

GRCB

Monzeglio, Hope, NMENV

From: Randy Schmaltz [rschmaltz@giant.com]
Sent: Tuesday, October 17, 2006 2:20 PM
To: Monzeglio, Hope, NMENV
Cc: Ed Riege; David Kirby
Subject: Requested Information



Attachments: OCD-Assessment, Remediation, and Contingency Plan (revised) 020306.doc; EPA-CAFO -- Final Signed 5-18-06.pdf; Benzene Stripping Process Flow.TIF

Hope, here is the requested information. I have also enclosed a flow diagram from the Final "Design package" for the benzene strippers, in which the surge tank location was change as we had discussed earlier.

Thanks

Randy Schmaltz
Giant Refining Company
(505) 632-4171
(505) 320-6989 cell



Addressed in OCD Stipulated Final Order
18(a)

Assessment, Remediation and Contingency Plan
Area North of the Barrier Wall (Underground Slurry Wall)
February 3, 2006

Bloomfield Refinery, P.O. Box 159, Bloomfield, NM 87413 (the "Facility")
Owner: San Juan Refining Company; Operator: Giant Industries Arizona, Inc.
d/b/a Giant Refining Company (collectively, "Giant")

This plan presents a proposed data evaluation and action plan in response to the Oil Conservation Division's (OCD's) recent request regarding the area between the North Boundary Underground Slurry Wall (the "Barrier") and the San Juan River. As part of this plan, Giant will assess whether there is a threat to the San Juan River from residual phase separated hydrocarbons or dissolved phase hydrocarbons (collectively, "PSH") in the shallow soils and in the shallow water table perched on the Nacimiento Formation north of the Barrier and, based on the results of this assessment, take appropriate remediation action. This plan is intended as a supplement to, but does not replace, the requirements of existing regulations applicable to the Facility, including the following:

- EPA Spill Prevention, Control & Countermeasures Plan (40 CFR Part 112.7)
- EPA Facility Response Plan (40 CFR parts 112.20 and 112.21)
- EPA Risk Management Program (40 CFR Part 68)
- EPA Contingency Planning Requirements (40 CFR Parts 264, 265, and 279.52)
- USCG Facility Response Plan (33 CFR Part 154)
- DOT/PHMSA Pipeline Response Plan (49 CFR Part 194)
- DOT Emergency Response Plans (49 CFR Parts 130 and 172)
- OSHA Emergency Action Plan (29 CFR 1919.38)
- NMED/OCD Emergency Response Requirements
- Stormwater Pollution Prevention Plan (40 CFR Part 126)

The purpose of this plan is as follows:

- Evaluate the performance of the Barrier.
- Thoroughly review the on-going fluid removal, collection, and monitoring program installed in connection with the Barrier (the "Collection System").
- Based on this evaluation, recommend modifications to the Collection System as necessary, and an action plan for remediation of any PSH remaining between the Barrier and the bluffs adjacent to the San Juan River.
- Have a contingency plan in place in the event of a free-flowing liquid event.

I. Evaluate Barrier Performance and Review the Fluid Removal, Collection, and Monitoring Program

Compile all the fluid monitoring, fluid removal, water levels, fluid thickness, and water sampling results from the collection wells, observation wells, and monitoring wells. The location of PSH in all wells will be assessed and trends in detection, absence, PSH thickness, and fluid build up on both sides of the Barrier will be assessed.

The review of this data will provide a means of evaluating the performance of the Barrier and of providing data for modification of the groundwater collection, removal, and monitoring system in order to maximize the efficiency of the system.

Compilation and review of this data has begun and is ongoing.

II. Recommend Modifications of the Collection System, and Recommend an Action Plan for Remediation of PSH Remaining

A field investigation will be conducted to determine the presence of PSH fluids in the shallow soils and shallow water table north of the Barrier and to identify current seeps and soil stained along the bluff. The investigation will determine options for fluid capture and removal.

Giant has begun initial investigations and has determined that remediation efforts should include strategically placed vertical wells. These wells will serve multiple purposes. They will provide:

- A means for the collection of groundwater perched on the Nacimiento Formation, if present in sufficient quantity to allow recovery.
- Groundwater data for evaluation of the effectiveness of the Barrier.
- Information on the residual fluids for use in estimating the length of time before any remaining seepage ceases.
- Control contaminate hydrogeology by removing or lowering the water table perched on the Nacimiento Formation.

