



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

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FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CAA-08-2018-0001

IN THE MATTER OF:)	
)	
WHITING RESOURCES CORPORATION)	FINAL ORDER
AND)	
WHITING OIL AND GAS CORPORATION)	
)	
)	
RESPONDENT)	

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 16th DAY OF November, 2017.

Kathrin E. Hall
Katherin E. Hall
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2017 NOV 16 AM 11:55

FILED
EPA REGION VIII
HEARINGS DIVISION

Docket No. CAA-08-2018-0001

IN THE MATTER OF:)	
)	
Whiting Resources Corporation)	
1700 Broadway, Suite 2300)	
Denver, CO 80290-2300)	
)	
AND)	
)	
Whiting Oil and Gas Corporation)	
1700 Broadway, Suite 2300)	
Denver, CO 80290-2300)	
)	
)	
)	COMBINED COMPLAINT AND
)	CONSENT AGREEMENT
)	UNDER SECTION 113(d) OF
Respondents.)	THE CLEAN AIR ACT
)	

I. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment brought under section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. part 22.
2. Complainant is the U.S. Environmental Protection Agency (EPA). On the EPA's behalf, Suzanne J. Bohan, Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, has been delegated the authority to settle civil administrative penalty proceedings under section 113(d) of the Act.
3. Respondents are Whiting Resources Corporation, a Colorado corporation, and Whiting Oil and Gas Corporation, a Delaware corporation (collectively, Whiting). Respondents are each a "person" as defined in section 302(e) of the Act, 42 U.S.C. § 7602(e).
4. Complainant and Respondents (each a Party, and collectively the Parties), having agreed that settlement of this action is in the public interest, consent to the entry of this Combined Complaint and Consent Agreement (Agreement) and the entry of a final order (Final Order) without adjudication of any issues of law or fact herein, and Respondents agree to comply with the terms of this Agreement and the Final Order to be issued by the Regional Judicial Officer (RJO) approving this Consent Agreement.

II. JURISDICTION

5. This Agreement is entered into under section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. part 22. The alleged violations in this Consent Agreement are resolved pursuant to section 113(a)(3)(A) of the Act.
6. The EPA and United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding and a penalty amount greater than \$362,141, is appropriate for an administrative penalty assessment and conditions of settlement. 42 U.S.C. § 7413(d)(1).
7. The RJO is authorized to ratify this Agreement which memorializes a settlement between Complainant and Respondent in a Final Order. 40 C.F.R. §§ 22.4 and 22.18(b).
8. This Agreement, upon incorporation into a Final Order to be issued by the RJO and full satisfaction by the Parties, simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

III. GOVERNING LAW

9. The purpose of the Act is to protect and enhance the quality of the nation's air, so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401(b)(1).
10. Section 108 of the Act, 42 U.S.C. § 7408, directs the EPA to identify those air pollutants which "may reasonably be anticipated to endanger public health or welfare" and to issue air quality criteria for them based on "the latest scientific knowledge" about the effects of the pollutants on public health and the environment. The pollutants identified as such are called "criteria pollutants."
11. Section 109 of the Act, 42 U.S.C. § 7409, requires the EPA to promulgate regulations establishing national ambient air quality standards (national standards or NAAQS) for the criteria pollutants. The primary NAAQS must be set at the level "requisite to protect the public health" with an adequate margin of safety, and the secondary NAAQS are intended to protect "the public welfare." Public welfare effects are "effects on soils, water, crops, vegetation" and other environmental impacts including, but not limited to, effects on animals, wildlife, property, and "effects on economic values." 42 U.S.C. § 7602(h).
12. Ground-level ozone, commonly known as "smog," is one of six criteria pollutants for which the EPA has promulgated national standards, due to its adverse effects on human health and the environment. Short-term exposure (1 to 3 hours) to ground-level ozone can cause acute health effects at low concentrations, including temporary pulmonary inflammation. Long-term exposure (months to years) may cause permanent damage to lung tissue. Children and adults who are active outdoors are particularly susceptible to the adverse effects of exposure to ozone. *See* 73 Fed. Reg. 16,436 (Mar. 27, 2008).

