



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

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| IN THE MATTER OF: |) |
| |) U.S. EPA Docket No. |
| Greka Oil and Gas, Inc. a.k.a. Greka |) OPA 311-09-2008-0004 |
| SMV a.k.a. Greka Energy |) |
| |) |
| a Colorado Corporation, |) |
| |) |
| Respondent |) ORDER FOR REMOVAL, |
| |) MITIGATION OR PREVENTION OF A |
| Proceeding Under Section 311(c) |) SUBSTANTIAL THREAT OF |
| of the Federal Water Pollution Control Act, |) OIL DISCHARGE |
| 33 U.S.C. § 1321(c) |) |
| _____ |) |

I. AUTHORITY

1. This Order for Removal, Mitigation or Prevention of a Substantial Threat of Oil Discharge, EPA Docket No. OPA 311-09-2008-0004 (the “Order”), is issued pursuant to the authority vested in the President of the United States by Section 311(c) of the Clean Water Act, 33 U.S.C. § 1321(c), as amended (“CWA”). This authority has been delegated to the Administrator of the United States Environmental Protection Agency (“EPA”) by Executive Order No. 12777, 58 Federal Register 54757 (October 22, 1991), and further delegated to the Regional Administrator by EPA Delegation No. 2-89 and to EPA Region 9 On-Scene Coordinators by Regional Order R9 1250.30 (September 30, 1997).

2. EPA issues this Order to Greka Oil and Gas, Inc. (“Greka”), referred to herein as “Respondent.” This Order provides for the performance of removal actions in connection with

the discharge of oil from tanks located at the Williams Holding Lease, 6855 Cat Canyon Road, Santa Maria, Santa Barbara County, California (the "Site"). This Order requires Respondent to immediately conduct response actions to remove the discharge or to mitigate or prevent the substantial threat of a discharge of oil or hazardous substances into or on navigable waters or adjoining shorelines.

II. PARTIES BOUND

3. This Order applies to and is binding on Respondent, and Respondent's directors, officers, employees, agents, receivers, trustees, successors, and assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondent's responsibilities under this Order.

III. DEFINITIONS

4. Unless expressly stated otherwise, terms used in this Order shall have such meaning as may be defined in Section 311(a) of the CWA, 33 U.S.C. § 1321(a).

5. "Order" shall mean this Order for Removal, Mitigation, or Prevention of a Substantial Threat of Oil Discharge, EPA Docket No. OPA 311-09-2008-0004 and any documents incorporated herein.

6. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday.

IV. FINDINGS OF FACT AND VIOLATIONS

7. Respondent is incorporated in the state of Colorado. The registered agent for service of process on Respondent is Capitol Corporate Services, Inc. at 455 Capitol Mall Complex #217, in

Sacramento, California.

8. Respondent owns the Williams Holding Lease (the “Facility”). The Facility includes both small and large-capacity above-ground tanks for storage of crude oil and other materials associated with the production process. Several of the tanks at the Facility for which there is no secondary containment are actively leaking oil to the ground (the “Spills”). There is a large amount of crude oil on the ground in the vicinity of the tanks. There is crude oil, water, and sludge visible in several of the tanks. The Facility has not been maintained and the tanks are not structurally sound. The Facility is not secure and can be accessed directly from Cat Canyon Road.

9. The drainage from the Facility flows to either (1) an adjacent wash west of the tank farm and then into Cat Canyon Creek or (2) a pasture north of the tank farm and over the road and into Cat Canyon Creek. Cat Canyon Creek drains to Sisquoc Creek. Sisquoc Creek drains to the Santa Maria River, which drains to the Pacific Ocean.

10. The Cat Canyon Creek, Sisquoc Creek, Santa Maria River, and the Pacific Ocean are “navigable waters” and/or tributaries to navigable waters and are “waters of the United States” as defined by Section 502 of the Clean Water Act, 33 U.S.C. § 1362.

11. The Spills at the Facility pose a substantial threat to public health or welfare. The compromised structural integrity of the tanks, the fact that the tanks are actively leaking, the crude oil discharged to the ground, and the lack of secondary containment around the tanks poses a substantial threat of a release of oil into or on navigable waters and or their adjoining shorelines.

12. The work to be performed pursuant to this Order will be performed in accordance with the National Contingency Plan, 40 C.F.R. Part 300, and any appropriate Regional or Area

Contingency Plan, and is necessary to ensure the effective and immediate removal, mitigation, or prevention of a substantial threat from a discharge of oil or hazardous substance.

