

U.S. ENVIRONMENTAL PROTECTION AGENCY
POLLUTION/SITUATION REPORT
HARRISBURG FARM OPA SITE - Removal Polrep



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III

Subject: POLREP #2
HARRISBURG FARM OPA SITE
FPN 16316
Bradford, PA
Latitude: 41.9878007 Longitude: -78.5775566

To:
From: Vincent Zenone, On-Scene Coordinator
Date: 12/19/2016
Reporting Period: 08/01/2016 - 09/19/2016

1. Introduction

1.1 Background

Site Number:	FPN E16316	Contract Number:	
D.O. Number:		Action Memo Date:	
Response Authority:	OPA	Response Type:	Emergency
Response Lead:	EPA	Incident Category:	Removal Action
NPL Status:	Non NPL	Operable Unit:	
Mobilization Date:	7/29/2016	Start Date:	7/25/2016
Demob Date:		Completion Date:	
CERCLIS ID:		RCRIS ID:	
ERNS No.:		State Notification:	PADEP
FPN#:	E16316	Reimbursable Account #:	Z3NR

1.1.1 Incident Category

Minor discharge of crude oil from an on-shore production facility ("HARRISBURG FARM") with a continued substantial threat of discharge into or upon the navigable waters of the United States (Harrisburg Run).

1.1.2 Site Description

Harrisburg Farm is an abandoned on-shore production facility. Review of old lease maps, the facility encompasses approximately 22 ½ acres, with 30 wells depicted on the old lease maps. The OSC has located and evaluated four (4) well locations within the stream channel, adjoining shorelines, floodplain or otherwise up-gradient of Harrisburg Run and its tributaries within the abandoned on-shore production facility to date.

1.1.2.1 Location

Harrisburg Farm is located on Warrant 4008, Lot 50, Foster Twp., McKean Co., Bradford, PA

1.1.2.2 Description of Threat

Harrisburg Farm is an abandoned on-shore production facility encompassing approximately 22 ½ acres, with 30 wells depicted on the old lease maps. The OSC has located and evaluated four(4) well locations within the stream channel, adjoining shorelines, floodplain or otherwise up-gradient of Harrisburg Run and its tributaries within the abandoned on-shore production facility to date.

1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results

On 07/28/2016, the OSC further follow-up and responded to a report of discharge(s) of crude oil from leaking oil wells from an abandoned on-shore production facility. Based upon the OSCs observations, an unknown quantity of crude oil had discharged from one well, flowed overland, down-gradient, directly into Harrisburg Run and its adjoining shorelines. An unknown quantity of crude oil had discharged from a second well, flowed overland, down-gradient, directly into and the adjoining shorelines of an unnamed intermittent tributary of Harrisburg Run.

The OSC observed that there had been a discharge from and determined that the on-shore facility continued to pose a substantial threat to discharge crude oil into the navigable waters of the U.S. (Harrisburg Run) in absence of continued removal activities.

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

2.1.2 Response Actions to Date

On 07/28/2016, the OSC accessed CANAPS and obtained an initial project ceiling of \$50,000 to continue removal assessment (e.g. feasibility of removal action); continue maintenance of defensive actions to mitigate the effects of a discharge and of the substantial threat of discharge of an unknown quantity of crude oil onto the adjoining shorelines of and into Harrisburg Run; continue efforts to the extent practicable to identify PRPs; continue efforts to the extent practicable to identify and provide the RP an opportunity to voluntarily and promptly perform removal actions; and/or in absence of a RR, conduct the removal actions necessary to mitigate the effects of a discharge and of the substantial threat of discharge of crude oil onto the adjoining shorelines of and into Harrisburg Run.