13. Ozone is not emitted directly from sources of air pollution. Ozone is a photochemical oxidant, formed when certain chemicals in the ambient air react with oxygen in the presence of sunlight. These chemicals – volatile organic compounds (VOCs) and nitrogen oxides (NO_x) – are called “ozone precursors.” Sources that emit ozone precursors are regulated to reduce ground-level ozone. *See* 62 Fed. Reg. 38,856 (July 18, 1997).
14. On March 22, 2013, the EPA finalized the Fort Berthold Federal Implementation Plan for Oil and Natural Gas Well Production Facilities (FIP) to “establish legally and practicably enforceable requirements to control and reduce VOC emissions from well completion operations, well recompletion operations, production operations, and storage operations at existing, new and modified oil and natural gas production facilities.” 78 Fed. Reg. 17835, 17858 (Mar. 22, 2013).
15. The FIP regulations can be found at 40 C.F.R. §§ 49.4161-.4168.
16. Beginning on August 3, 2012, the effective date of the FIP, owners and operators of oil and natural gas production facilities are required to, among other things: comply with construction and operational measures pertaining to the capture and control of emissions through a closed-vent system utility flare, pit flare or other combustion device; to monitor control equipment through different inspection requirements; to record the inspections and operational parameters of the facilities; and to report on compliance with specific requirements of the FIP on August 15th of every year in an annual report. *See* 40 C.F.R. §§ 49.4161-.4168.
17. Owners and operators that construct, modify, or operate “an oil and natural gas production facility producing from the Bakken Pool with one or more oil and natural gas wells . . . located on the Fort Berthold Indian Reservation . . .” are subject to comply with the requirements of the FIP. *See* 40 C.F.R. § 49.4161(b).
18. The “Bakken Pool” is defined as “[o]il produced from the Bakken, Three Forks, and Sanish Formations.” 40 C.F.R. § 49.4163(a)(1).
19. A “pit flare” is defined as “an ignition device, installed horizontally or vertically and used in oil and natural gas production operations to combust produced natural gas and natural gas emissions.” 40 C.F.R. § 49.4163(a)(16).
20. An “oil and natural gas production facility” is defined as “all of the air pollution emitting units and activities located on or integrally connected to one or more oil and natural gas wells that are necessary for the production operations and storage operations.” 40 C.F.R. § 49.4163(a)(11).
21. An “oil and natural gas well” is defined as a “single well that extracts subsurface reservoir fluids containing a mixture of oil, natural gas, and water.” 40 C.F.R. § 49.4163(a)(12).
22. A “produced oil storage tank” is defined as a “unit that is constructed primarily of non-earthen materials (such as steel, fiberglass, or plastic) which provides structural support and is designed to contain an accumulation of produced oil.” 40 C.F.R. § 49.4163(a)(19).

23. A “utility flare” is defined as a “thermal oxidation system using an open (without enclosure) flame . . .” 40 C.F.R. § 49.4163(a)(27).

