

NANCY J. MARVEL
Regional Counsel

EDGAR P. CORAL
Assistant Regional Counsel
U. S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105
(415) 972-3898

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

_____)	
In the matter of:)	DOCKET NO. UIC-09-2006-0003
)	
Greka Integrated, Inc.,)	CONSENT AGREEMENT
)	AND FINAL ORDER
Respondent.)	pursuant to 40 C.F.R. §§ 22.13(b),
)	22.18(b)(2), and 22.18(b)(3)
_____)	

CONSENT AGREEMENT

I. STATUTORY AUTHORITY

This Consent Agreement and Final Order is issued under the authorities vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Sections 1423(c) and 1445(a) of the Safe Drinking Water Act (the “Act”), 42 U.S.C. §§ 300h-2(c), 300j-4(a). The Administrator has delegated these authorities to the Regional Administrator of EPA Region IX. The Regional Administrator in turn has delegated these authorities to the Director of the Water Division, EPA Region IX. In accordance with these authorities, and with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. Part 22 (the “Consolidated Rules of Practice”), the Director of the Water Division, EPA Region IX, hereby issues, and Greka Integrated, Inc. (“Respondent”) hereby agrees to the issuance of, this Consent Agreement and Final Order (“CA/FO”).

II. STIPULATIONS AND FINDINGS

Respondent stipulates, and EPA finds, as follows:

1. Pursuant to Part C of the Act, 42 U.S.C. §§ 300h-300h-8, EPA has promulgated regulations establishing minimum requirements for Underground Injection Control (“UIC”) programs to prevent underground injection that endangers drinking water sources. These regulations are set forth at 40 C.F.R. Part 144.
2. “Underground injection” means the subsurface emplacement of fluids by well injection. 42 U.S.C. § 300h(d)(1), 40 C.F.R. § 144.3.
3. Pursuant to Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), and 40 C.F.R. § 19.4, EPA may issue an order assessing an administrative civil penalty, or requiring compliance, against any person who violates the Act or any requirement of an applicable UIC program. In assessing a penalty for such violations, EPA must take into account: (1) the seriousness of the violations; (2) the economic benefit resulting from the violations; (3) the history of such violations; (4) any good faith efforts to comply with the applicable requirements; (5) the economic impact of the penalty on the violator; and (6) such other matters as justice may require. 42 U.S.C. § 300h-2(c)(4)(B).
4. UIC wells are defined by the types of fluids they inject. Class I UIC wells are defined at 40 C.F.R. § 144.6(a) as “(1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water; (2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water; OR (3) Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.”
5. Class II UIC wells are defined at 40 C.F.R. § 144.6(b) as “wells which inject fluids: (1) which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection; OR (2) for enhanced recovery of oil or natural gas.”
6. Pursuant to 40 C.F.R. §§ 144.11 and 144.31(a), all Class I and II UIC wells must either have an operating permit or be “authorized by rule” prior to injection activities.
7. Pursuant to Section 1422(c) of the Act, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.251, EPA administers the UIC program in the State of California for Class I, III, IV, and V

wells. This UIC program consists of the program requirements of 40 C.F.R. Parts 124, 144, 146, 147 (Subpart F), and 148.

8. Pursuant to Section 1422(c) of the Act, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.250, the California Division of Oil, Gas, and Geothermal Resources (“CDOGGR”) received delegation to administer the UIC program for Class II wells in the State of California on June 25, 1984.

III. ALLEGATIONS

9. Respondent’s principal activities are production, exploration, and development of oil and gas. Respondent produces crude oil, processes crude oil by removing water, and produces a full line of asphalt products and by-products. These products are sold as raw materials to other refineries that further process them for incorporation into final products. Respondent’s primary activities are conducted in California.

10. Respondent owns the Santa Maria Refining Facility (the “Refinery”) and operates 186 Class II UIC wells in Santa Barbara County, California. All of Respondent’s Class II UIC wells are permitted by CDOGGR.

11. Refinery processing is not an integral part of oil production operations. 40 C.F.R. § 144.6(b). Therefore, refinery wastewater is not a Class II UIC fluid. Any Class II UIC fluid that enters a refinery becomes a Class I industrial fluid under the UIC regulations and cannot be disposed of through a Class II injection well.

12. EPA has determined that Respondent disposed of Refinery wastewater (a Class I UIC fluid) into a Class II injection well in the Union Sugar lease area near the Refinery. Specifically, the Refinery wastewater was pumped from the Refinery to a Union Sugar lease Class II injection well via a dedicated pipeline from approximately April 6, 2001 until at least December 10, 2003. The Class II injection well is permitted by CDOGGR for the disposal of Class II fluids, but is not permitted for the disposal of Class I fluids. Injection of Class I fluids into a Class II well by Respondent violates 40 C.F.R. §§ 144.11 and 144.31(a).

13. EPA has determined that Respondent disposed of Refinery wastewater (a Class I UIC fluid) into a Class II UIC well in the Morganti lease area. Specifically, on October 18 and 19, 2003, CDOGGR observed the Refinery wastewater being hauled from the Refinery to the Morganti lease area’s Class II injection well through the use of vacuum trucks. The Class II injection well is permitted by CDOGGR for the disposal of Class II fluids, and is not permitted for the disposal of Class I fluids. Injection of Class I fluids into a Class II well by Respondent violates 40 C.F.R. §§ 144.11 and 144.31(a).