On 07/28/2016, via telecoms, the OSC issued a verbal Task Order to the ERRS contractor to initiate defensive actions at leaking wells on the Harrisburg Farm. Following-up via email correspondence, the OSC submitted the Task Order paperwork to EPAR3-DPO Jackie Williams and EPAR3-CO John Robb to prepare the procurement request in the amount of \$38,000 and issue the Task Order to the ERRS contractor. The OSC commenced with an on-site preliminary reconnaissance and evaluation of four (4) well locations on the abandoned on-shore facility, and deployed defensive actions (sorbent pads and boom) to prevent additional quantities of crude oil from discharging into the navigable waters of the U.S.

On 07/28/2016: Via email correspondence USCG-NPFC Case Officer MSTC Devine informed the OSC of the USCG-NPFC position on multiple oil well cases as follows: (1) Each individual well needs to be a substantial threat or discharging into a navigable waterway and explained in detail to the USCG-NPFC before plugging is to begin; (2) If multiple land owners are involved, the OSC is required to contact the USCG-NPFC Case Officer immediately to discuss keeping charges separate per potential RP or opening an individual FPN per RP/oil well/oil wells. The OSC was aware that the USCG-NPFC intends to pursue landowner(s) on all well cases as the Responsible Party (RP). However, the PRP-search conducted by and/or at the direction of the OSC, clearly indicates that the owner and/or operator (e.g. RP) of the abandoned on-shore facility was not the current landowner(s). Via telecoms, the OSC advised USCG-NPFC Case Officer MSTC Devine that the PRP/RP identification issue(s) specific to this incident could be discussed during the Oil Response Policy and Funding (ORPF) Workgroup face-to-face meeting at the NPFC offices in Washington, DC on August 5, 2016.

On 07/29/2016, per the verbal Task Order, the Emergency and Rapid Response Services (ERRS) and ERRS oil field removal response subcontractor met the OSC at the EPA Command Post located at 655 South Avenue, in Bradford, PA at 0730 hours, in preparation to respond to the HARRISBURG FARM OPA SITE [FPN E16316] and take actions necessary to prevent, control, stabilize and mitigate the effects of actual discharges of crude oil and/or eliminate the substantial threats of discharges of crude oil into or upon the navigable waters of the United States (Harrisburg Run) or its tributaries or its adjoining shorelines from the abandoned on-shore production facility.

On August 3, 2016, as requested by the OSC, the written Task Order was issued to the ERRS contractor from EPAR3-CO Lorrie Murray.

On August 5, 2016, EPA members of the Oil Response Policy and Funding (ORPF) Workgroup met face-to-face with the USCG-NPFC at the USCG-NPFC offices in Washington, DC. PRP/RP identification issue(s) were briefly discussed, and the Workgroup agreed to meet again on April 24, 2017. Subsequent to the ORPF Workgroup meeting, the OSC reviewed the PRP-search package with and provided a copy to USCG-NPFC Case Officer MTSC Devine. The OSC indicated that "Legal Notice to Suspect Discharger" would be issued to the PRP/RP identified by the OSC, and that pending response from the PRP/RP removal actions would continue, but be limited to defensive actions at leaking wells, and continued reconnaissance and well-site-specific removal evaluations. In regards to the USCG-NPFC premise that each well should be addressed as a separate FPN or a cluster of wells on an individual surface be addressed as a separate FPN, the OSC showed USCG-NPFC Case Officer MTSC Devine the old lease maps, deeds and production records which clearly depict the 22 ½ acre on-shore production facility as a function of the lease between the OGM rights owner and the owner/operator of the facility, and not a function of surface ownership. However, the OSC indicated a cost benefit analysis would be prepared to evaluate activating each well or cluster of wells as separate FPNs, or conduct the removal action based upon the defined on-shore production facility under an OPA90 Removal Project Plan

On August 8, 2016, the "Legal Notice to Suspected Discharger" was sent certified mail to the Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana.

On August 19, 2016, one of the Trustees/Heirs responded to the OSC via voice mail message confirming receipt of the legal notice, stating that he and his sister never had anything to do with that piece of property and were not responsible.