Giant will utilize sump recovery well design and construction for the new wells. Well installation will be done using hollow-stem auger methods, which allow the collection of samples, observation of material types, an indication of joint and fracture frequency in the rock, and the depth where groundwater is encountered. Giant will submit a North Barrier Wall Work Plan by February 15, 2006.

Pumping rates and the need for additional wells will be based on the local hydrogeology observed during the investigation and well installation.

Schedule

Giant has been proactive and has already started these investigation activities. A six-month evaluation of the Barrier was compiled and was sent to OCD on January 5, 2006. Giant continues to scrutinize the Barrier with examination and field measurements of the collection and observation wells take semi-monthly. Giant will summarize these activities semi-annually as previously required by NMED.

III. Contingency Plan for Free-Flowing Liquids

This plan is being implemented north of the Barrier to actively remediate groundwater contamination, prevent its uncontrolled migration to the bluff area, and eliminate the potential for overland flow from seeps along the bluff area to discharge into the San Juan River.

Bluff Inspections

Giant will perform weekly visual inspections and semi-weekly inspections during precipitation events along the San Juan River bluff to identify fluid seeps that may emerge. The treatment systems will be inspected and maintained weekly. If a flowing seep is identified during an inspection, Giant personnel will record the following information:

- Time and date the seep was identified.
- Location of the discharge relative to the San Juan River.
- Approximate flow rate of the seep (e.g., gallons per hour).
- Approximate size of the area impacted.
- Ambient conditions (temperature, rain, etc).
- Conditions that may affect response.

If the seep is within close proximity to, or may have already impacted the San Juan River, Giant will take the following emergency actions:

- Implement Giant's emergency response plan.
- Request outside assistance from emergency responders, if required (Giant has contracted with H₂O Inc., a certified OSRO responder, for this purpose);
- Contact local authorities to limit access to the river by local residents until the hydrocarbon-impacted fluids have been contained and recovered;
- Contact New Mexico Environment Department (NMED) and OCD within 24 hours of discovery to report seep and proposed mitigation actions.

Mitigation Actions and Emergency Response

Actions taken by Giant to control seeps and recover hydrocarbon fluids along the bluff will depend on whether the fluids can be contained prior to reaching the San Juan River, or have reached the river. Giant will make every practicable effort to prevent hydrocarbon fluids from reaching the river.

If hydrocarbon fluids **have not reached** the San Juan River:

- Giant will maintain an appropriate number of absorbent booms and/or pillows that will be placed immediately down-slope from the location of the fluids' expression to prevent a discharge into the river.
- If the location and access allows, temporary catchments, such as earthen or sand-bag berms lined with plastic sheet liners, will be constructed to capture and

contain the fluids. The exact type of containment implemented will depend upon access to the area of the seep expression along the bluff.

- Absorbent booms or pillows will be placed along the riverbank (above the flow channel) down-slope of the seep expression as a secondary barrier to mitigate fluids from reaching the river.
- Captured fluids will be routinely removed (e.g., by pumping) from the temporary catchments. Recovered fluids will be pumped or placed in drums or other suitable containers and transported to the refinery for recycling or disposal.
- Expended absorbent devices will be replaced when necessary. Waste absorbents will be drummed and transported to the refinery for proper disposal.
- Impacted soil will be removed, and the natural appearance of the area restored to the extent possible. Depending on access to the area of concern, the impacted soil may be removed manually (e.g., hand shovels), by using equipment from the top of the bluff (e.g., drag line), or a combination thereof. Impacted soil will be placed in drums or other suitable containers for removal from the area of concern and transport to the refinery to be characterized for proper treatment and/or disposal.

