UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

APR 10 2018

Bruce Berwager
Vice President of Operations
Beta Operating Company, LLC
111 West Ocean Blvd., Suite 1240
Long Beach, CA 90802

7016 1370 0000 2234 5441

Dear Mr. Berwager:

Subject: Final Administrative Order on Consent for Platforms Elly and Ellen, Facility No. CAF001148 and Facility No. CAF001147, NPDES General Permit CAG280000, Docket No. CWA-309-2018-0002

Enclosed with this letter is a copy of the final and signed version of the Administrative Order on Consent ("AOC") previously discussed with you and your staff on March 29, 2018. The AOC requires Beta Operating Company, LLC dba Beta Offshore ("Beta"), associated with National Pollutant Discharge Elimination System General Permit CAG280000, to make changes to its produced water sampling protocol, conduct training to relevant staff, and make amendments to a previously submitted Discharge Monitoring Report ("DMR"). As the AOC was signed on April 10, 2018 by EPA, the following table shows the key dates related to this AOC:

Key Dates	Administrative Order on Consent, No. CWA-309-2018-0002
April 10, 2018	AOC signed by EPA
May 10, 2018	• Beta shall rewrite and implement sampling protocol for Discharge 002 and submit new sampling protocol for EPA approval. • Beta shall amend and resubmit August 2016 DMR.
June 11, 2018	Beta shall submit a final report for EPA approval that describes all actions Beta has taken to comply with the AOC.

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To ensure satisfactory completion of the AOC, please submit relevant documents electronically to both Colby Tucker in the Enforcement Division (email at Tucker.WilliamC@epa.gov) and Desean Garnett in the Office of Regional Counsel (email at Garnett.Desean@epa.gov).

We appreciate your cooperation and prompt attention to this matter. If you have any questions, please do not hesitate to contact us.

Sincerely,

Ken Greenberg, Manager
Water Enforcement Section I

Enclosure: Signed Copy of AOC
cc (w/ enclosure via email):
James Salmons, Bureau of Safety and Environmental Enforcement, Pacific OCS Region

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, California 94105

IN THE MATTER OF:	)	DOCKET NO. CWA-309-2018-0002
	)	
Beta Operating Company, LLC	)	
dba Beta Offshore	)	**ADMINISTRATIVE ORDER ON CONSENT**
Long Beach, California	)	
	)	
Respondent.	)	*Proceeding under Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a)*
	)	
	)	
	)	

ADMINISTRATIVE ORDER ON CONSENT

I. STATUTORY AUTHORITY

1. Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a), provides that, whenever the U.S. Environmental Protection Agency (EPA) finds that any person is in violation of any condition or limitation which implements, *inter alia*, Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, the EPA may issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that the EPA determines to be reasonable.

2. The following Findings of Fact and Determinations of Law are made and this Administrative Order on Consent (AOC) is issued pursuant to the authority vested in the EPA by Section 309(a) of the CWA, 33 U.S.C. § 1319(a), as amended. This authority has been delegated to the Regional Administrator of the EPA, Region IX, and further delegated by the Regional Administrator to the Director of the Enforcement Division of the EPA, Region IX.

II. STATUTORY AND REGULATORY FRAMEWORK

3. CWA Section 301(a), 33 U.S.C. § 1311(a), makes it unlawful for a person to discharge pollutants from a point source into waters of the United States, except as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

4. CWA Section 402, 33 U.S.C. § 1342, establishes the NPDES program and authorizes the EPA and authorized states to issue permits governing the discharge of pollutants from point sources into waters of the United States. Pursuant to 40 C.F.R. 122.28(c)(1), EPA Regional Administrators are required to issue general permits covering discharges from offshore oil and gas exploration and production facilities within the Region's jurisdiction.

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5. A person means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body. See 33 U.S.C. § 1362(5).

6. Pollutant means, among other things, "solid waste," "chemical wastes," "biological materials," "radioactive materials," "sand," and "industrial waste." See 33 U.S.C. §1362(6).