On August 22, 2016, the other Trustee/Heir, on behalf of both Trustees/Heirs, responded to the OSC via correspondence, denying responsibility for the discharge of oil described in the legal notice, stating they never owned or had anything to do with the subject property, and therefore, were have no responsibility.

On August 22, 2016, via email correspondence to USCG-NPFC Case Officer Sean Devine, the OSC suggested that the Harrisburg Farm OPA Site [FPN E16316] in Foster Twp., McKean Co., PA would be a good candidate for an on-site consultation, suggesting the second week of September (Tuesday September 13th, Wednesday September 14th, and/or Thursday September 15th) as potential dates to meet on-site. The OSC informed the Case Officer that in the meantime, at the direction of the OSC, the EPA-hired contractor (ERRS) would continue to ground-truth locations of wells and other sources on abandoned on-shore facility; implement and maintain defensive

actions at the leaking wells which the OSC determines to have discharged or pose substantial threat of discharge into Harrisburg Run; and that the OSC would continue to make well/source-specific evaluations to determine the scope and complexity of the removal action pending an on-site consultation/meeting, with the primary topic of discussion at such meeting to determine if the removal action at the on-shore (production) facility is to be conducted under an "OPA90 Removal Project Plan" or if each well/source will require a separate activation/separate FPN.

On August 31, 2016, via email correspondence USCG-NPFC Case Officer Sean Devine advised the OSC he would not be able to travel to the Site for an on-site consultation due to other commitments. Via voice message, the OSC informed USCG-NPFC Case Officer Sean Devine of the response to the "Legal Notice to Suspected Discharger" from the Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana, and that "Notice of Federal Assumption" would be sent.

On September 19, 2016, "Notice of Federal Assumption" was issued to the Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana (e.g. current owner of the abandoned on-shore facility) by the OSC via certified mail.

2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)

In accordance with the requirements of the NCP, the OSC, to the extent practicable, made efforts to identify potentially responsible parties and provide the responsible party an opportunity to voluntarily and promptly perform removal actions.

In accordance with the definitions of Responsible Party found at Section 1001 of OPA, efforts were made to identify the persons owning or operating the onshore facility, and/or those persons who would have been responsible parties, immediately prior to the abandonment of the facility.

The OSC's efforts to identify potentially responsible parties included evaluating if the current surface or landowner(s), the current OGM rights owner(s) and/or any other person was the current owner/operator of the onshore production facility. The OSC's findings and conclusions are as follows:

Current Surface or Landowner:

Surface or land is not a facility, and therefore, the surface or land was not the source of discharge or substantial threat of discharge. Legal access to the surface or land on which the federal removal response activities have been conducted to date was obtained by the OSC verbally from the current landowner(s).

Based upon the OSC's review of information provided by the current landowner, provided by PADEP-OGMP and otherwise available at the McKean County Courthouse (deeds), the OSC concluded that the twenty-two and one-half (22 ½) acre on-shore production facility (the Harrisburg Farm) was not sold, transferred or otherwise conveyed with the surface on February 12, 2015 (Deed Book 839, Page 975), or when the surface was subsequently sold, transferred or otherwise conveyed on May 13, 2016 (Deed Book 845, Page 213)

Based upon the OSC's review of deeds and records, review of the Commonwealth of Pennsylvania Oil and Gas statutes (e.g. Pennsylvania's Oil and Gas Act [Act 223]) and oil and gas wells regulations (e.g. Chapter 78), and consultation with PADEP-OGMP, the OSC concluded that the individual elements of the Harrisburg Farm (wells, tanks, separators, piping, etc.), upon abandonment, did not automatically segregate themselves from the on-shore production facility and become separate facilities associated with the land upon which they were situated. The Commonwealth of Pennsylvania's statute (Act 223) and regulation (Chapter 78) defines "owner" as "any person who owns, manages, leases, controls or possesses any well or coal property; except that for purposes of sections 203(a)(4) and (5) and 210, the term "owner" shall not include those owners or possessors of surface real property on which the abandoned well is located who did not participate or incur costs in the drilling or extraction operation of the abandoned well and had no right of control over the drilling or extraction operation of the abandoned well. This term shall not apply to orphan wells except where the department determines a prior owner or operator benefited from the well as provided in section 210(a)."