If hydrocarbon fluids **have reached** the waters of the San Juan River:

- If hydrocarbon fluids have reached the waters of the San Juan River, all applicable mitigation actions detailed above for fluids that have not reached the river will continue to be taken as well as mitigation actions detailed below.
- Floating absorbent booms will be deployed at the point of entry of the fluids to the river as soon as possible after discovery of the incident. The objective will be to mitigate further discharge of fluids to the river.
- A second floating boom will be placed across the river downstream of the point of entry and downstream of the visible floating hydrocarbon plume, if such exists. The objective will be to contain any fluids already discharged to the river.
- Any free-phase hydrocarbons that collect behind the floating booms will be removed using a skimming device (e.g., skimming pump) or other suitable means. Recovered fluids will be pumped or placed in drums or other suitable containers and transported to the refinery for recycling or disposal.
- Impacted soil along the river bank will be addressed as stated above.
- Expended absorbent devices will be replaced when necessary. Waste absorbents will be drummed and transported to the refinery for proper disposal.
- River water samples will be collected in accordance with OCD and NMED's monitoring requirements.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
06 MAY 18 PM 3:31
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF
San Juan Refining Company
d/b/a Giant Refining Company
Bloomfield Refinery

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DOCKET NO. RCRA-06-2005-0918

RESPONDENT

EPA ID No. NMD089416416

CONSENT AGREEMENT AND FINAL ORDER

I.

PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties and compliance order was instituted by EPA pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928, on September 30, 2005, by the filing of a Complaint, Compliance Order, and Notice of Opportunity for Hearing ("Complaint"). The Complaint charged San Juan Refining Company d/b/a Giant Refining Company and Bloomfield Refinery (collectively "Respondent" as further defined in Paragraph 6 below), with violating RCRA and the regulations promulgated pursuant to RCRA.

2. The Respondent admits the jurisdictional allegations of the Complaint; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or the Findings of Fact and Conclusions of Law contained in this

Consent Agreement and Final Order ("CAFO"). The Complaint states a claim upon which relief may be granted. Respondent and EPA have negotiated this CAFO to resolve the alleged violation in the Complaint and this CAFO. Respondent and EPA have resolved the alleged violations and stipulated to this CAFO on the terms and conditions set forth herein. Respondent and EPA stipulate to this CAFO for the sole purpose of resolving the alleged violations and any other violations that could have been asserted on the basis of the facts and legal conclusions alleged herein. Respondent and EPA agree that (a) settlement of the matters set forth in the Complaint and this CAFO is in the best interest of the parties and the public; and (b) entry of this CAFO without litigation is the most appropriate means of resolving this matter.

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the Complaint.

4. This CAFO resolves only those violations which were alleged in the Complaint.

5. The Respondent consents to the issuance of the CAFO hereinafter recited and consents to the Compliance Order in this CAFO and the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO.

II.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. San Juan Refining Company ("San Juan") is a wholly owned subsidiary of Giant Industries Arizona, Inc., an Arizona corporation ("Giant Arizona") that was qualified to do business in New Mexico as a foreign corporation on February 20, 1974. (San Juan and Giant Arizona are collectively referred to as "Respondent").

7. The Respondent is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 20 NMAC 4.1.100 and 40 C.F.R. § 260.10.

8. The Respondent's Registered Agent for service is CT Corporation System, 123 East Marcy, Santa Fe, NM 87501.

9. San Juan owns the real property and fixed equipment along with all contiguous land and structures, other appurtenances and improvements located at 50 County Road 4990, Bloomfield, New Mexico 87413 ("Plant"). Giant Arizona operates the Plant.

10. Respondent is the "owner" and "operator" of the Plant as defined at 20 NMAC 4.1.100 and 40 C.F.R. § 260.10.

11 Pursuant to RCRA § 3007, 42 U.S.C. § 6927, on July 17 through 20, 2000, EPA conducted a Compliance Evaluation Inspection ("Inspection") at the Respondent's Plant as part of a multi-media inspection.

12. Pursuant to RCRA § 3007, 42 U.S.C. § 6927, on February 5 through 6, 2001, EPA conducted a follow-up Compliance Evaluation Inspection at the Respondent's Plant, the focus of which was to collect samples from Respondent's waste streams.

13. During the Inspection and the follow-up Compliance Evaluation Inspection, (collectively "Inspections"), EPA inspectors concluded that Respondent operates a petroleum refinery that includes an API Separator, three Aeration Lagoons, and two Evaporation ponds.

14. Wastewater flowing from the API Separator is sent to a series of three Aeration Lagoons and subsequently to a series of two Evaporation ponds before it is eventually deep well injected.

15. EPA representatives observed Respondent's acceptance of crude oil received via trucks and pipelines, which are subsequently recycled and refined. Petroleum products are thereafter shipped out by trucks.