IV. STIPULATED FACTS

24. At all times relevant to this Agreement, Kodiak Oil and Gas (USA) Inc. (Kodiak), or its successor by name change, Respondent Whiting Resources Corporation, was the “owner and operator” of approximately 44 to 95 Bakken Pool oil and natural gas wells and 20 to 35 associated oil and natural gas production facilities, as defined by section 111(a)(5) of the Act, 42 U.S.C. § 7411(a)(5), and 40 C.F.R. § 49.4163(a)(13), located on the Fort Berthold Indian Reservation (FBIR) (collectively FBIR Facilities).
25. The parent company of Whiting Oil and Gas Corporation acquired Kodiak on December 8, 2014, and changed the name of Kodiak to Whiting Resources Corporation.
26. Prior to the acquisition of Kodiak referenced in Paragraph 25, above, on August 14, 2013, Kodiak submitted its annual report (2013 Annual Report) to the EPA regarding its FIP compliance for August-December in 2012 at the 44 Bakken Pool oil and natural gas wells and 20 associated production facilities, as required by 40 C.F.R. § 49.4168(b).
27. On May 13, 2014, the EPA issued an information request (May 2014 Information Request) to Kodiak pursuant to section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), to obtain further details about Kodiak’s 2013 Annual Report and FIP compliance.
28. On June 16, 2014, the EPA received Kodiak’s response to the May 2014 Information Request.
29. On July 17, 2015, the EPA issued an information request (July 2015 Information Request) to Whiting Petroleum Corporation pursuant to section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), to obtain further details about Respondents’ Clean Air Act compliance at oil and natural gas production facilities located in North Dakota.
30. On August 13, 2015, Respondent Whiting Resources Corporation submitted to EPA a voluntary self-disclosure (Self-Disclosure) pursuant to *Voluntary Self-Disclosure under Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 65 Fed. Reg. 19618-27, and *Interim Approach to Applying the Audit Policy to New Owners*, 73 Fed. Reg. 44991-45006, identifying potential noncompliance related to Kodiak’s ownership and operation of the facilities identified in paragraph 25 during calendar years 2013 and 2014. The EPA and Respondent Whiting Resources Corporation did not enter into any Audit Agreement.
31. On August 14, 2015, Respondent Whiting Oil and Gas Corporation submitted its annual report (2015 Annual Report) to the EPA regarding its and Kodiak’s FIP compliance for calendar year 2014 at 89 oil and natural gas wells and 33 associated production facilities, as required by 40 C.F.R. § 49.4168(b).

32. On August 27, 2015, the EPA issued a revised July 2015 information request (August 2015 Information Request) to Whiting Petroleum Corporation pursuant to section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), to obtain further details about Respondents' Clean Air Act compliance at oil and natural gas production facilities located in North Dakota.
33. On September 30, 2015, the EPA received Whiting Oil and Gas Corporation's response to the August 2015 Information Request.
34. On March 28, 2016, the EPA issued an information request (March 2016 Information Request) to Whiting Petroleum Corporation pursuant to section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), to obtain further details about Respondents' Clean Air Act compliance at oil and natural gas production facilities located in North Dakota.
35. On May 31, 2016, June 8, 2016, June 30, 2016, and August 1, 2016, the EPA received Respondents' responses to the March 2016 Information Request.
36. On August 12, 2016, Respondent Whiting Oil and Gas Corporation submitted its annual report (2016 Annual Report) to the EPA regarding its FIP compliance for calendar year 2015 at oil and natural gas wells and associated production facilities, as required by 40 C.F.R. § 49.4168(b).
37. On July 25, 2017, the EPA and Respondent Whiting Resources Corporation entered into an agreement to toll the running of any statute of limitations applicable to potential violations of the Clean Air Act arising from the above-noted EPA information requests including those resolved by this Agreement.
38. On August 15, 2017, Respondent Whiting Oil and Gas Corporation submitted its annual report (2017 Annual Report) to the EPA regarding its FIP compliance for calendar year 2016 at 95 Bakken Pool oil and natural gas wells and 35 associated production facilities, as required by 40 C.F.R. § 49.4168(b).
39. On September 1, 2017, Whiting Resources Corporation sold all of the FBIR Facilities in an asset sale to RimRock Oil & Gas Williston, LLC.

V. FINDINGS OF VIOLATION

40. Considering the facts stipulated to above in paragraphs 24-39, the EPA identifies and alleges the following findings of violation.
41. The EPA reviewed the 2013 Annual Report and the June 16, 2014, response of Kodiak to the EPA's May 2014 information request and determined the following violations of the FIP occurred between 2012-2014:
 - a. Thirteen oil and natural gas production facilities' produced natural gas was not routed, within 90 days from the date of first production, . . . "through a closed vent

system to: a utility flare or equivalent combustion device capable of reducing the mass content of VOC in the produced natural gas vented to the device by at least 98.0 percent or greater . . .,” in violation of 40 C.F.R. § 49.4164(d)(1)(ii);

