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

Certified Mail No.: 7010 2780 000 8388 8594
Return Receipt Requested

Tim Parker
Vice-Preseident, Operations
AllenCo Energy, Inc.
2109 Gundry Ave.
Signal Hill, CA 90755-3517

Re: AllenCo Energy Inc.
Consent Agreement and Final Order
Docket Nos: CAA(112r)-09-2014-0003
SPCC-09-2014-0001
EPCRA (312)-09-2014-0002

Dear Mr. Parker:

This letter transmits a copy of the fully executed Consent Agreement and Final Order that resolves the violations of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r), Section 311(j)(1)(c) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321(j)(1)(c), and 40 C.F.R. Part 112, and Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022, at AllenCo's facility located at 814 W. 23rd Street in Los Angeles, California ("the Facility").

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the requirements of Section 112(r) of the CAA or Section 312 of EPCRA, or their implementing regulations, please feel free to contact Jeremy Johnstone at (415) 972-3499. If you have any questions or need additional information about the requirements of Section 311(j) of the CWA, please feel free to contact Janice Witul at (415) 972-3089.

Sincerely,

for Enrique Manzanilla
Director, Superfund Division

Kathleen Johnson
Director, Enforcement Division

Enclosure: Consent Agreement and Final Order

cc (by email): Abbey Hudson, Gibson, Dunn & Crutcher
William Wegner, Gibson, Dunn & Crutcher
Thomas J.P. McHenry, Gibson, Dunn & Crutcher

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US EPA - REGION IX
HEARING CLERK

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:	)	**Docket No.**
	)	
AllenCo Energy Inc.,	)	CAA(112r)-09-2014-0003 SPCC-09-2014-0001 EPCRA(312)-09-2014-0002
	)	
Respondent.	)	**CONSENT AGREEMENT**
	)	**AND**
	)	**FINAL ORDER PURSUANT TO**
	)	**40 C.F.R. §§ 22.13 and 22.18**

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action initiated pursuant to Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d), Section 311(b)(6)(B)(ii) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is AllenCo Energy Inc., a California corporation ("Respondent").

2. This Consent Agreement and Final Order issued pursuant to 40 C.F.R. §§ 22.13 and 22.18 ("CA/FO") simultaneously commences and concludes this proceeding, wherein EPA

alleges that Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), Section 311(j)(1)(C) of the CWA, 42 U.S.C. § 1321(j)(1)(C), and its implementing regulations, and Section 312 of EPCRA, 42 U.S.C. §11022, and its implementing regulations.

B. STATUTORY AND REGULATORY FRAMEWORK

i. CAA Section 112(r)

3. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling or storing a regulated substance or other extremely hazardous substances have a general duty to identify hazards which may result from a release using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

ii. CWA Section 311

4. Section 311(j)(1)(c) of the CWA, U.S.C. § 1321(j)(1)(c), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from onshore . . . facilities, and to contain such discharges . . . ."

5. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA the authority under Section 311(j)(5) of the CWA, U.S.C. § 1321(j)(5), to issue the regulations for non-transportation-related onshore facilities.

6. EPA subsequently promulgated regulations codified at 40 C.F.R. Part 112, as amended by 67 Fed. Reg. 47140 *et seq.* (July 17, 2002) ("the SPCC regulations"), pursuant to its delegated statutory authorities, and pursuant to its authorities under the CWA, 33 U.S.C. § 1251 *et seq*. EPA has since amended certain requirements of the SPCC regulations to extend compliance dates and clarify and/or tailor specific regulatory requirements. The SPCC regulations establish certain procedures, methods and requirements on each owner and operator of a non-transportation related onshore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or on navigable waters and their adjoining shorelines in such quantities as EPA has determined in 40 C.F.R. Part 110 may be harmful to the public health or welfare or the environment of the United States ("harmful quantity").

