

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2012 JUN 27 PM 1:11

Docket No.: CAA-08-2011-0020

FILED
EPA REGION VIII
RECORDING CLERK

In the Matter of:)	
)	MODIFIED JOINT MOTION TO
KODIAK OIL & GAS (USA) INC.)	AMEND ADMINISTRATIVE
)	COMPLAINT AND CONSENT
Respondent.)	AGREEMENT
)	

Kodiak Oil & Gas (USA) Inc. ("Kodiak" or "Respondent") and the United States Environmental Protection Agency, Region 8 ("EPA" or "Complainant") hereby file this Joint Motion to Amend the Administrative Complaint and Consent Agreement.

A. On August 29, 2011, the Court approved an Administrative Complaint and Consent Agreement ("Agreement") in this matter (see August 29, 2011 Order Granting Filing of An Electronic Consent Agreement Final Order).

B. The purpose of this Joint Motion is to request that the Court approve a revised and amended Appendix A, to include Table A-5, and additionally approve certain other changes to the Agreement to reflect the addition of Table A-5. Specifically, Kodiak and EPA jointly seek to:

1. Amend Appendix A to add new Table A-5, in the form attached hereto.
2. Revise Paragraph D.1.e of the Agreement to read in its entirety as follows:

"Any emission sources for which construction will commence after August 29, 2012, are not subject to this Agreement and Respondent must obtain an effective synthetic minor source permit from EPA or comply with the provisions of 40 C.F.R. §52.21 prior to commencing construction. With regard to the new emission source listed in Amended Appendix A, Table A-5, that will commence construction during the period starting July 1, 2012, by June 15, 2012, Respondent shall have submitted to the EPA a complete synthetic minor permit application."

3. Revise Paragraph D.1.f. to read in its entirety as follows:

“Inclusion of an emission source listed in Appendix A, Table A-2, A-3, A-4 or A-5 does not preclude Respondent from commencing construction of that emission source after the date specified in the relevant Paragraph D 1.b,c,d and e above. However, all such emission sources must commence construction prior to August 29, 2012.”
4. Revise Paragraph D. 1. g to read in its entirety as follows:

“If those emission sources listed in Appendix A, Tables A-2, A-3, A-4 and/or A-5 do not commence construction by August 29, 2012, then they are therefore not subject to Section D of this Agreement.”
5. Revise the first sentence of Paragraph D.2.b to read as follows:

“For all New Emission Sources listed in Appendix A, Tables A-2, A-3, A-4 and A-5, the Respondent shall comply with the requirements of Appendix B upon startup of production.”
6. Revise the first sentence of Paragraph F.6 to read as follows:

“For all New Emission Sources listed in Appendix A, Tables A-2, A-3, A-4 and A-5, compliance with the relevant CAA provisions requires that Respondent: a) obtains an effective synthetic minor source permit; b) is subject to an EPA approved Federal Implementation Plan which allows for a penalty by rule; or c) complies with a new EPA applicable CAA regulation that removes them from PSD applicability.”
7. As a result of increasing the total number of emission sources listed in Appendix A by one (1) well, the civil penalty amount listed in the Agreement at Paragraph E.1 should correspondingly be amended to “\$60,000.00” instead of \$57,000.00 as currently in the Agreement. Therefore, Paragraph E.1 of the Agreement shall be amended to reflect the appropriate civil penalty amount of \$60,000.00. Payment of the additional penalty amount of \$3,000.00 is due within 30 calendar days from the date of the Final Order Approving the Amended Administrative Complaint and Consent Agreement and otherwise in the manner described in Paragraph E.2 of the Agreement.

PRAYER

For the above-mentioned reasons, Kodiak and EPA each respectfully request that the Court approve the matters set forth herein.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8
Complainant.

Date: June 27, 2012



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

KODIAK OIL & GAS (USA) INC.
Respondent.

Date: June 20, 2012



Cathleen M. Osborn
Counsel for Kodiak Oil & Gas (USA) Inc.

ATTACHMENT

FULL TEXT OF PROVISIONS MODIFIED FROM THE ORIGINAL AGREEMENT

Paragraph D.1.e:

“Any emission sources for which construction will commence after August 29, 2012, are not subject to this Agreement and Respondent must obtain an effective synthetic minor source permit from EPA or comply with the provisions of 40 C.F.R. §52.21 prior to commencing construction. With regard to the new emission source listed in Amended Appendix A, Table A-5, that will commence construction during the period starting July 1, 2012, by June 15, 2012, Respondent shall have submitted to the EPA a complete synthetic minor permit application.”

Paragraph D.1.f:

“Inclusion of an emission source listed in Appendix A, Table A-2, A-3, A-4 or A-5 does not preclude Respondent from commencing construction of that emission source after the date specified in the relevant Paragraph D 1.b,c,d and e above. However, all such emission sources must commence construction prior to August 29, 2012.”

Paragraph D.1.g:

“If those emission sources listed in Appendix A, Tables A-2, A-3, A-4 and/or A-5 do not commence construction by August 29, 2012, then they are therefore not subject to Section D of this Agreement.”

Paragraph D.2.b:

“For all New Emission Sources listed in Appendix A, Tables A-2, A-3, A-4 and A-5, the Respondent shall comply with the requirements of Appendix B upon startup of production.”

Paragraph E.1:

“Pursuant to an analysis of the facts and circumstances of this case with the statutory factors described in section 113(d)(1)(B) of the CAA, 42 U.S.C. §7413(d)(1)(B), EPA has determined that an appropriate civil penalty to settle this action is the amount of \$3,000 per emission source listed in Appendix A, for a total of \$60,000 for twenty emission sources. Since Respondent has already paid \$57,000 based on the previous version of this Agreement, only \$3,000 remains to be paid. Such payment shall be made within thirty (30) days from the date of the

Final Order approving the Amended Agreement. All other payment terms remain the same as those contained in Paragraph E.2 of this Agreement.

Paragraph F.6:

“For all New Emission Sources listed in Appendix A, Tables A-2, A-3, A-4 and A-5, compliance with the relevant CAA provisions requires that Respondent: a) obtains an effective synthetic minor source permit; b) is subject to an EPA approved Federal Implementation Plan which allows for a penalty by rule; or c) complies with a new EPA applicable CAA regulation that removes them from PSD applicability.”

AMENDMENT TO APPENDIX A

Table A-5 New Emission Sources (commencing construction between June 30, 2012 and August 29, 2012)

Source Identification	Section, Township, Range	Expected Commence Construction Date
Skunk Creek 12-7 Facility	Sec 7, T148N-R92W	7.15.2012

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached Joint Motion to Amend Administrative Complaint and Consent Agreement in the matter of Kodiak Oil & Gas (USA) Inc, Docket No. CAA-08-2011-0020, was filed with the Regional Hearing Clerk on June 27, 2012.

Further, the undersigned certifies that, on the same day, a true and correct copy of the document was hand-delivered to Cynthia Reynolds, Director, EPA Air & Toxics Technical Enforcement Program, 1595 Wynkoop Street, Denver, CO 80202 and mailed by first-class U.S. mail to Cathleen Osborn, Counsel for Kodiak Oil & Gas, at 1625 Broadway, Suite 250, Denver, CO 80202.

Date: June 27, 2012

David Rochlin

David Rochlin
Senior Enforcement Attorney
U.S. Environmental Protection Agency