- b. At 13 oil and natural gas production facilities, the standing, working, breathing, and flashing losses from the produced oil storage tanks and any produced water storage tanks interconnected with the produced oil storage tanks were not routed through a closed vent system to “an enclosed combustor or utility flare capable of reducing the mass content of VOC in the produced natural gas vented to the device by at least 98.0 percent or greater . . .,” in violation of 40 C.F.R. § 49.4164(d)(2)(ii);
- c. At 13 oil and natural gas production facilities, pit flares were operated without “. . . written operating instructions, operating procedures, maintenance schedules, to ensure good air pollution control practices for minimizing emissions from the pit flare based on the site-specific design,” in violation of 40 C.F.R. § 49.4165(d)(3)(ii);
- d. At 13 oil and natural gas production facilities, pit flares were operated for greater than 500 hours in a consecutive 12-month period, in violation of 40 C.F.R. § 49.4165(d)(2)(ii);
- e. At 13 oil and natural gas production facilities, visual inspections of the pit flares were not conducted to ensure the presence of a flame “anytime produced natural gas or natural gas emissions are routed to it,” in violation of 40 C.F.R. § 49.4165(d)(3)(v);
- f. At 26 oil and natural gas production facilities, quarterly visual inspections of tank thief hatches, covers, seals, PRVs, and closed vent systems were not recorded as required by 40 C.F.R. § 49.4167(a)(8);
- g. At 26 oil and natural gas production facilities, “quarterly visual inspections of peak pressure and vacuum values in each closed vent system and closed system for the produced oil and produced water storage tanks to ensure that the pressure and vacuum relief set points [were] not exceed[ed],” were not performed in violation of 40 C.F.R. § 49.4166(f);
- h. At 26 oil and natural gas production facilities, quarterly “physical inspections of all equipment associated with each enclosed combustor, utility flare, and pit flare” were not performed, in violation of 40 C.F.R. § 49.4166(g)(2); and
- i. At 26 oil and natural gas production facilities, monitoring for “visible smoke during operation of any enclosed combustor, utility flare, or pit flare” on a quarterly basis was not performed, in violation of 40 C.F.R. § 49.4166(g)(3).

42. The EPA reviewed Respondent Whiting Resource Corporation’s 2016 Annual Report and found the following FIP violations for the 2015 calendar year:

- a. At six oil and natural gas production facilities, Respondent operated utility flares without continuously monitoring “all variable operational parameters specified in the written operating instructions and procedures, including continuous burning pilot flame, electronically controlled automatic igniters, and monitoring system failures, using a malfunction alarm and remote notification system,” in violation of 40 C.F.R. § 49.4166(g)(1).
43. The EPA reviewed Respondent Whiting Resources Corporation’s 2017 Annual Report and found the following FIP violations for the 2016 calendar year:
- a. At eight oil and natural gas production facilities, Respondent operated nine utility flares without continuously monitoring “all variable operational parameters specified in the written operating instructions and procedures, including continuous burning pilot flame, electronically controlled automatic igniters, and monitoring system failures, using a malfunction alarm and remote notification system,” in violation of 40 C.F.R. § 49.4166(g)(1).
44. Each of the findings of violation alleged in paragraphs 41(a)-(i), 42(a), and 43(a) is a violation of the FIP and 42 U.S.C. § 7413(a)(3), and subject to civil penalties under 42 U.S.C. § 7413(d)(1).

VI. TERMS OF CONSENT AGREEMENT

45. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondents:
- a. admit that the EPA has jurisdiction over the subject matter alleged in this Agreement;
 - b. admit to the stipulated facts stated above;
 - c. neither admit nor deny the findings of violation above;
 - d. consent to the assessment of a civil penalty as stated below;
 - e. consent to any conditions specified in this Agreement;
 - f. waive any right to contest the alleged violations of law; and
 - g. waive their rights to appeal the Final Order issued by the RJO ratifying this Agreement.
46. For the purposes of this Agreement, Respondents:
- a. agree that the Stipulated Facts and Findings of Violation alleged by EPA state claims upon which relief may be granted against Respondent;
 - b. acknowledge that this Agreement resolves an enforcement action for purposes of considering Respondents’ compliance history in any subsequent enforcement actions;

- c. waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in and resolved by this Agreement, including any right of judicial review under section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. certify that the information they have supplied to EPA concerning this matter was at the time of submission, to the best of their knowledge, true, accurate and complete and acknowledge that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001;
- e. consent to personal jurisdiction in any action to enforce this Agreement or the Final Order, or both, in a United States District Court; and
- f. waive any rights they may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agree that federal law shall govern in any such civil action.