V. ON SCENE COORDINATOR and PROJECT COORDINATOR

13. Robert Wise, an employee of EPA Region 9, shall be the primary On Scene Coordinator (“OSC”) and shall have the authorities, duties, and responsibilities vested in the OSC by the National Contingency Plan, 40 C.F.R. Part 300. The OSC’s authority includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order. Within six (6) hours of the effective date of this Order, Respondent shall designate a project coordinator who shall be responsible for overseeing Respondent’s implementation of this Order. Respondent’s notice of designation shall include an address and telephone number for Respondent’s project coordinator. To the maximum extent possible, all oral communications between Respondent and EPA concerning the activities performed pursuant to this Order shall be directed through the OSC and Respondent’s project coordinator.

VI. WORK TO BE PERFORMED

14. Respondent shall follow the terms set forth in this Order and perform the work as required in this Order.

15. Respondent immediately shall work to ensure that oil from the Site does not further enter into navigable waters or adjacent shorelines. Respondent shall take all necessary steps to remove the discharge or threat of continued discharge of oil into such waters from the Site, including the removal of oil, oily water, oil sediments, contaminated soil, contaminated tank bottoms from the aboveground storage tanks located on site, and drums and other storage units

on site. The oil may be stored on site in portable storage tanks that are in compliance with the Santa Barbara County ordinances. The Respondent shall demolish all tanks that contained oil and dispose of the tanks off site. The Respondent shall repair all wells so that they do not pose a threat of discharge to navigable waters or adjacent shorelines .

16. Respondent shall propose necessary corrective action measures for the Site in accordance with paragraph 17 of this Order in order to ensure that there is no longer a substantial threat of a discharge of oil to the environment. Respondent shall perform the actions as approved by EPA in accordance with the process for approval stated in paragraph 19 of this Order.

17. Respondent shall submit to EPA for approval the work plans described below. The work plans shall provide a concise description of the activities Respondent will conduct in order to comply with the requirements of this paragraph, including those addressed below. The applicable deadlines are listed below. Each work plan must provide schedules for implementing and completing all tasks described within the work plan. Each work plan must provide the name of the contractor or organization that is conducting the work. Respondent shall submit the following to EPA:

- a. A work plan to describing the measures to be used to clean up, remove, and properly dispose of all oil and petroleum contamination from the Site (“Work Plan 1”). Work Plan 1 shall include a disposal plan and shall calculate the quantity of petroleum, oil, water, soil, or debris (according to the number of disposal containers used) that was generated during the Spills cleanup. Each bulk liquid tank and roll-off-bin of waste petroleum, soil, debris, or other spill-generated material shall be sampled in accordance the representative sampling guidance pursuant to EPA Document No. SW-846 Chapter 9 or protocols

provided by the Department of Fish and Game (“DFG”). Respondent must provide Work Plan 1 to EPA no later than April 20, 2008, by close of business.

- b. A sampling plan detailing how Respondent will conduct post-removal confirmation sampling (the “Sampling Plan”). As part of the Sampling Plan, Respondent shall determine background levels for the contaminants of concern in impacted areas using accepted scientific and statistical methods. The cleanup action levels shall be 1,000 parts per million (ppm) plus background for the full range of Total Petroleum Hydrocarbons (“TPH”) and the industrial Preliminary Remedial Goal plus background for any specific analytes. EPA reserves the right to lower the action level based on requirements of other municipal, county or state agencies. The samples must be analyzed for TPH (full range), heavy metals, volatile organic compounds (“VOCs”), poly aromatic hydrocarbons (“PAHs”) and semi-VOCs. All samples must be submitted to a California-approved testing laboratory. The sampling plan must include a soil and creek water sampling strategy and methodology, the number of samples to be collected, the analysis to be conducted, and a schedule. Sampling must occur in all areas impacted by the Spills and the areas beneath the tanks. The Sampling Plan shall also be subject to the approval of the DFG and the Santa Barbara County Fire Department. Copies of all data shall be sent directly to OSC Robert Wise at U.S. Environmental Protection Agency, 2250 Obispo Ave., Suite 101, Signal Hill, CA, 90755. Respondent shall provide the Sampling Plan to EPA by May 1, 2008, by close of business.
- c. The Work and Sampling plans may be incorporated into one work plan at the

discretion of Greka.

18. Respondent shall implement the following actions immediately:
 - a. Remove all liquids, sediment, soil or debris from all above-ground storage tanks, drums or other storage units. Any oil or water may be recycled or injected by Greka in accordance with the ordinances and Stop Work Orders issued by the County of Santa Barbara.
 - b. Prevent releases and impacts to the environment resulting from releases of crude oil or production water to waters of the United States and adjoining shorelines.
 - c. Remove all petroleum or petroleum-contaminated media released to the environment as a result of the Spills, including but not limited to, crude oil, produced water, debris (cleanup and demolition), and contaminated soil. Contaminated soil in the tank farm areas must be removed to a minimum depth of three feet below ground surface. Contaminated soil may be treated in-place via chemical, physical or biological methods. All excavated contaminated soil and sediment, debris, and petroleum-contaminated vegetation must be disposed of off-site to an appropriate disposal facility. Contaminated soil and sediment may be retained on-site, if Greka provides EPA with letters of beneficial reuse approval from the Santa Barbara County Fire Department and the Central Coast Regional Water Quality Control Board.
 - d. Provide a daily update to EPA OSC Robert Wise or his representative during the daily command meetings. Provide a written weekly summary of work to OSC Robert Wise at wise.robert@epa.gov. Notify EPA OSC Robert Wise as to any deviations from the work plans or Sampling Plan via e-mail.