7. A point source means any discernible, confined, and discrete conveyance, including but not limited to any pipe or other conduit, from which pollutants are or may be discharged. See 33 U.S.C. § 1362(14).

8. The term "discharge of a pollutant" and the term "discharge of pollutants" each means any addition of any pollutant to waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft. See 33 U.S.C. § 1362(12)(B).

9. Contiguous zone means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone. See 33 U.S.C. § 1362(9).

10. Ocean means any portion of the high seas beyond the contiguous zone. See 33 U.S.C. § 1362(10).

11. On December 20, 2013, EPA, Region 9, issued NPDES General Permit No. CAG280000, *Authorization to Discharge under the National Pollutant Discharge Elimination System for Oil and Gas Exploration, Development, and Production Facilities*, herein after, "General Permit" which became effective on March 1, 2014. The General Permit applies to existing development and production platforms, and new exploratory drilling operations in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category under 40 C.F.R. Part 435, subpart A, discharging to specified lease blocks which are located in Federal waters off the Southern California coast, seaward of the outer boundary of the territorial seas.

12. Development and production, and exploration facilities located on the platforms covered in Part I.A.3 the General Permit are required to submit a written notification of intent to be covered under the General Permit no later than 30 days after the effective date of the Permit. See General Permit Part I.A.6.a.

III. FINDINGS OF FACT AND DETERMINATIONS OF LAW

13. Respondent is a limited liability company formed under the laws of Delaware and is a "person" within the meaning of CWA § 502(5), 33 U.S.C. § 1362(5).

14. At all times relevant to this action, Respondent owned and/or operated a wellbore production platform, referred to as platform Ellen, and a production handling and processing platform, referred to as platform Elly. Platforms Ellen and Elly are located approximately 11 miles off the coast of Long Beach, California in the Pacific Outer Continental Shelf in the Pacific Ocean, hereinafter "Facility."

15. Respondent and its predecessors have been engaged in the production of crude oil at the Facility. Respondent's operations at the Facility fall within activities classified under SIC Code 1311 – Crude Petroleum and Natural Gas and is subject to the regulatory requirements of the

Offshore Subcategory of the Oil and Gas Extraction Point Source Category under 40 C.F.R. Part 435, subpart A.

16. The Facility discharges at least four types of wastewater:

a. Produced Water (Discharge 002);

b. Domestic and Sanitary Wastes (Discharge 005);

c. Fire Control System Water (Discharge 008); and

d. Noncontact Cooling Water (Discharge 009).

17. Platform Elly treats produced water (Discharge 002 under the General Permit) through a five-step process. Produced water flows through a free-water knockout, heater treater, a skim tank, and a floatation cell (WEMCO model 120) which progressively enhances oil/water separation. From the WEMCO, the produced water flows to the Filtered Produced Water Surge Tank, tank S-03. Produced water is then pumped to injection wells, but when injection pumps fail and tank S-03 exceeds capacity, produced water flows to a final separation vessel called the "Emergency Sump", which is a 243 barrel vessel with an open-bottom to the Pacific Ocean. Such a conveyance is a "point source" within the meaning of CWA § 502(14), 33 U.S.C. § 1362(14).

18. Sanitary waste and most of the domestic waste (Discharge 005) is routed to the Marine Sanitation Device on Platform Ellen for treatment and discharge. Other domestic waste, namely wastewater from laundry, is commingled with produced water.

19. When the Platform Elly's fire control system is active, the platform discharges fire control system water (Discharge 008). Fire control system water originates as seawater pumped through the main seawater intake and is routed through the fire control system. If this water is discharged on deck during testing, then it is comingled with deck drainage which is collected into a sump tank.

20. Noncontact cooling water discharges from both platforms Elly and Ellen (Discharge 009). This water originates as seawater pumped through the main seawater intake and is pumped through various pipes to cool equipment. Operators at the Facility add between 0.2 – 0.5 ppm of chlorine to the seawater pumps as a biofilm inhibitor.