16. Pursuant to RCRA § 3010(a), 42 U.S.C. § 6930(a), Respondent filed its Notification of Hazardous Waste Activity with the State of New Mexico, identifying itself as a Large Quantity Generator of hazardous waste on December 12, 2002.

17. Respondent's Plant and its operations thereon is a "Facility" as is defined at 20 NMAC 4.1.100 and 40 C.F.R. § 260.10.

18. Pursuant to 20 NMAC 4.1.300, [40 C.F.R. § 262.11], a person who generates a solid waste as defined at 20 NMAC 4.1.200, [40 C.F.R. § 261.2] must determine if that waste is a hazardous waste.

19. During the Inspection of February 5 through 6, 2001, at the Facility, EPA inspectors collected samples from the API Separator Outfall, Aeration Pond #s 1 and 2, the two Evaporation Ponds and the Injection Well.

20. Using the Toxicity Characteristic Leaching Procedure ("TCLP") method set forth at 20 NMAC 4.1.200, [40 C.F.R. § 261.24], the samples were tested and four samples were over the Toxicity Characteristic ("TC") level for benzene.

21. The TC level for benzene is 0.5 (mg/L) and the analytical results from the sampling events are [11.7 (mg/L), 13.6(mg/L)] and [1.74 (mg/L), and 1.69(mg/L)], respectively from the API Separator and Aeration Pond #1.

22. Respondent therefore violated 20 NMAC 4.1.300, [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on all solid waste generated at its facility.

23. Pursuant to 20 NMAC 4.1.900, [40 C.F.R. § 270.1(c)], a RCRA permit is required for the “treatment,” “storage,” and/or “disposal,” of any “hazardous waste” as identified or listed in 20 NMAC 4.1.200, [40 C.F.R. part 261].

24. 20 NMAC 4.1.900, [40 C.F.R. Part 270 Subpart B], sets forth the general application requirements that owners and/or operators who treat, store, and/or dispose of hazardous waste must fulfill.

25. Pursuant to 20 NMAC 4.1.800, [40 C.F.R. § 268.2(c)], the application or placement of waste into a surface impoundment is defined as land disposal.

26. 20 NMAC 4.1.500, [40 C.F.R. 264.221] sets forth the design and operating requirements that are applicable to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste.

27. The Aeration Pond is a “Surface Impoundment” as defined by 20 NMAC 4.1.100, [40 C.F.R. § 260.10].

28. Pursuant to 20 NMAC 4.1.200, [40 C.F.R. § 261.24], benzene exhibits the TC if using the TCLP test Method set forth therein, the sample result is equal to or greater than 0.5 (mg/L).

29. Pursuant to 20 NMAC 4.1.800, [40 C.F.R. §§ 268.40(a) and 268.6], benzene is a prohibited hazardous waste that cannot be land disposed unless it has been treated first or the generator seeks and obtains a no-migration variance¹, or treats the waste in accordance with the treatment standards set forth at 20 NMAC 4.1.800, [40 C.F.R. § 268.48].

¹ All tentative and final EPA decisions on these no-migration variances are published in the Federal Register, as required by 20 NMAC 4.1.800, [40 C.F.R. § 268.6(j)].

30. Respondent's surface impoundments do not meet the design and operating requirements set forth at 20 NMAC 4.1.500, [40 C.F.R. § 264.221].

31. Respondent does not have a no migration variance.

32. The exceptions set forth in 20 NMAC 4.1.500, [40 C.F.R § 264.1] are not applicable to Respondent in its capacity as owner and operator of the surface impoundments identified herein.

33. Respondent does not satisfy the exceptions set forth in 20 NMAC 4.1.800, [40 C.F.R. § 268.4] for the treatment of wastes in its surface impoundments.

34. The Land Disposal Restrictions treatment standard for benzene wastewater is 0.14 (mg/L) and the analytical results from the sampling events conducted in the Aeration Pond #1 are 1.74 (mg/L) and 1.69(mg/L).

35. Respondent violated 20 NMAC 4.1.800, [40 C.F.R. Part 268] by disposing of prohibited hazardous waste in its surface impoundment.

36. Respondent disposed of hazardous waste in its surface impoundment (the Aeration Pond) without a permit in violation of 20 NMAC 4.1.900 and 20 NMAC 4.1.500, [40 C.F.R. §§ 270.1 & 270.10 and 40 C.F.R. Part 264].