- e. Meet all requirements pursuant to Title 29 C.F.R. § 1910.120(b) - (o): Hazardous Waste Operations and Emergency Response (HAZWOPER). Provide proof of compliance with 29 C.F.R. §§ 1910.120(b); 1910.120(e) and 1910.120(f). Provide proof of a respiratory protection program pursuant to 29 C.F.R. § 1910.134. Provide EPA with all training records, proof of medical surveillance, and, for those employees that wear respiratory protection, copies of certification that each employee is fit to wear a respirator. Provide these items to EPA 72 hours prior to the commencement of cleanup operations.
- f. Respondent shall send the work plans, the Sampling Plan, and all notices required by this Order to the address listed above in Paragraph 17.b.

19. The work plans and Sampling Plan (“Plans”) shall be reviewed by EPA and other responding agencies, which may approve, disapprove, require revisions, or modify them. If EPA requires revisions, Respondent shall submit a revised Plan within two (2) days after receipt of EPA's notification of the required revisions. Once approved, the Plans shall be deemed to be incorporated into and made a fully enforceable part of this Order. Within five (5) days after EPA approves of a Plan or any portion of a Plan or other work specified by this Order, Respondent shall begin implementation of the approved work.

20. Respondent shall perform the work necessary to complete the task(s) in this Order in accordance with the National Contingency Plan, 40 C.F.R. Part 300, and shall comply with the schedules specified in this Order and in the Plans submitted pursuant to Paragraph 17.

21. Respondent shall notify EPA of any field work being conducted in accordance with this Order at least one (1) day prior to work being performed.

VII. RESERVATION OF RIGHTS AND PENALTIES

22. This Order shall not preclude EPA from taking any action authorized by the CWA or any other applicable law. EPA reserves the right to direct all activities, and to comment on and direct off-facility shipping and disposal and all other matters related to the response action directed by this Order. Furthermore, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to the CWA or other applicable law.

23. Violation of any term of this Order or oral direction from EPA may subject Respondent to an administrative civil penalty of up to \$32,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure, under Section 311(b)(7)(B) of the CWA, 33 U.S.C. § 1321(b)(7)(B).

VIII. REPORTING REQUIREMENTS and ACCESS

24. Respondent shall submit weekly progress reports to EPA until all actions required by this Order are complete (unless otherwise directed in writing by EPA) via e-mail to the OSC at wise.robert@epa.gov. These reports shall describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, treatment and disposal information and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems. The OSC may require more frequent reports when the activities at the Site warrant a higher reporting frequency.

25. Within thirty (30) days after completion of the actions required under this Order, the Respondent shall submit, for EPA review and approval, a final report summarizing all actions taken pursuant to this Order. The final report shall conform, at a minimum, with the requirements stated in 40 C.F.R. § 300.165 (“OSC Reports”). The final report shall include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report also shall include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. *I am aware that under section 309(c)(4) of the CWA, 33 U.S.C. § 1319(c)(4), there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

26. The Respondent shall provide EPA representatives access to the Site. The Respondent also shall provide EPA representatives access to all records and documentation related to the release or threat of release at the Site or to Respondent’s implementation of this Order. Nothing in this Order limits or otherwise affects EPA’s right of access and entry pursuant to applicable

law, including the CWA, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

27. Where work under this Order is to be performed in areas owned by or in possession of someone other than the Respondent, the Respondent shall use its best efforts to obtain all necessary access agreements. Best efforts, as used in this paragraph, shall include the payment of reasonable compensation in consideration of granting access. The Respondent shall immediately notify EPA if it is unable to obtain such agreements. EPA may then assist the Respondent in gaining access using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from the Respondent for all costs and attorney's fees incurred by the United States in obtaining access for the Respondent.

IX. EFFECTIVE DATE

28. The effective date of this Order shall be the date of the receipt of this Order by the Respondent.

Robert Wise
On-Scene Coordinator
U. S. Environmental Protection Agency, Region 9

Date

cc: Mike Massey, EPA ORC
Peter Riech, EPA
Steve Calanog, EPA
Jorge Gross, DFG
Scott Adair, EPA
Pam McNulty, SBCo Petroleum
Kate Sulka, SBCoFD
Richard Todd, SBCoFD
Mike Zimmer, SBCo Project Manager