21. Wastewater discharges from the Facility include produced water (which contains oil and grease, zinc), domestic waste, sanitary waste, fire control system water, and noncontact cooling water, and therefore contain "pollutants," as defined by CWA § 502(6), 33 U.S.C. § 1362(6).

22. All wastewater discharges from the Facility enter directly into the Pacific Ocean, beyond the territorial seas and within the contiguous zone within the meaning of CWA § 502(9) and (10), 33 U.S.C. § 1362(9) and (10).

23. Respondent's discharge of wastewater into the Pacific Ocean constitutes a "discharge of pollutants" within the meaning of CWA § 502(12)(B), 33 U.S.C. § 1362(12)(B).

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24. On March 31, 2014, Respondent submitted a Notice of Intent for Platforms Ellen and Elly to each be independently covered by the General Permit and received coverage for Platform Ellen (CAF001147) and Platform Elly (CAF001148).

25. The General Permit requires:

a. Part III.A of the General Permit requires that monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit. 40 C.F.R. § 122.41(j)(4). EPA Method 1664, (Oil and Grease) states "A 1-L sample is acidified to pH<2 and serially extracted three times with n-hexane in a separatory funnel." See 40 C.F.R. § 136.3, Table IB. Samples taken to be analyzed for oil and grease must be cooled to ≤6°C. See 40 C.F.R. §136.3, Table II. Furthermore, EPA Method 200.8 requires that zinc analysis be performed with a separate sample container using nitric acid (HNO_3) as a preservative.

b. Part III.B of the General Permit requires that samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. 40 C.F.R. § 122.41(j)(1).

c. Part II.B.5.a of the General Permit establishes discharge limitations for produced water where effluent must not exceed a monthly average of 29 mg/l for oil and grease and a daily maximum of 42 mg/l for oil and grease. 40 C.F.R. § 435.13.

d. Part II.B.5.b of the General Permit states that the term *maximum for any one day* as applied to BPT, BCT and BAT effluent limitations for oil and grease in produced water shall mean the maximum concentration allowed as measured by the average of four grab samples collected over a 24-hour period that are analyzed separately. Alternatively, one grab sample may be taken instead of four samples. If only one grab sample is taken for any one week, it must meet the maximum for any one day limit. If four samples are taken for oil and grease over a 24-hour period, the maximum value for reporting purposes under Part III.A.2.a.i. of the permit is the average of the four samples rather than the maximum of the four samples.

e. Part III.D. of the General Permit requires that if the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 C.F.R. Part 136 or as specified in this permit, the permittee shall include the results of this monitoring in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR.) 40 C.F.R. § 122.41(l)(4)(ii).

26. On March 8-9, 2017, representatives of the EPA performed an inspection of the Facility to evaluate the Respondent's compliance with the requirements of the General Permit. The EPA's inspection report was sent to Respondent on May 23, 2017 and is attached hereto as Attachment 1.

27. As described in more detail in Attachment 1, the EPA inspectors observed the following:

a. One glass amber bottle was used to analyze concentrations of both oil and grease and zinc, two parameters that have different sample collection requirements under 40 C.F.R. §136.3;

b. Respondent is in the practice of collecting four samples during discharge events, but not analyzing all four samples. This practice is outlined in Respondent's sampling Standard Operating Procedures, which is included as "Appendix 8" in Attachment 1. Based on a review of Respondent's chain of custody forms and DMR submissions to EPA, Beta is in the practice of analyzing some of the samples only after the result of one bottle is obtained. For example, between July 2014 and March 2017, on five different dates, Respondent collected four samples of Discharge 002 and analyzed only one;

c. Beta Offshore reported exceedances of effluent limitations for Discharge 002, produced water, for oil and grease on four occasions: August 2016 daily maximum (15,300 mg/l), August 2016 monthly average (15,300 mg/l), July 2015 monthly average (34.2 mg/l), and July 2014 monthly average (30.3 mg/l);

d. Four samples were obtained in the August 9, 2016 sampling event for oil and grease. All four samples were analyzed, but Beta Offshore only reported the results of one sample, which happened to have the lowest concentration of oil and grease, rather than averaging as required by Permit Part III.D;

e. As indicated in the chain of custody form from the Discharge 002 sampling event, dated July 3, 2014, no containers in the shipment were labeled and the form did not include a relinquished signature; and

f. During the inspection, representatives from Beta Offshore told EPA inspectors that ice was not regularly used to preserve samples of oil and grease to $\leq 6°C$, as required by 40 C.F.R. §136.3.