III.

COMPLIANCE ORDER

37. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), the Respondent is hereby ordered to take the actions and provide evidence of compliance within the time period specified in the Compliance Actions attached hereto as Exhibit A and incorporated herein by reference.

38. In all instances in which this CAFO requires written submissions to EPA, each submission must be accompanied by the following certification signed by a "responsible official":

I certify that the information contained in or accompanying this submission is true, accurate and complete. As to those identified portions of this submission for which I cannot personally verify the truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting upon my direct instructions, made the verification, that this information is true, accurate, and complete.

For the purpose of this certification, a "responsible official" of a Respondent means a person with the authority to bind the Respondent as to the truth, accuracy, and completeness of all certified information.

39. All documents required under this CAFO shall be sent to the following persons:

Carol Peters-Wagnon, Section Chief
Hazardous Waste Enforcement Branch (6EN-HS)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attention: Ron Shannon

Marcia E. Moncrieffe (6RC-EW)
Attorney
Office of Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

State Enforcement Contacts
Ms. Anna Maestas
Mr. David Cobrain
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive, East Bldg.
Santa Fe, NM 87505

IV.

TERMS OF SETTLEMENT

A. PENALTY PROVISIONS

1. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the seriousness of the alleged violations, Respondent's full compliance history and good faith efforts to comply with the applicable regulations, the October 1990 RCRA Civil Penalty Policy, and other factors as justice requires, EPA has determined that an appropriate civil penalty is, and it is ordered that the Respondent be assessed a civil penalty of, Seventy-Five Thousand Dollars (\$75,000.00).

2. The penalty shall be paid by mailing a cashier's or certified check payable to the Treasurer of the United States of America, within thirty (30) days of the effective date of this CAFO, to the following address:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
P.O. Box 371099M
Pittsburgh, PA 15251

The case name and docket number (In the Matter of Giant, Docket No. RCRA 06-2005-0918)
shall be clearly typed on the check to ensure proper credit.

3. The Respondent may choose to pay the full assessed civil penalty via FedWire Electronic Funds Transfer ("EFT"). If Respondent chooses this option it shall submit the EFT to the following:

Mellon Bank
ABA 043000261
Account: 9109125
22 Morrow Drive
Pittsburgh, PA 15235
Telephone: 412-234-4381

At the time of the EFT payment, Respondent shall simultaneously send written notice of payment and a copy of any transmittal document (which should reference the EPA docket number) in accordance with subparagraph 2 above.

4. The Respondent shall send a simultaneous notice of such payment, including a copy of the cashier's or certified check to the following individuals:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Carol Peters-Wagnon, Section Chief
Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attention: Ron Shannon

Your adherence to this request will ensure proper credit is given when penalties are received in the Region.

5. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid

within thirty (30) calendar days of the effective date of the CAFO and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b).

6. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. GENERAL PROVISIONS:

1. PARTIES BOUND

a. The provisions of this CAFO shall apply to and be binding upon the parties to this action, their officers, directors, agents, employees, successors, and assigns. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO, to execute this CAFO, and to legally bind that party to it.

2. STIPULATED PENALTIES

a. In addition to any other remedies or sanctions available to EPA, if the Respondent fails or refuses to comply with any provision of this CAFO, the Respondent shall pay stipulated penalties in the following amounts for each day during which each failure or refusal to comply

continues:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 1,000.00
16th through 30th day	\$ 5,000.00
31st day and beyond	\$ 10,000.00

Penalties shall accrue from the date of the noncompliance until the date the violation is corrected, as determined by EPA.

b. The payment of stipulated penalties shall be made by mailing a cashier's, certified, or company check payable to the Treasurer of the United States, within thirty (30) days of receipt of a demand letter for payment to the following address:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
P.O. Box 371099M
Pittsburgh, PA 15251

The case name and docket number (In the Matter of Giant, Docket No. RCRA 06-2005-0918

shall be clearly typed on the check to ensure proper credit). The Respondent shall send

simultaneous notices of such payments, including copies of the cashier's, certified or company check to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Hazardous Waste Enforcement Branch (6EN-HS)
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attention: Ron Shannon