7. In promulgating 40 C.F.R. § 110.3, which implements Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), EPA determined that an oil discharge of a harmful quantity includes an oil discharge that causes either (a) a violation of applicable water quality standards, or (b) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or a sludge or emulsion to be deposited beneath the surface of the water or on adjoining shorelines.

iii. <u>EPCRA Section 312</u>

8. Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.25, require the owner or operator of a facility that is required to prepare or have available a material safety data sheet ("MSDS") for a hazardous chemical under the Occupational Safety and Health Act of 1970 ("OSHA"), 29 U.S.C. § 651 *et seq.*, to submit an annual emergency and hazardous chemical inventory form containing information on hazardous chemicals present at the facility during the

preceding calendar year above the threshold levels established in 40 C.F.R. § 370.20(b). Pursuant to 40 C.F.R. § 370.25, this inventory must be submitted by March 1 of each year to the State Emergency Response Commission ("SERC"), the Local Emergency Planning Committee ("LEPC"), and the fire department having jurisdiction over the facility.

C. GENERAL ALLEGATIONS

9. Respondent owns and operates a crude oil and natural gas production facility located at 814 W. 23rd Street in Los Angeles, California (the "Facility").

i. CAA Section 112(r)

10. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), authorizes EPA to commence an administrative penalty action for any violation of Section 112 of the CAA, 42 U.S.C. § 7412, 42 U.S.C. § 7412.

11. The Administrator of EPA delegated enforcement authority under Section 113 of the CAA, 42 U.S.C. § 7413, to the Regional Administrators with EPA Delegation 7-6-A, dated May 11, 1994. The Regional Administrator, EPA Region IX, in turn, re-delegated that authority as it relates to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), to the Director of the Superfund Division and the Director of the Enforcement Division with Regional Delegation R9-7-6-A on February 11, 2013.

12. Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

13. The Facility is a "stationary source" as defined by Sections 111(a)(3) and 112(a)(3) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).

14. At all times relevant to this CA/FO, Respondent, or an affiliate or subsidiary of Respondent, has been the owner and operator of the Facility.

15. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA established a "threshold quantity" ("TQ") for each "regulated substance," above which a facility shall be subject to the requirements of Section 112(r) of CAA, 42 U.S.C. § 7412(r). For substances designated as "regulated toxic substances" or "regulated flammable substances," the TQs are specified at 40 C.F.R. § 68.130.

16. Methane, Chemical Abstract Service Registry ("CAS") Number 74-82-8, is a "regulated substance" pursuant to CAA § 112(r)(3), 42 U.S.C. § 7412(a)(3), with a TQ of 10,000 pounds. 40 C.F.R. § 68.130, Table 3.

17. Methane is a regulated substance within the meaning of Sections 112(r)(1) and (3) of the CAA, 42 U.S.C. §§ 7412(r)(1) and (3).

18. At all times relevant to this CA/FO, the Facility produced, used or stored more than 10,000 pounds of crude oil and natural gas, which is comprised primarily of methane.

ii. <u>CWA Section 311</u>

19. Respondent is a corporation organized under the laws of California with a place of business located at 2109 Gundry Avenue, Signal Hill, California, CA, 90755. Respondent is a "person" within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.

20. Respondent is an "owner or operator" of the Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2. The Facility is

approximately three miles from the Los Angeles River and storm drains in the area of the Facility drain to the Los Angeles River.

21. The Facility has an aggregate above-ground storage capacity, including the capacity of any bunkered or partially buried tank (as defined in 40 C.F.R. § 112.2), greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons.

22. The Los Angeles River is a navigable water of the United States within the meaning of 40 C.F.R. § 112.2 and Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

23. The Facility is a crude oil and natural gas production facility with operating processes that include separation of produced fluids and reinjection of produced water.

24. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

25. The Facility is therefore a non-transportation-related onshore facility that, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity ("an SPCC-regulated facility").