The OSC further considered the USCG-NPFC premise that the individual components of an on-shore facility automatically "revert" to the surface or land upon which were situated. The OSC concluded, presuming in the unlikely event that the USCG-NPFC premise may be correct, if the current landowner had actually purchased the abandoned on-shore facility, or any component thereof, the landowner might be considered to be a subsequent innocent purchaser who would not be liable if the property was acquired after the placement of the oil on, in or at the real property; and/or did not know or have reason to know about the oil after having conducted all appropriate inquiries.

The OSC concluded that the current landowner was neither the person who currently owns and/or operates the on-shore facility or any individual component of the on-shore facility at the time of the federal removal response action, nor was the person who owned and/or operated the on-shore facility or any individual component of the on-shore facility immediately prior to abandonment. Therefore, the current landowner was not identified either as a potentially responsible party or the responsible party, and "Legal Notice to Suspected Discharger" was not served to the current surface or landowner(s).

Although the OSC's findings indicate that the current landowner is not a PRP or Responsible Party, the OSC looks forward towards whatever NPFC assistance can be provided to supplement or refute the findings of the OSC's PRP-search, and to facilitate and expedite the OSC's NCP requirements to identify PRPs to the extent practicable and afford the Responsible Party an opportunity to voluntarily conduct the removal action, and thus better afford the NPFC the opportunity to pursue cost recovery as may be applicable.

Current Oil, Gas and Minerals (“OGM”) Rights Owner: OGM is not a facility, and therefore, was not the source of discharge or substantial threat of discharge. Based upon the OSCs review of information available at the McKean County Courthouse (deeds), the OSC concluded that the OGM rights had been transferred to the Executors of the Estate of Milton L. Dana on July 5, 1982, and had not been subsequently transferred to the current landowner(s). Production records indicate the on-shore production facility had last been operated between July 1, 1959, and June 30, 1960, by M.L. Dana. There is no records indicating the on-shore production facility had been owned and/or operated by the current OGM Rights Owner. **Although the Trustees/Heirs were not the person who owned or operated the production facility immediately prior to abandonment, the Trustees/Heirs may be considered the person who owned the facility at the time of the federal removal response action. Therefore, the current OGM rights owner was identified as a Potentially Responsible Party and/or the Responsible Party, and, Legal Notice to Suspected Discharger was served to the current OGM rights owner.**

Current owner/operator of the onshore production facility: Title 40, Code of Federal Regulations, Part 112 as amended on December 5, 2008, and as published in the Federal Register (“FR”) on July 01, 2014[references: 67 FR 47140, July 17, 2002, as amended at 71 FR 77290, Dec. 26, 2006; 73 FR 71943, Nov. 26, 2008; 73 FR 74300, Dec. 5, 2008], provides the definition of an onshore oil and/or gas production facility as follows:

“Production facility” means all structures (including but not limited to wells, platforms, or storage facilities), piping (including but not limited to flowlines or intra-facility gathering lines), or equipment (including but not limited to workover equipment, separation equipment, or auxiliary non-transportation-related equipment) used in the production, extraction, recovery, lifting, stabilization, separation or treating of oil (including condensate) and associated storage or measurement and is located in an oil or gas field, at a facility.”

Based upon the OSCs observations of the conditions at the abandoned on-shore production facility, it is apparent that the facility ceased operating many years ago. Documentation gathered by the OSC from the McKean County Courthouse, or otherwise available to the OSC, indicated:

On October 6, 1909, three pieces of land were conveyed from Mabel S. Brown to L.G. Dana and F.M. Johnston (Deed Book 154, Page 128).

On July 1, 1910, F.M. Johnston conveyed his interest to L.G. Dana (Deed Book 154, Page 124).