Chief, Water/RCRA Legal Enforcement Branch (6RC-EW)
Office of Regional Counsel
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Adherence to these procedures will ensure proper credit when payments are received. In addition, the provisions of Section IV concerning interest, penalties, and administrative costs also apply.

c. In addition to the stipulated penalties set forth above, EPA specifically reserves the right to seek other remedies or sanctions available to the EPA by reason of the Respondent's failure to comply with the requirements of this CAFO, including sanctions that EPA may seek under Section 3008 of RCRA, 42 U.S.C. § 6928.

d. If the Respondent disputes the basis for imposition of stipulated penalties, the issue shall be resolved under the Dispute Resolution procedures of this CAFO. All stipulated penalties shall continue to accrue through the period that dispute resolution is ongoing. Invoking dispute resolution shall not stay the accrual of stipulated penalties; however, the obligation to pay shall be stayed pending resolution of the dispute.

3. DISPUTE RESOLUTION

a. If the Respondent objects to any decision or directive of EPA in regard to Sections III or IV, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within fifteen (15) calendar days of receipt of EPA's decision or directive:

Chief, Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Chief, Water/RCRA Legal Enforcement Branch (6RC-EW)
Office of Regional Counsel
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

b. The Hazardous Waste Enforcement Branch Chief or his designee (Branch Chief), and the Respondent shall then have an additional fifteen (15) calendar days from EPA's receipt of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Branch Chief and the Respondent, the agreement shall be reduced to writing and signed by the Branch Chief and the Respondent and incorporated by reference into this CAFO.

c. If no agreement is reached between the Branch Chief and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and Enforcement Division or his/her designee (Division Director). The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and Respondent and incorporated by reference into this CAFO. If the Division Director and the Respondent are unable to reach agreement within this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the CAFO.

d. If the Dispute Resolution process results in a modification of this CAFO, the modified CAFO must be approved by the Regional Judicial Officer and filed pursuant to Section IV.B.5 (Modification).

4. NOTIFICATION

a. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other party that another individual has been designated to receive the communication:

EPA: Hazardous Waste Enforcement Branch (6EN-H)
 Compliance Assurance and Enforcement Division
 U.S. EPA - Region 6
 1445 Ross Avenue
 Dallas, TX 75202-2733
 Attention: Ron Shannon

Respondent: Refinery Manager
 Bloomfield Refinery
 #50 Road 4990
 Bloomfield, NM 87413

5. MODIFICATION

a. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approved by a Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

6. RETENTION OF ENFORCEMENT RIGHTS

a. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

b. Except as specifically provided in this CAFO, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants at or from Respondent's facility.

Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

7. INDEMNIFICATION OF EPA

a. Neither EPA nor the United States Government shall be liable for any injuries or damages to person or property resulting from the acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns, or contractors in carrying out the activities required by this CAFO, nor shall EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out the activities required by this CAFO.

8. RELEASE OF RESPONDENT

a. This CAFO constitutes a settlement by EPA of all claims for civil penalties and injunctive relief pursuant to Section 3008(a) RCRA, 42 U.S.C. § 6928, for the violations alleged in the Complaint and in this CAFO, and for the areas of concern as set out in the Inspections conducted at the Respondent's Plant by EPA.

9. RECORD PRESERVATION

a. The Respondent shall preserve, during the pendency of this CAFO, all records and documents in its possession or in the possession of its divisions, employees, agents, contractors, or successors which in any way relate to this CAFO regardless of any document retention policy to the contrary.

10. COSTS

a. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L.104-121), and any regulations promulgated pursuant to those Acts.

10. TERMINATION

a. At such time as the Respondent believes that it has complied with all terms and conditions of this CAFO, it may request that EPA concur that the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within 90 days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondent has been notified by the EPA in writing that this CAFO has been satisfied and terminated.