26. Respondent has been operating the Facility since September 2009.

27. Pursuant to the CWA, Executive Order 12777, and 40 C.F.R. § 112.1, Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

iii. <u>EPCRA Section 312</u>

28. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the assessment of civil penalties for any violation of Section 312 of EPCRA, 42 U.S.C. § 11022.

29. The Administrator of EPA has delegated enforcement authority under EPCRA to

the Regional Administrators by EPA delegation 22-3-A, dated May 11, 1994.

30. The Regional Administrator, EPA Region IX, has delegated the authority to enforce Section 312 of EPCRA, 42 U.S.C. § 11022, to the Director of the Superfund Division with delegation R9 1290.18 on September 29, 1997.

31. Respondent is, and at all times referred to herein was, a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

32. The real property, including improvements thereto, located at 814 W. 23rd Street in Los Angeles, California is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

33. At all times relevant to this CA/FO, the Facility used or stored crude oil, and at times in excess of 10,000 pounds.

34. Crude oil is a hazardous chemical required to have a Material Safety Data Sheet (MSDS - now SDS) pursuant to the requirements of the Occupational Safety and Health Administration's (OSHA's) Hazard Communication Standard, 29 C.F.R. § 1910.1200(c).

35. Pursuant to 40 C.F.R. § 370.10(a)(2)(i), the threshold level for crude oil is 10,000 pounds.

36. At all times relevant to this CA/FO, Respondent has been the owner and operator of the Facility.

37. For the purposes of reporting pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, the State of California Office of Emergency Services was established as the SERC for the State of California in accordance with Section 301 of EPCRA, 42 U.S.C. § 11001.

38. For the purposes of reporting pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, the City of Los Angeles Fire Department (which has been designated as the Certified Unified Program Agency or "CUPA") was established as the LEPC for the county in which the Facility is located, in accordance with Section 301 of EPCRA, 42 U.S.C. § 11001.

39. The Facility is and was subject to Section 312 of EPCRA, 42 U.S.C. § 11022, and had extremely hazardous substances above the applicable thresholds established in 40 C.F.R. § 370.20(b).

D. ALLEGED VIOLATIONS

COUNT I

(Failure to Maintain a Safe Facility)

40. Paragraphs 1-39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

41. Recognized industry standards and practices for petroleum crude and natural gas production facilities such as Respondent's include those of the American Petroleum Institute ("API"). API's standards and recommended practices for inspection, testing, and preventive maintenance ("ITPM") include, among others: (1) API 653 "Tank Inspection, Repair, Alteration, and Reconstruction"; (2) API 510 "Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration"; (3) API 570 "Piping Inspection Code: In-service Inspection, Rating, Repair, and Alteration of Piping Systems"; and (4) API RP576 "Inspection of Pressure Relieving Devices."

42. Respondent has atmospheric tanks at its Facility. API 653 pertains to atmospheric

storage tanks and requires, in summary, the following types and frequencies of inspections: (1) routine in-service, monthly; (2) external, not to exceed once every five years; (3) thickness, not to exceed once every fifteen years; and (4) internal, not to exceed once every ten years. During the November 6, 2013 inspection and EPA's investigation, Respondent was neither able to document nor confirm the performance of routine in-service, external, or internal inspections fully conforming with API 653 on its atmospheric tanks.

43. Respondent has pressure vessels at its Facility, including the Free Water Knock Out ("FWKO") and the separator units. Each of its pressure vessels has at least one pressure release device ("PRD"). API 510 pertains to pressure vessels and requires, in summary, the following types and frequencies of inspections: (1) external, not to exceed once every five years; and (2) internal, not to exceed once every ten years. API 510 and API RP576 pertain to PRDs and specify, in summary, that such devices should be inspected and tested at least once every ten years. During the November 6, 2013 inspection and the EPA's investigation, Respondent was neither able to document nor confirm the performance of any external or internal vessel or PRD inspections conforming with API 510 or API RP576.

