Tyler Hardy

Agency Interest No. 6374
ENF20100002

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 5993 11

PETCO PETROLEUM CORPORATION, WEST PACHUTA CREEK
108 EAST OGDEN AVENUE
HINSDALE, IL 60521

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and Petco Petroleum Corporation, West Pachuta Creek, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated August 09, 2010, Respondent was contacted by Complainant and notified of the following violation(s) at its facility located at 813 County Road 284, Quitman, Mississippi in Clarke County:

- A. A file review revealed that Respondent has only submitted the Semi-Annual Monitoring Reports that were due July 31, 2003, January 31, 2004, and July 31, 2004. **Failures to submit the Semi-Annual Monitoring Reports due since July 31, 2004, are violations of Synthetic Minor Air Operating Permit No. 0440-00014 (the "Permit"), Part III Condition (10).**
- B. The Permit required that Emission Points AA-002, AA-003, AA-004 and AA-005 demonstrate compliance with nitrogen oxide, carbon monoxide, and sulfur dioxide via stack testing. The permit required an initial stack test of AA-002 be conducted by the fourth quarter of 2003 and biennial testing of the other units on a

rotating basis thereafter. The file review revealed that Respondent performed the initial stack test of AA-002 on December 31, 2003, but failed to perform stack tests of the other units biennially thereafter. **These failures to perform the biennial stack tests are violations of the Permit, Part III Conditions (2), (3), and (4).**

- C. The Permit expired on January 31, 2007. Respondent was required by the permit to submit a permit renewal application at least 180 days before the expiration date of the permit. The facility did not submit a permit renewal application until November 16, 2009. Therefore, Respondent has been operating the facility without the required air permit. **Operation of the facility without the required permit is a violation of Air Regulation APC-S-2.**
- D. During an inspection performed on January 12, 2010, MDEQ discovered that the facility did not have on-site five years of records of stack testing, Semi-Annual Monitoring Reports, or oil throughput. **Failure to maintain these records for five years is a violation of the Permit, Part III Condition (9).**

A letter dated October 13, 2010, submitted by FCE Engineering, LLC, on behalf of Respondent, indicates the power oil system that required the use of gas-fired engines has been removed and, although the engines remain on site, they have been rendered inoperable. Based on this information, MDEQ has determined that the facility is now a true minor source. As a true minor source, the facility is no longer required to hold either a Title V Operating Permit or a Synthetic Minor Permit.

2.

In lieu of a formal enforcement hearing concerning the violation(s) listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$87,500. Further, the Respondent shall pay Title V fees and penalties in the amount of \$39,822.42. The full amount of \$127,322.42 shall be submitted in the form of a certified check or money order made payable to the MDEQ within forty-five (45) days of the execution of this Agreed Order by MDEQ's Executive

Director, or her designee. The settlement payment shall be submitted to the following address:

Mississippi Department of Environmental Quality
Attn: Mona Varner
P.O. Box 2339
Jackson, MS 39225

- B. The Respondent operates a flare that is subject to an SO₂ emission limitation of 17.4 lb/hr (24-hour average) (Ref.: State Regulation APC-S-1 §4.2(b) and §6.2 and 40 CFR 52 Subpart Z SIP revisions approved by the EPA on August 11, 1980 at 40 CFR 52.1270(c)(12). See 45 FR 46383 – 46384). Respondent shall:
- i. monitor and record continuously the hourly flow rate of gas flared in cubic feet;
 - ii. monitor and record once per month the H₂S concentration of all gas flared;
 - iii. each month, based on the most recent H₂S monitoring results, calculate an allowable hourly flow rate of gas flared equivalent to the hourly SO₂ limit;
 - iv. calculate and record the flare SO₂ emissions for each rolling 24 hour period during any flaring event involving an hourly flare gas flow equal to or greater than the flare gas flow calculated in 2.B.iii, above;
 - v. retain and make available to MDEQ upon request records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, or emission calculation; and
 - vi. report all deviations from the SO₂ emission limitation or above monitoring and recordkeeping requirements, including those attributable to upsets, the probable cause of such deviations, and any corrective actions or preventive measures taken within five (5) days of the time the deviation began.

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

4.

Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

5.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

ORDERED, this the 15 day of July, 2011.

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

BY: 
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 6th day of July, 2011.

PETCO PETROLEUM CORPORATION, WEST PACHUTA CREEK

BY: _____

TITLE: Pres

STATE OF Illinois

COUNTY OF DuPage

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named J. D. Bergman who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the President of Petco Petroleum Corporation, West Pachuta Creek and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 6th day of July, 2011.

Ellynann E. Fries
NOTARY PUBLIC

My Commission expires: November 19, 2013