11. EFFECTIVE DATE

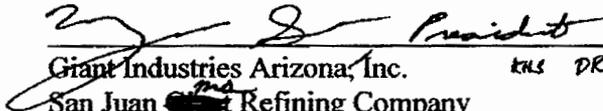
a. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT

AGREEMENT AND FINAL ORDER:

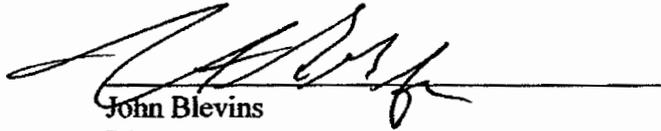
FOR THE RESPONDENT

Date: 5/17/06


Giant Industries Arizona, Inc. *KMS DRK*
San Juan ~~Refining~~ Refining Company
d/b/a Giant Refining Company
Bloomfield Refinery

FOR THE COMPLAINANT

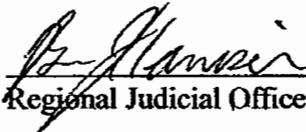
Date: 5-12-06


John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 5-18-06



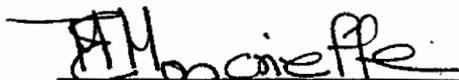
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 18 day of May, 2006, the original of the foregoing Consent Agreement and Final Order ("CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 7004 1160 0003 0359 3332

Edmund H. Kendrick, Esq.,
Montgomery and Andrews, P.A.
P.O. Box 2307
Santa Fe, NM 87504-2307
(505) 982 3873



Marcia E. Moncrieffe
Assistant Regional Counsel

EXHIBIT A

COMPLIANCE ACTIONS

I. Background on Current System

The process sewers and drains within the refinery collect hydrocarbons and water and route these fluids to the API separator where solids are settled out and oil is recovered from the waste water. The water then flows by gravity through a series of three aeration units, where the water is mechanically aerated to remove dissolved hydrocarbons and to promote biological action on any solids entering these units. Also at the aeration units, hydrocarbons are collected with the aid of oil booms and removed via vacuum truck. These hydrocarbons are returned to the API separator for the recovery of oil and the return of that oil to the refining process.

II. Actions to be Taken by Giant

A. Installation of a Tank

- (1) Will receive water flowing by gravity from the existing water outlet trough on the API separator.
- (2) Primary purpose will be to provide surge control in a heavy rain event.
- (3) The tank, which will be installed with either a floating or fixed roof, will comply with all applicable air quality regulations.
- (4) Estimated volume of the tank will be 10,000 barrels.

B. Installation of Two Pumps

- (1) Will create suction from the tank to pump waste water from the tank to the benzene air strippers.
- (2) One pump will handle the normal waste water flow in the range of 100-150 gallons per minute ("gpm").
- (3) The other pump will serve as a spare, but will be sized at a higher rate to handle surge water.
- (4) Both pumps will normally feed water to the benzene air strippers, but could also pump directly into the first aeration unit, if the benzene level in the water being pumped from the tank is below 500 parts per billion ("ppb").

C. Installation of Two Benzene Air Strippers

- (1) Will be installed to operate either in parallel or in series.
- (2) Each will be capable of handling a water flow of 200 gpm with a benzene reduction efficiency of approximately 95%.
- (3) Each will be linked to an air blower, which is integral to the operation of each benzene air stripper.
- (4) Each will comply with all applicable air quality regulations.
- (5) The benzene level in effluent water from the benzene air strippers flowing into the first aeration unit will be below 500 ppb.