28. Each time Respondent failed to analyze all samples, failed to report all results, and failed to follow procedures in 40 C.F.R. Part 136 is a violation of its NPDES Permit.

29. In connection with Respondent's permitted wastewater discharges, Respondent has violated and continues to violate CWA §§ 301(a) and 402, 33 U.S.C. §§ 1311(a) and 1342, by its failure to comply with the General Permit.

IV. ORDER FOR COMPLIANCE ON CONSENT

30. Based on the foregoing Findings of Fact and Determinations of Law and pursuant to the authority of Section 309(a) of the CWA, 33 U.S.C. § 1319(a), IT IS HEREBY ORDERED and AGREED TO:

a. Respondent shall collect and analyze samples of zinc in separate bottles from those it uses for oil and grease.

b. Respondent shall require training for all operators who are tasked to conduct sampling for compliance with the General Permit.

c. Within (30) thirty calendar days, Beta Offshore shall rewrite and implement its sampling protocol for Discharge 002 to reflect the requirements in the General Permit, which states in Part II.B.5.b: "effluent limitations for oil and grease in produced water shall mean the maximum concentration allowed as measured by the average of four grab samples collected over

a 24-hour period that are analyzed separately. Alternatively, one grab sample may be taken instead of four samples." Beta Offshore shall submit the new sampling protocol to EPA within (30) thirty days for review and approval.

d. Within (30) thirty calendar days, Beta Offshore shall amend and resubmit the August 2016 DMR to EPA through NetDMR. In amending the August 2016 DMR, Beta shall include for Discharge 002 all values that were analyzed following the proper EPA 1664 methodology and shall not include sample results determined from analysis that deviated from EPA 1664 methodology.

e. Beta Offshore shall make the necessary changes in operations at Platforms Elly and Ellen to immediately comply with all effluent limitations in the General Permit.

f. Beta Offshore shall label all sample bottles and have proper chain of custody documentation.

g. Beta Offshore shall preserve Discharge 002 samples in accordance with EPA Method 1664.

V. FINAL REPORT AND TERMINATION OF THE AOC

31. Within thirty (30) calendar days after Respondent has fully completed and implemented the actions required by Section IV (Agreement on Consent) of this AOC, Respondent shall submit for the EPA's review and approval a final report (Final Report) that includes a description and timeline of all of actions which have been taken toward achieving compliance with this AOC and the CWA.

32. If the EPA determines, after review of the Final Report, that all the requirements of this AOC have been completed and implemented in accordance with this AOC, the EPA will provide notice to Respondent and this AOC shall be deemed terminated.

33. If the EPA determines that any requirement has not been completed and implemented in accordance with this AOC, the EPA will notify Respondent, provide a list of deficiencies, and require Respondent to modify its actions as appropriate to correct such deficiencies within thirty (30) days of receiving EPA's notice of deficiencies. If so required, Respondent shall implement the modified requirement(s) and submit a modified Final Report.