47. For the purposes of this Agreement, the Parties each agree that:

- a. this Agreement constitutes the entire agreement and understanding of the Parties and supersedes any prior agreements or understandings, whether written or oral, among the Parties with respect to the subject matter thereof;
- b. this Agreement may be signed in any number of counterparts, each of which will be deemed an original and, when taken together, constitute one agreement; the counterparts are binding on each of the Parties individually as fully and completely as if the Parties had signed one single instrument, so that the rights and liabilities of the Parties will be unaffected by the failure of any of the undersigned to execute any or all of the counterparts; any signature page and any copy of a signed signature page may be detached from any counterpart and attached to any other counterpart of this Agreement and any signature page may be transmitted electronically (e.g., a PDF file);
- c. the undersigned representative of the Complainant and the undersigned representative of each of the Respondents each certifies that by signing this Agreement he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement; and
- d. each Party's obligations under this Agreement and attached Final Order constitute sufficient consideration for the other party's obligations under this Agreement and subsequently issued Final Order; and

48. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. § 19.4, authorize the assessment of a civil penalty of up to \$362,141 and the violations must have occurred within 12 months of the initiation of this enforcement action unless the Attorney General and

Administrator jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for an administrative penalty action.

49. To determine the amount of the civil penalty to be assessed pursuant to section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), the EPA took into account, in addition to such other factors as justice may require, the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history and good faith efforts to comply, the duration of the alleged violations as established by any credible evidence, payment by the Respondent of penalties previously assessed for the same alleged violations, the economic benefit of noncompliance, the seriousness of the alleged violations, and defenses and equitable factors argued by Respondent and information submitted in support of such defenses and equitable factors.

50. The EPA Administrator's delegatee and the Attorney General's delegatee jointly determined this matter, although it involves a larger penalty amount than \$362,141 and a longer period of violation than 12 months, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. § 19.4. The joint waiver materials are submitted to the RJO with this Agreement.

51. Penalty Payment: Respondents agree to:

- a. Pay a civil penalty of \$450,000 to the United States within 30 calendar days following the issuance of the Final Order (i.e., the Effective Date of this Agreement);
- b. Pay the Civil Penalty using any method provided on the following website: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>;
- c. Identify the payment with "Docket No. ____;" and
- d. Within two (2) business days of payment, email proof of payment to Alexis North at north.alex@epa.gov ("proof of payment" means, as applicable a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with "Docket No. ____").

52. If Respondents fail to timely pay any portion of the Civil Penalty assessed under this Agreement, the EPA may:

- (a) request the Attorney General bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
- (b) refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;

- (c) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. part 13, subparts C and H; and
 - (d) suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.
53. Timely payment of the full Civil Penalty assessed under this Agreement will satisfy Respondents' obligations under Section VI of this Agreement.
54. By signing this Agreement, Respondents acknowledge that this Agreement will be available to the public and agrees that this Agreement does not contain any confidential business information or personally identifiable information.
55. By signing this Agreement, the Parties agree that each Party's obligations under this Agreement constitute sufficient consideration for the other Party's obligations.

Respondents agree that the time period from the date of the Respondents' signatures on this Consent Agreement until the payment of the Civil Penalty as stated in Paragraph 44(a)-(d) ("the Tolling Period") will not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims (the "Tolled Claims") set forth in the Alleged Violations section of this Consent Agreement in the event of a breach of this Agreement by Respondents. Respondents will not assert, plead or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling period in any action brought on the Tolled Claims in the event of a breach of this Agreement by Respondents.