44. Respondent has a process piping system at its Facility. API 570 pertains to piping systems and requires for piping such as that located at Respondent's Facility, in summary, the following types and frequencies of inspections: (1) visual external, not to exceed once every five years; and (2) thickness measurements, not to exceed once every ten years. During the November 6, 2013 inspection and the EPA's investigation, Respondent was neither able to document nor confirm the performance of visual external or thickness measurements conforming

with API 570.

45. As safety measures, Respondent utilizes flame detectors and methane gas detectors at its Facility. The manufacturers of those devices specify recommended practices and intervals for their testing and calibration. During the November 6, 2013 inspection and the EPA's investigation, Respondent had no information on or records of any testing or calibration of either the Facility's flame or methane gas detectors, and was unable to confirm that such testing or calibration was performed.

46. The November 6, 2013 inspection documented inadequate testing of tanks, pipes, and pressure vessels. Because the age of these components may be approaching fifty (50) years, the integrity and remaining useful life of these components is unknown. Without such information on useful life, potential releases due to failed components could neither be anticipated nor prevented.

47. Due to the inadequate testing of the Facility's flame detector and methane gas detector, during the November 6, 2013 inspection and the EPA's investigation, the functionality of each of these components could not be determined. Under these conditions, a lack of functionality could remain unaddressed, which would prevent the facility from detecting, and therefore preventing, an accidental release.

48. Therefore, EPA alleges that Respondent failed to design and maintain a safe facility by taking such steps as are necessary to prevent releases of a regulated substance or other extremely hazardous substance in violation of the "general duty" clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT II

(Failure to develop and implement an adequate SPCC plan)

49. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

50. 40 C.F.R. § 112.3 requires that the owner or operator of an SPCC-regulated facility prepare in writing an SPCC Plan in accordance with 40 C.F.R. § 112.7.

51. Based on information gathered during and after the November 6, 2013, EPA found that between 2009 when Respondent became the operator of the Facility and June 19, 2013, Respondent failed to develop and implement an SPCC plan.

52. Based on information gathered during and after the November 6, 2013 inspection, EPA found that Respondent first developed an SPCC plan on June 20, 2013.

53. 40 C.F.R. § 112.7(a) sets forth certain requirements of an SPCC plan.

54. Based on information gathered during and after the November 6, 2013 inspection, the SPCC plan that Respondent developed, dated June 20, 2013, was not in accordance with 40 C.F.R. § 112.7(a). Specifically the SPCC Plan: failed to include a proper facility diagram and to include emergency contact information; the portion of the SPCC Plan on the requirements of 40 C.F.R. § 112.9 was completed incorrectly because 40 C.F.R. § 112.8 was used as the basis of the SPCC Plan instead-- a section that does not apply to oil production facilities; and because the employee training requirements of 40 C.F.R. § 112.7(f) were not carried out.

55. Respondent's failure to prepare and implement an adequate SPCC plan for the Facility is a violation of 40 C.F.R. § 112.3.

COUNT III

(Failure to timely submit annual chemical inventory forms for 2009-2012)

56. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

57. Respondent was required to submit an annual emergency and hazardous chemical inventory form containing information on crude oil present at the Facility during calendar years 2009, 2010, 2011, and 2012 to the CUPA on or before March 1 of the following years.

58. Respondent did not timely submit the annual emergency and hazardous chemical inventory form containing information on crude oil present at the Facility during calendar years 2009, 2010, 2011, or 2012 to the CUPA.

59. Therefore, EPA alleges that Respondent failed to timely submit the completed emergency and hazardous chemical inventory forms to the CUPA for reporting years 2009, 2010, 2011 and 2012 by March 1 of the following years, in violation of Section 312 of EPCRA, 42 U.S.C. § 11022.

E. CIVIL PENALTY

60. The Complainant proposes that the Respondent be assessed, and Respondent agrees to pay ninety-nine thousand dollars ($ 99,000) as the civil penalty for the violations alleged herein. $ 60,000 resolves Count I, $ 18,000 resolves Count II, and $ 21,000 resolves Count III.