14. On December 10, 2003, Respondent submitted an application to discharge Class I Refinery wastewater into two wells in the Union Sugar Lease area.

IV. PROPOSED ORDER

Respondent and EPA agree to issuance of the following order:

A. Compliance Requirements

15. Respondent shall cease all underground injection for disposal of Refinery wastewater pending any future EPA authorization of such disposal.

B. Penalty

16. To account for the violations set forth in the allegations section of the Consent Agreement, Respondent agrees to pay to the United States an administrative civil penalty of ONE HUNDRED TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$127,500), no later than thirty days following the effective date of the Final Order (the "Due Date").

17. The administrative civil penalty referred to in paragraph **16** shall be made payable via money order or certified check made payable to the Treasurer, United States of America. Respondent shall tender the payment via certified mail to:

U.S. Environmental Protection Agency, Region IX
P.O. Box 371099M
Pittsburgh, PA 15251

18. Respondent shall note on the money order or certified check the title and docket number of this case and mail photocopies of the money order or certified check via certified mail to:

Danielle Carr
Regional Hearing Clerk (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Eric Byous
Water Division (WTR-9)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Edgar Coral
Office of Regional Counsel (ORC-2)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

19. Payment must be received at the address referred to in paragraph **17** on or before the Due Date specified in paragraph **16**.

20. If full payment is not received on or before the Due Date, Respondent shall also pay a stipulated penalty to EPA. The amount of the stipulated penalty will be TWENTY-FIVE THOUSAND DOLLARS (\$25,000), and will be immediately due and payable on the day following the Due Date together with the initially assessed civil administrative penalty of ONE HUNDRED TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$127,500), resulting in a total penalty due of ONE HUNDRED FIFTY-TWO THOUSAND, FIVE HUNDRED DOLLARS (\$152,500).

21. In addition, if full payment is not received on or before the Due Date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the Due Date through the date of payment. Moreover, a late payment handling charge of \$15.00 will be assessed for each thirty-day period (or any portion thereof) following the Due Date in which the balance remains unpaid, and a six percent (6%) per annum penalty will also be applied on any principal amount not paid within ninety days of the Due Date. Respondent shall tender any interest, handling charges, or late penalty payments in the same manner as described above.

22. Pursuant to Section 1423(c)(7) of the Act, 42 U.S.C. § 300h-2(c)(7), if Respondent fails to pay by the Due Date the administrative civil penalty assessed in paragraph **16** of this CA/FO, EPA shall bring a civil action in an appropriate district court to recover the amount assessed (plus stipulated penalties, costs, attorneys' fees, and interest). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. 42 U.S.C. § 300h-2(c)(7).

C. General Provisions

23. Respondent waives any right to a hearing under Section 1423(c)(3) of the Act, 42 U.S.C. § 300h-2(c)(3). For the purposes of this proceeding, Respondent waives any right to contest the allegations contained in the Consent Agreement, or to appeal the CA/FO.

24. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Consent Agreement and agrees not to contest, in any administrative or judicial forum, EPA's jurisdiction over the subject matter of this CA/FO or over Respondent.

25. Respondent neither admits nor denies the specific factual allegations set forth in the Consent Agreement.

26. Respondent consents to the issuance of this CA/FO and the terms and conditions specified herein, including payment of the administrative civil penalty in accordance with the terms and conditions of this CA/FO.

27. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement.

28. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives, employees, and successors or assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO.

29. Respondent shall not deduct the administrative civil penalty, nor any interest, handling fees, or late penalty payments provided for in this CA/FO from its federal, state, or local income taxes, nor shall Respondent allow any other person to use such payment as a tax deduction.

30. This CA/FO does not constitute a waiver, suspension, or modification of the requirements of any federal, state, or local statute, regulation, or condition of any permit issued thereunder, including all applicable requirements of the Act and its accompanying regulations.

31. Issuance of this CA/FO does not affect the right of EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Full payment of the penalty proposed in this CA/FO shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Consent Agreement.

32. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO, as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in any actions against Respondent for non-compliance with this CA/FO.

33. Each party hereto shall bear its own costs and attorneys fees incurred in this proceeding.

D. Effective Date

34. The effective date of this CA/FO shall be the date that the Final Order is filed.

FOR THE CONSENTING PARTIES:

For Greka Integrated, Inc.

SUSAN M. WHALEN
Vice President Asset Management
& General Counsel
Greka Integrated, Inc.
6527 Dominion Road
Santa Maria, CA 93454

Date: _____

For the United States Environmental Protection Agency:

ALEXIS STRAUSS
Director, Water Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Date: _____

FINAL ORDER

EPA and Greka Integrated, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED THAT:

1. This CA/FO (Docket No. UIC-09-2006-0003) be entered; and
2. Respondent shall pay an administrative civil penalty of ONE HUNDRED TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$127,500), and comply with the terms and conditions set forth in the Consent Agreement.

This Final Order shall become effective on the date that it is filed. This Final Order constitutes full adjudication of the Order issued by EPA in this proceeding.

JOANNA DELUCIA
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Date: _____