On July 8, 1933, and Agreement between Lawrence G. Dana (sometimes written L.G. Dana) and Mary A. Dana and Milton L. Dana, Trustee, sold, transferred or otherwise conveyed, in addition to other certain lands, leaseholds and property mentioned and fully described in the Agreement, the lands, leasehold and property subject to this federal removal action. The Agreement conveyed the wells, tubing, casing, pipe, rods, tanks, fixtures, fittings, equipment, etc. on the lands and leaseholds. The Agreement also required that oil be produced, with certain proceeds from the sale of the oil to be used to fully pay Lawrence G. Dana. (Deed Book 225, Page 111).

Based upon the OSCs review of production records available at the McKean County Courthouse, M.L. Dana produced 8 wells on the 32 acre Harrisburg property, and ceased operating sometime between July 1, 1959, and June 30, 1960. Based upon the OSCs review of information available at the McKean County Courthouse (deeds), the OSC concluded that although the OGM rights had been transferred to the Executors of the Estate of Milton L. Dana on July 5, 1982, the on-shore production facility had not been transferred to the Executors of the Estate of Milton L. Dana. Therefore, when the Executors of the Estate of Milton L. Dana sold, transferred or otherwise conveyed the land (surface), neither the OGM or the facility was sold, transferred or otherwise conveyed.

Since 1985, the transfers of oil and/or gas well ownership in the Commonwealth of Pennsylvania are required to be in accordance with PADEP-OGMP oil and gas laws and regulations, and recorded through the submission of a Request to Transfer Well Permit or Registration form to PADEP-OGMP. Based the OSCs discussions with PADEP-OGMP, no information is expected to be found in PADEP-OGMP's records indicating that any of the wells were individually or collectively sold, assigned, transferred, conveyed or exchanged from Milton L. Dana (M.L. Dana) to any other person, or that any other person currently owns the production facility.

On February 12, 2016, the 22 ½ acre parcel of land on which the abandoned on-shore production facility was located had been conveyed from the two surviving Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana, deceased to Samuel J. McEwen (Deed Book 839 Page 975). The OGM and the wells, tubing, casing, pipe, rods, tanks, fixtures, fittings, equipment, etc. on the lands and leaseholds, were not transferred to Samuel J. McEwen via this conveyance. The 22 ½ acre parcel of land has subsequently been subdivided and the OSC currently has received verbal permission from the two (2) landowners to access the properties and conduct removal response activities (preliminary assessment, implementation of and maintenance of defensive actions).

With the principle, Milton L. Dana deceased, the OSC sent “Legal Notice to Suspected Discharger” and/or request assistance from the USCG-NPFC Case Officer to serve “Notice of Potential Liability” or “Notice of Federal Interest” to the two surviving Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana.

On August 8, 2016, the “Legal Notice to Suspected Discharger” was sent certified mail to the Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana.

On August 19, 2016, one of the Trustees/Heirs responded to the OSC via voice mail message confirming receipt of the legal notice, stating that he and his sister never had anything to do with that piece of property and were not responsible.

On August 22, 2016, the other Trustee/Heir, on behalf of both Trustees/Heirs, responded to the OSC via correspondence, denying responsibility for the discharge of oil described in the legal notice,

stating they never owned or had anything to do with the subject property, and therefore, were have no responsibility.

On September 19, 2016, "Notice of Federal Assumption" was issued to the Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana (e.g. current owner of the abandoned on-shore facility, and the person who would have been the RP immediately prior to the abandonment of the facility) by the OSC via certified mail.

2.1.4 Progress Metrics

<i>Waste Stream</i>	<i>Medium</i>	<i>Quantity</i>	<i>Manifest #</i>	<i>Treatment</i>	<i>Disposal</i>

2.2 Planning Section

2.2.1 Anticipated Activities

Pending response to the "Notice of Federal Assumption" issued to the Trustees of the Trust and heirs under the Last Will and Testament of Milton L. Dana (e.g. current owner of the abandoned on-shore facility), the OSC will complete the cost benefit analysis to evaluate activating each well or cluster of wells as separate FPNs, and/or prepare an OPA90 Removal Project Plan.