VI. SUBMISSIONS AND RECORD RETENTION

34. Respondent shall submit all written communications, including progress reports, electronically. Respondent shall submit all required reports and plans to the EPA in an electronic format that allows them to be searchable by key word. Respondent shall send all submittals to the following e-mail addresses. Submissions will be deemed made on the date they are sent electronically to both:

Colby Tucker
Inspector, Enforcement Division
Tucker.WilliamC@epa.gov

Desean Garnett
Attorney-Advisor, Office of Regional Counsel
Garnett.Desean@epa.gov

35. All reports, notifications, documentation, and submittals required by this AOC shall be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. § 122.22 and shall include the following statement:

> "I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

36. Respondent shall preserve and retain all records and documents now in its possession or control, or which come into its possession or control, that relate in any manner to the performance of the tasks in this AOC, until five (5) years after termination of this AOC. Respondent shall also instruct its agents to preserve all documents, records, and information of whatever kind, nature or description relating to the performance of the tasks in this AOC.

VII. MODIFICATION

37. Any request for modification by Respondent shall include the reason(s) for the request and a timeline for completion. Modification of this AOC shall be in writing and shall take effect only upon approval by the EPA. Failure by Respondent to implement any modified requirement(s) shall be a violation of this AOC.

VIII. GENERAL PROVISIONS

38. This AOC is binding on Respondent and its officials, officers, directors, partners, agents, employees, attorneys, successors and assigns, and on all persons, independent contractors, consultants and contractors acting in concert with Respondent.

39. Respondent shall provide a copy of this AOC to any successor in interest to its control, operation, or any other interest in any portion of its Facility at least thirty (30) calendar days prior to the transfer, and shall simultaneously notify the EPA in writing, via e-mail, that such notice has been given. Within fourteen (14) calendar days after the effective date of this AOC or the date of contracting, whichever is later, Respondent shall provide a copy of this AOC to all contractors and/or consultants to perform any of the work described in Section IV. Respondent shall condition the transfer of control, operation or any other interest in any portion of its Facility and any contract related to the performance of the work described in Section IV upon successful execution of this AOC.

40. This AOC is not and shall not be construed to be a permit under the CWA, nor shall it in any way relieve or affect Respondent's obligations under the CWA, or any other applicable federal or state laws, regulations, and/or permits. Compliance with this AOC shall be no defense to any actions commenced pursuant to such applicable laws, regulations, or permits, nor does it constitute a release.

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41. This AOC shall in no way affect the rights of the EPA or the United States against any person not a party hereto.

42. This AOC shall in no way limit or affect the EPA's authority to obtain information, and to enter, inspect, sample or monitor compliance under any law, permit, court order or agreement.

43. The provisions of this AOC shall be severable. If any provision is declared by a court of competent jurisdiction to be unenforceable, then the remaining provisions shall remain in full force and effect.

44. Respondent consents to and agrees not to contest the EPA's authority or jurisdiction to issue and enforce this Section 309(a) AOC. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

45. Failure to comply with the terms of this AOC may result in liability for statutory civil penalties under CWA Section 309(d), 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by the EPA, a United States District Court may impose such penalties if the court determines that Respondent has violated the CWA as described above and failed to comply with the terms of this AOC. In determining the amount of any penalty, the court will consider the seriousness of the violations, the economic benefit (if any) resulting from the violations, any history that Respondent may have of such violations, any good faith efforts that Respondent has made to comply with legal requirements, the economic impact a penalty may have upon Respondent, and such other matters as justice may require.

46. Issuance of this AOC is not an election by the EPA to forego any remedies available to it under the law, including without limit any administrative, civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA. The EPA reserves all available legal and equitable rights and remedies to enforce any violations cited in this AOC, and the right to seek recovery of any costs and attorney fees incurred by the EPA in any actions against Respondent for non-compliance with this AOC.

47. In accordance with CWA § 309(a)(4), 33 U.S.C. § 1319(a)(4), the EPA will provide notice and a copy of this AOC to the State of California upon execution.

48. The undersigned signatory for Respondent certifies that he or she is authorized to execute this AOC and legally bind the Respondent.

IX. EFFECTIVE DATE

49. This AOC shall become effective on the date it is signed by the EPA.

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IT IS SO AGREED AND ORDERED:

FOR RESPONDENT

Bruce Berwager
Vice President of Operations

4/2/18
Date

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9

Kathleen H. Johnson
Director, Enforcement Division

4/10/18
Date