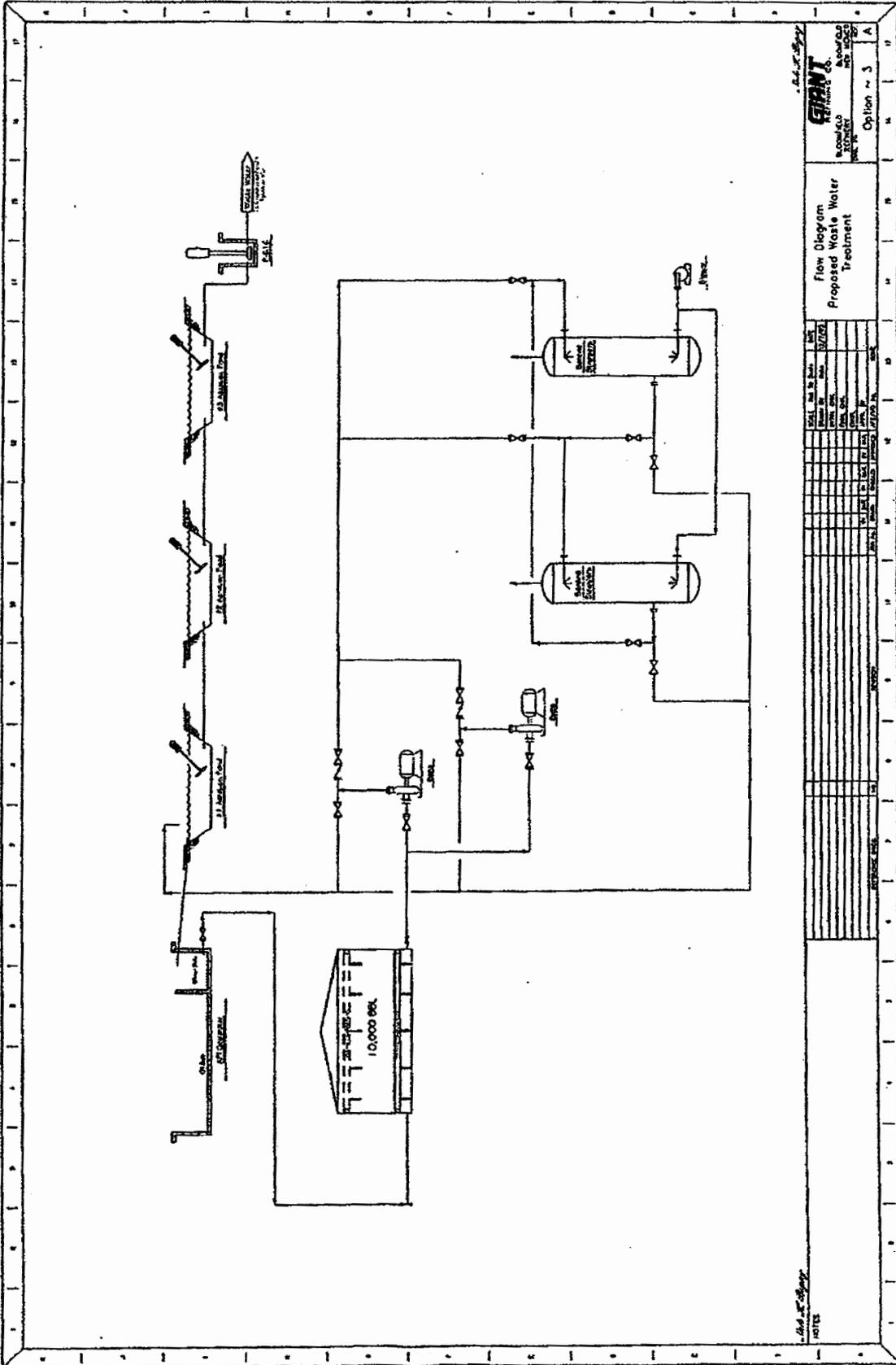
III. Plans and Specifications

- A. **Preliminary Flow Diagram** – Attachment 1 to this Exhibit A is a preliminary flow diagram prepared by in-house Giant personnel.
- B. **Final Plans with Specifications** – Detailed plans with specifications will be prepared by Giant's engineering consultant.

IV. Schedule

- A. Final plans with specifications and a sampling plan will be completed and submitted to EPA for review within three months following the effective date of this CAFO. Installation of the equipment will not begin until at least 30 days after EPA has received the sampling plan. The purpose of the sampling plan will be to demonstrate that water flowing into the first aeration unit will be below 500 ppb. The plan will include more frequent sampling immediately following commencement of operation of the equipment and will be consistent with appropriate EPA sampling and analysis methods and quality control requirements.
- B. Purchase and installation of the equipment and commencement of operation of the equipment will occur within fourteen months following the effective date of this CAFO.
- C. A report of these compliance actions will be provided to EPA within twenty four months following the effective date of this CAFO. The report will cover the first six months of operation of the equipment, will include as-built drawings of the equipment and will describe performance of the equipment relative to a benzene concentration of below 500 ppb in water flowing into the first aeration unit.

V. Costs – Giant estimates that the cost of the entire project, including the costs of consulting engineers but excluding the costs of in-house personnel, will be approximately One Million Two Hundred Thousand Dollars (\$1,200,000.00).



Flow Diagram
Proposed Waste Water
Treatment

Option ~ 3

GRANT
ENGINEERING CO.
INCORPORATED
1000 W. 10th St.
DENVER, CO. 80202

NO.	DATE	DESCRIPTION	BY	CHKD.
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