

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

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CRIMINAL NO: 12-312

v.

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SECTION: "L"

W&T OFFSHORE, INC.

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JOINT FACTUAL STATEMENT

The United States, represented by the United States Attorney's Office for the Eastern District of Louisiana and the defendant, W&T Offshore, Inc. ("W&T" or "Defendant"), hereby agree that this Joint Factual Statement is a true and accurate statement of Defendant's criminal conduct, that it provides a sufficient basis for Defendant's plea of guilty to the charges contained in the Bill of Information in the above-captioned matter and as set forth in the plea agreement, and had this matter proceeded to trial, the following facts would be established beyond a reasonable doubt through competent evidence and testimony.

Defendant W&T is a publicly traded Texas corporation with offices located at Nine Greenway Plaza, Suite 300, Houston, Texas 77046, and 1100 Poydras, Suite 1100, New Orleans, Louisiana 70163. W&T is an independent oil and natural gas producer focused primarily in the Gulf of Mexico

with working interests in approximately 67 producing offshore fields in federal and state waters. W&T became a public company in 2005.

The Bureau of Safety and Environmental Enforcement (“BSEE”) is the primary agency within the United States Department of Interior (“DOI”) delegated with the responsibility for overseeing and regulating the drilling and production operations of oil and gas extractions conducted in the Gulf of Mexico and within the outer continental shelf. There are designated geographic areas established as federal mineral leases which allow private business entities to extract and develop minerals, including oil and gas, from under the ocean floor.

During the time period January 1, 2009, to the present, W&T operated a manned, offshore facility designed for the production of oil and gas located within the geographic area known as Ewing Banks Area Block 910 (“EW 910”), which is located at approximately 28 degrees latitude, 90 degrees longitude.

The Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), requires that Defendant W&T operate EW 910 Platform pursuant to a National Pollutant Discharge Elimination System (“NPDES”) permit, specifically Permit No. GMG 290000 (“Permit”). The Permit imposed limitations on the amount and type of pollutants that could be discharged from EW 910 Platform into the Gulf of Mexico. These limitations were called discharge of effluent limitations. The Permit required that Defendant W&T monitor its discharges to determine whether such discharges were in compliance with the pollutant discharge limitations set forth in the Permit. The Permit required that W&T collect and analyze discharge samples for pollutants at a minimum of once per month. The samples had to be representative of the type and volume of pollutants

discharged from EW 910 Platform, and Defendant W&T was required to report the laboratory tests of the discharge samples to the United States Environmental Protection Agency.

As required by the NPDES Permit, W&T collected and submitted monthly samples of its produced water discharged from EW 910 Platform into the Gulf of Mexico to a laboratory for testing to determine whether the quantity of oil and grease contained in the produced water did not exceed a daily maximum of 42mg/l and a monthly average of 29 mg/l as required by its Permit. W&T submitted the results of the laboratory tests to the U.S. EPA.

On at least six (6) occasions during 2009, instead of following the protocols required by the Permit to ensure that test results were accurate, employees of a contractor working for W&T on EW 910 Platform ran the produced water samples collected through coffee filters before submitting the samples to the laboratory for testing. Running the produced water samples through coffee filters before it went into the sample jars resulted in the samples not being representative of actual produced water discharge conditions. The employees of the contractor working for W&T who tampered with the testing believed that running the produced waters samples through the coffee filters would ensure that the samples did not fail the laboratory tests, and thus, W&T would not incur additional laboratory costs and regulatory scrutiny.

The CWA prohibits the negligent discharge of oil in harmful quantities into a water of the United States or in connection with activities under the Outer Continental Lands Shelf Act or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including those waters through the contiguous zone as far as 200 miles into the ocean. In furtherance of that policy, Congress prohibited the discharge of oil into those waters in

such quantities that may be determined as harmful by regulation. W&T's EW 910 Platform is subject to the CWA's prohibition of the discharge of oil in a harmful quantity. Oil that causes a film or sheen upon or discoloration of the surface of the water constitutes a discharge of a harmful quantity under the CWA.

The EW 910 Platform is a three-story production platform that has an open-grate flooring and a flare boom that extends beyond the platform out over the Gulf of Mexico. On or about November 22, 2009, a process upset resulted in the release of oil from the facility's flare boom that coated sections of the platform and production equipment. The crew notified W&T's production foreman who was located on a different platform of the incident, including the fact that sections of the platform were coated with oil. The crew on EW 910 Platform sprayed down the platform and equipment to bring the platform production equipment back on-line for oil production. W&T did not notify the Coast Guard National Response Center of the events on November 22, 2009.

W&T hired a professional cleaning company to clean off the oil on EW 910 Platform. However, visible oil staining remained on the platform after the cleaning company worked for three days to clean the platform. On or about November 27, 2009, BSEE inspectors arrived at EW 910 Platform and observed oil on the platform and a light, visible sheen on the water around the platform due to ongoing cleaning efforts. W&T had not reported the sheen to the Coast Guard National Response Center at the time the BSEE inspector arrived despite the visible sheen on the water. There

is no exception to the NPDES Permit requirements for oily discharges from a platform due to an operator's attempt to clean an oily platform.

JIM LETTEN
UNITED STATES ATTORNEY

EMILY K. GREENFIELD Date
Assistant United States Attorney

DOROTHY MANNING TAYLOR Date
Assistant United States Attorney

I have read this Joint Factual Statement and carefully discussed every part of it with criminal defense counsel. I hereby stipulate that the above Joint Factual Statement is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Defendant Date
W&T Offshore, Inc.

I am counsel for Defendant. I have carefully discussed every part of this Joint Factual Statement with the Defendant. To the best of my knowledge it is a true and accurate factual statement and provides a sufficient factual basis for charges set forth in the Bill of Information and Defendant's guilty plea as set forth in the Plea Agreement.

Defense Counsel Date