The OSC to continue removal assessment (e.g. feasibility of removal action); continue maintenance of defensive actions to mitigate the effects of a discharge and of the substantial threat of discharge of an unknown quantity of crude oil onto the adjoining shorelines of and into Harrisburg Run; continue efforts to the extent practicable to identify PRPs; continue efforts to the extent practicable to identify and provide the RP an opportunity to voluntarily and promptly perform removal actions; and/or in absence of a RP, conduct the removal actions necessary to mitigate the effects of a discharge and of the substantial threat of discharge of an unknown quantity of crude oil onto the adjoining shorelines of and into Harrisburg Run.

Removal activities are anticipated to include: the mobilization of resources to initiate defensive actions at the leaking wells identified by the OSC; documentation of conditions and defensive actions; mobilization of other additional resources to maintain defensive actions; provision of oil field expertise and logistical support for a more comprehensive evaluation of the HARRISBURG FARM OPA SITE [E16316] to better enable the OSC to prioritize a long term removal plan of action, as may be applicable, on a well-site-specific basis, including:

- (1) field-locate (ground-truth), photo-document and GPS the locations of wells, tanks, separators, pits, pipelines, piping and other facilities on-site;
 - (2) assist the OSC correlate on-site locations to locations depicted on old lease maps and other records;
 - (3) facilitate/expedite the OSC's review and interpretation of old lease maps, deeds and other records; and
 - (4) assist in the preparation of well-site-specific or source-specific descriptions, sketches, maps, photos and other requisite documents to facilitate the OSCs compliance with the MOU between EPA and the USCG and/or to ensure compliance with STATE well plugging regulations.
- a. cleaning-out and plugging of abandoned oil well(s) designated for removal actions by the OSC, including well-site restoration; ensuring that all such activities are conducted in accordance and compliance with the Commonwealth of Pennsylvania's Department of Environmental Protection - Oil & Gas Management Program regulations; with the well-site specific documentation requirements of the EPA-USCG Memorandum of Understanding; and/or other Federal, State or local requirements, as applicable;
 - b. recovery of crude oil, equipment and materials to the extent practicable; including inventory and staging of the recovered crude oil, equipment and materials in a manner which facilitates the OSC's evaluation of appropriate recycle or disposal options;
 - c. transportation of recovered crude oil, equipment and materials to recycling facilities or disposal facilities as deemed appropriate by the OSC;
 - d. on-site accumulation quantification and staging of non-biodegradable oil-contaminated sorbent materials and debris generated during the removal action for off-site disposal as deemed appropriate by the OSC; including sample collection and analysis, solicitation of disposal facilities and the transportation of the non-biodegradable oil-contaminated materials to the disposal facility;
 - e. on-site accumulation, quantification, sample collection and analysis, and bioremediation (in-situ natural attenuation) of oil-contaminated soil and debris as deemed appropriate by the OSC.
 - f. All documents generated by the contractor during the course of this federal removal response action shall include the Federal Project Number (FPN) in addition to any other designations

required by the Contract.

2.2.1.1 Planned Response Activities

2.2.1.2 Next Steps

In absence of a viable RP taking action, the OSC to direct removal response activities to remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, implementing an OPA90 Removal Project Plan.

2.2.2 Issues

2.3 Logistics Section

No information available at this time.

2.4 Finance Section

No information available at this time.

2.5 Other Command Staff

2.5.1 Safety Officer

OSC Zenone

2.5.2 Liaison Officer

2.5.3 Information Officer

3. Participating Entities

3.1 Unified Command

EPA

PADEP-OGMP

3.2 Cooperating Agencies

No information available at this time.

4. Personnel On Site

No information available at this time.

5. Definition of Terms

No information available at this time.

6. Additional sources of information

No information available at this time.

7. Situational Reference Materials

No information available at this time.