61. The proposed penalty was calculated in accordance with the "Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68" dated June 2012, the "Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean

Water Act" dated August 1998, and the "Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act" dated September 30, 1999, and was adjusted for inflation by the Debt Collection Improvement Act of 1993, *see* 40 C.F.R. Part 19.

F. ADMISSIONS AND WAIVERS

62. For purposes of this proceeding, Respondent admits and agrees that EPA has jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondent. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

63. Except in an action to enforce this CA/FO, Respondent neither admits nor denies any allegations of fact or law set forth in Section D of this CA/FO and does not admit any liability arising out of the occurrences alleged in this CAFO. Respondent hereby waives any rights Respondent may have to a appeal the Final Order attached to this Consent Agreement and made part of this CA/FO. Respondent hereby consents to the terms of this CA/FO and the issuance of this CA/FO without adjudication.

G. PARTIES BOUND

64. This CA/FO shall apply to and be binding upon Respondent and its agents, successors, and assigns and upon all persons acting under or for Respondent, until such time as the civil penalty required under Section E has been paid in accordance with Section I, and any

delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.

65. No change in ownership or corporate, partnership, or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

66. Until termination of this CA/FO, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of Respondent's ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.

67. The undersigned representative of Respondent hereby certifies that he is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

H. CERTIFICATION OF COMPLIANCE

68. Respondent certifies to EPA that the Facility, upon reopening, will fully comply with the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), Section 311 of the CWA, U.S.C. § 7412, and its implementing regulations, and Section 312 of EPCRA, 42 U.S.C. § 11022, and its implementing regulations, that formed the basis for the violations alleged in Section D, above.

69. The signatory for Respondent certifies under penalty of law that this certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

I. PAYMENT OF CIVIL PENALTY

70. Respondent hereby consents to the assessment of and agrees to pay a civil penalty of NINETY-NINE THOUSAND DOLLARS ($ 99,000) in settlement of the violations set forth in this CA/FO. This CA/FO constitutes a settlement of all claims alleged in this CAFO.

71. Respondent shall pay the civil penalty within thirty (30) days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date that the Final Order is filed with the Regional Hearing Clerk after it is signed by the Regional Judicial Officer.

72. Respondent shall submit the payment due under this CA/FO in accordance with one of the options set forth below, and shall reference the Respondent's name and state that payment is being made pursuant to this CA/FO.

a. Payments

1. Check Payment. If paying by check, the Respondent shall submit a cashier's or certified check in the amount of $99,000 payable to the "Treasurer, United States of America." The check shall specify in the notation section the docket numbers of this case. The cover letter transmitting each check should include Respondent's name, the case title, the docket numbers, and the breakdown of the amount of each penalty.

A check sent by regular U.S. Postal Service mail should be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

A check sent by overnight mail should be addressed to:

U.S. Environmental Protection Agency
Government Lockbox 979077
USEPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Contact: Craig Steffen (513-487-2091)

2. Electronic Transfer

Alternatively, payment may be made by electronic transfer. Respondent's name, the case title, the docket numbers, and the breakdown of the amount of each penalty shall be provided as part of the payment transmittal. An electronic payment shall be made as follows:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White (301-887-6548)
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 31006
CTX Format

b. A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent's name, the case title, and docket number, to each of the following:

Jeremy Johnstone (SFD-9-3)
Superfund Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105.

Janice Witul (ENF-3-2)
Enforcement Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105.

Rebekah Reynolds
Assistant Regional Counsel (ORC-3)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

and

Steven Armsey
Acting Regional Hearing Clerk (ORC-1)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

73. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), failure to send the penalty by the due date will result in imposition of interest from the effective date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 C.F.R. § 13.11. In addition, a twelve percent (12%) per annum penalty will be

applied on any principal amount not paid within ninety (90) days of the due date.

74. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

J. DELAY IN PERFORMANCE / STIPULATED PENALTIES

75. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

76. For failure to submit a payment to EPA by the time required in this CA/FO: FIVE HUNDRED DOLLARS ($500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS ($1,000) per day for the sixteenth to the thirtieth day of delay, and FIVE THOUSAND DOLLARS ($5,000) per day for each day of delay thereafter.

77. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by Complainant for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section I of this CA/FO.

78. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11. Complainant reserves the right to take any

additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO.

97. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

80. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

K. RESERVATION OF RIGHTS

81. Except as addressed in this CA/FO, EPA expressly reserves all rights and defenses that it may have.

82. Except as addressed by this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any right EPA may have to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413, Section 311(b) of the CWA, 33 U.S.C. § 1321(b), and Section 325 of EPCRA, 42 U.S.C. § 11045. This CA/FO shall not be construed as a covenant not to sue, a release, waiver or limitation of any rights, remedies, powers, or authorities, civil or criminal, which EPA has under CERCLA, or any other statutory, regulatory, or common law enforcement authority of the United States, except as otherwise set forth herein.

83. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with any applicable local, state or federal laws and regulations.

84. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking, nor limit or otherwise preclude Respondent from asserting rights and defenses in, additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section D of this CA/FO. Full payment of the penalty proposed herein shall resolve Respondent's liability for federal civil penalties for the violations and facts alleged herein.

85. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State, or federal permits.

86. Except in an action to enforce this CA/FO, Respondent expressly reserves all rights to assert that neither this CA/FO nor anything in this CA/FO shall be admissible in any proceeding as evidence of an admission by or to prove the liability of Respondent for the allegations stated herein.

L. OTHER CLAIMS

87. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the

generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

M. MISCELLANEOUS

88. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

89. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

90. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

91. EPA and Respondent consent to entry of this CA/FO without further notice.

N. EFFECTIVE DATE/PUBLIC NOTICE

92. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

93. Pursuant to 40 C.F.R. § 22.45(b), the CWA portion of this CA is subject to public notice and comment prior to issuance of the proposed FO. Complainant reserves the right to withhold or withdraw consent to this CA if public comments disclose relevant and material information that was not considered by Complainant in entering into this CA. Respondent may withdraw from this CA upon receipt of written notice from EPA that it no longer supports entry of this CA.

IT IS SO AGREED,

BY: _____ **DATE:** 6-30-14
Tim Park
Vice President

United States Environmental Protection Agency, Region 9

BY: _____ **DATE:** 7/29/14
Enrique Manzanilla
Director, Superfund Division

BY: _____ **DATE:** 7/29/14
Kathleen Johnson
Director, Enforcement Division

ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (EPA Docket No. CAA(112r)-09-2014-0003, SPCC-09-2014-0001 and EPCRA 312-09-2014-0002) be entered and that Respondent Allenco Energy, Inc. shall pay a civil penalty in the amount of NINETY-NINE THOUSAND DOLLARS ($99,000), in accordance with the terms of this Consent Agreement and Final Order.

THIS FINAL ORDER SHALL BE EFFECTIVE UPON FILING.

09/10/14
Date

Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

CERTIFICATE OF SERVICE

Docket No. CAA(112r)-09-2014-0003
SPCC-09-2014-0001
EPCRA (312)-09-2014-0002

I hereby certify that the original copy of the foregoing CAFO with the Docket numbers referenced above, has been filed with the Region 9 Hearing Clerk and that a copy was sent by certified mail, return receipt requested, to:

Tim Parker
Vice President, Operations
AllenCo Energy, Inc.
2109 Gundry Ave.
Signal Hill, CA 90755-3517

CERTIFIED MAIL NUMBER: 7010 2780 000 8388 8594

Additional copies were hand-delivered to the following U.S. EPA case attorney:

Rebekah Reynolds, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne St.
San Francisco, CA 94105

Sept. 11, 2014
Date

Steven Armsey
Steven Armsey
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105