VII. EFFECT OF CONSENT AGREEMENT

56. In accordance with 40 C.F.R. § 22.18(c), Respondents' full compliance with this Agreement shall resolve Respondents' liability for federal civil penalties alleged in Section VI, and the federal civil violations and facts alleged in Sections IV and V of this Agreement.
57. Any violation of this Agreement may result in civil judicial action for an injunction or civil penalties of up to \$95,284 per day per violation, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C § 7413(b)(2), and 40 C.F.R. part 19, as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C § 7413(c). The EPA may use any information submitted under this Agreement in an administrative, civil, judicial, or criminal action.
58. Failure to pay the full amount of the Civil Penalty assessed under this Agreement may subject Respondent to a civil action to collect an unpaid portion of the proposed Civil Penalty and interest. In order to avoid the assessment of interest, administrative costs, and

late payment penalty in connection with such Civil Penalty, as described in the following Paragraph of this Agreement, Respondents must timely pay the civil penalty.


59. Penalties paid pursuant to this Agreement are not deductible for federal tax purposes. 28 U.S.C. § 162(f).
60. The provisions of this Agreement shall apply to and be binding upon Respondents, and from the Effective Date of this Agreement until the penalty is paid in full, their successors and assigns. Until the penalty is paid in full, Respondents must give written notice and a copy of this Agreement to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Whiting. Simultaneously with such notice, Respondents shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation prior to payment of the penalty, Respondents shall not be released from the obligations or liabilities of this Agreement unless the EPA has provided written approval of the release of said obligations or liabilities.
61. Nothing in this Agreement relieves Respondents of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, or restricts the EPA's authority to seek compliance with any applicable laws or regulations, nor will it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
62. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondents or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
63. If, and to the extent that the EPA finds, after signing this Agreement, any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, the EPA reserves any and all of its legal and equitable remedies.

VIII. EFFECTIVE DATE

64. Respondents and Complainant agree to issuance of a final order ratifying this Agreement (Final Order). Upon filing, the RJO will transmit a copy of the filed Agreement to the Respondents. This Agreement and subsequently issued final order shall become effective after execution of the Final Order by the RJO, on the date of filing with the Hearing Clerk.

The foregoing Combined Complaint and Consent Agreement in the Matter of Whiting Resources Corporation and Whiting Oil and Gas Corporation, is Hereby Stipulated, Agreed to and Approved.

FOR THE RESPONDENT WHITING RESOURCES CORPORATION:



Bruce DeBoer
Vice President, General Counsel & Secretary

11/15/2017
Date

FOR THE RESPONDENT WHITING OIL AND GAS CORPORATION:

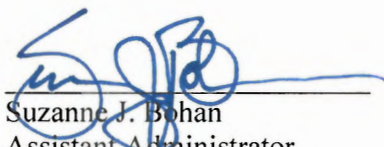


Bruce DeBoer
Vice President, General Counsel & Secretary

11/15/2017
Date

The foregoing Combined Complaint and Consent Agreement in the Matter of Whiting Resources Corporation and Whiting Oil and Gas Corporation, is Hereby Stipulated, Agreed to and Approved.

FOR COMPLAINANT



Suzanne J. Bohan
Assistant Administrator
Office of Enforcement, Compliance and
Environmental Justice

11/16/17
Date

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **WHITING RESOURCES CORPORATION AND WHITING OIL AND GAS CORPORATION; DOCKET NO.: CAA-08-2018-0001** was filed with the Regional Hearing Clerk on November 16, 2017.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Lauren Hammond, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on November 16, 2017, to:

Respondent

Bruce DeBoer
Whiting Resources Corporation and
Whiting Oil and Gas Corporation
1700 Broadway, Suite 2300
Denver, Colorado 80290

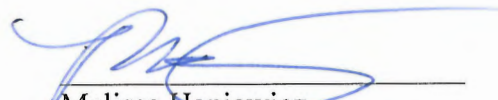
Legal Counsel

John Jacus
Davis Graham and Stubbs LLP
1550 17th Street, Suite 500
Denver, Colorado 80202

And emailed to:

Jessica Chalifoux
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

November 16, 2017


Melissa Haniewicz
Regional Hearing Clerk