



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

2009 DEC 29 PM 12: 13

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CAA-08-2010-0004

IN THE MATTER OF:)	
)	
BP AMERICA PRODUCTION CO.)	
501 Westlake Park Blvd.)	FINAL ORDER
Houston, TX 77079)	
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §22.18, 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 receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 29th DAY OF December, 2009.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 DEC 29 PM 12:13

IN THE MATTER OF:

BP America Production Company
501 Westlake Park Boulevard
Houston, Texas 77079
Respondent.

)
) CONSOLIDATED COMPLAINT AND
) CONSENT AGREEMENT
)
) Docket No. **CAA-08-2010-0004**
)
)

FILED
EPA REGION VIII
HEARING AND
COMPLAINTS

AUTHORITY

1. This Administrative Complaint is issued by the United States Environmental Protection Agency (EPA), Region 8, pursuant to Section 113(d)(1)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d)(1)(B), for violations of Section 502 of the CAA, 42 U.S.C. § 7661a. Regulations authorized by the CAA are set out in Title 40 of the Code of Federal Regulations and violations of the regulations constitute violations of the CAA. The authority to issue this Complaint has been properly delegated to the undersigned EPA official.

STATUTORY AND REGULATORY FRAMEWORK

2. Pursuant to CAA Section 502(b), 42 U.S.C. § 7661a(b), EPA is required to promulgate regulations establishing the minimum elements of a permit program governing the administration of permits issued pursuant to Title V of the CAA.
3. Pursuant to CAA Section 502(a), 42 U.S.C. § 7661a(a), it is unlawful for any person to violate any requirement of a permit issued pursuant to Title V, or to operate a major source except in compliance with a Title V permit.

4. Pursuant to CAA Section 302(e), 42 U.S.C. § 7602(e), the term “person” includes an individual or corporation.
5. Pursuant to CAA Section 501(2)(b), 42 U.S.C. § 7661(2)(B), a “major source” for purposes of the Title V program includes a facility that is a “major source” as defined in CAA Section 112, 42 U.S.C. § 7412, or a “major stationary source” as defined in CAA Section 302, 42 U.S.C. § 7602.
6. Pursuant to CAA Section 112(a)(1), 42 U.S.C. § 7412(a)(1), a “major source” includes any stationary source that has the potential to emit 10 tons per year or more of any hazardous air pollutant.
7. Pursuant to CAA Section 302(j), 42 U.S.C. § 7602(j), a “major stationary source” includes any stationary facility or source of air pollutants that has the potential to emit one hundred tons per year or more of any air pollutant.
8. Pursuant to CAA Section 301(d), 42 U.S.C. § 7601(d), EPA is responsible for directly administering the CAA operating permit program in Indian country, where a tribe does not have an approved operating permit program. EPA has promulgated regulations for operating permit programs in Indian country at 40 C.F.R. Part 71.
9. The Southern Ute Indian Reservation located in La Plata County, Colorado, is “Indian country” as defined under 40 C.F.R. § 71.2.
10. The Southern Ute Indian tribe does not have an approved operating permit program. EPA Region 8 directly administers the federal operating permit program in the Southern Ute Indian Reservation.

GENERAL ALLEGATIONS

Treating Site # 8 Compressor Station

11. The Treating Site # 8 compressor station is owned and operated by BP America Production Company. The Treating Site # 8 compressor station is located within the exterior boundary of the Southern Ute Indian Reservation, at Section 28, T33N, R10W, in La Plata County, Colorado.
12. The Treating Site # 8 compressor station has the potential to emit over 100 tons per year each of nitrogen oxide (NOx) and carbon monoxide (CO). The Treating Site # 8 compressor station is a “major source” for purposes of the Title V permitting program.
13. A Part 71 operating permit, Permit No. V-SU-0026-05.00, was issued to BP for the Treating Site # 8 compressor station on April 17, 2007.
14. Pursuant to Section II.A.1 of the operating permit for the Treating Site # 8 compressor station, emissions from engine unit TS8-1 shall not exceed 0.73 pounds per hour of CO emissions.
15. On June 27, 2007, the emission rate for CO during an initial compliance test for TS8-1 was 0.94 pounds per hour, exceeding the permit limit. Subsequent performance tests have shown emissions from TS8-1 that are within the permit limits.
16. Pursuant to Section II.C.6.b, the temperature at the inlet to the catalyst and the pressure drop across the catalyst shall be measured and recorded during each test run for each engine.
17. The temperature at the inlet to the catalyst and the pressure drop across the catalyst for engine unit TS8-3 were not recorded during run 2 of the test conducted on June 4, 2007.

Dry Creek Compressor Station

18. The Dry Creek compressor station is owned and operated by BP America Production Company. The Dry Creek compressor station is located within the exterior boundary of the Southern Ute Indian Reservation, in Sections 5 and 6, T34N, R7W, in La Plata County, Colorado.
19. At all times relevant to this Complaint, the Dry Creek compressor station has the potential to emit over 100 tons per year each of NO_x and CO. It also has the potential to emit over ten tons per year of formaldehyde, a hazardous air pollutant. The Dry Creek compressor station is a “major source” for purposes of the Title V permitting program.
20. A Part 71 operating permit, Permit No. V-SU-0038-03.03, was issued to BP for the Dry Creek compressor station on September 25, 2006.
21. Pursuant to Section III.R.7.d. of the operating permit for the Dry Creek compressor station, written notice must be provided to EPA prior to installation of a replacement of an existing permitted compressor engine with a new or overhauled engine of the same make, model, horsepower rating, and configured to operate in the same manner as the engine being replaced.
22. On May 10, 2007, engine unit DC3 was replaced without prior notification to EPA. BP America notified EPA of the engine replacement on October 22, 2007.

Florida River Compression Facility

23. The Florida River Compression Facility is owned and operated by BP America Production Company. The Florida River Compression Facility is located within the

exterior boundary of the Southern Ute Indian Reservation, in the SE1/4, SW1/4 of Section 25, Township 34N, Range 9W, in La Plata County, Colorado.

24. The Florida River Compression Facility has the potential to emit over 100 tons per year each of NO_x and CO. The Florida River Compression Facility is a “major source” for purposes of the Title V permitting program.
25. A Part 71 operating permit, Permit No. V-SU-0022-00.04, was issued to BP for the Florida River compressor station on September 21, 2005.
26. Pursuant to Section II.E.5 (a) and (b) of the operating permit for the Florida River Compression Facility, records shall be kept of all temperature and pressure drop measurements required by sections II.C.2 and II.D.4 of this permit.
27. Between January 2005 and January 2006, due to failures in the software system, some of the data that recorded the catalyst temperature and pressure drop data for the Florida River compression facility was either lost or corrupted. In addition, a significant amount of the catalyst temperature and pressure drop data for the peaker engines from February 2006 to December 2006 was also lost due to operator error. Because the Florida River Compression Facility peaker engines are no longer being used, BP America Production Company has been unable to implement specific corrective action for those engines. With respect to similar engines at other sites, BP America Production Company has put into place a number of changes and system upgrades to avoid such data losses in the future.

Salvador I/II Compressor Station

28. The Salvador I/II compressor station is owned and operated by BP America Production Company. The Salvador I/II compressor station is located within the exterior boundary of the Southern Ute Indian Reservation, in Section 28, T33N, R7W, in La Plata County, Colorado.
29. The Salvador I/II compressor station has the potential to emit over 100 tons per year of CO. The Salvador I/II compressor station is a “major source” for purposes of the Title V permitting program.
30. A Part 71 operating permit, Permit No. V-SU-0009-04.02, was issued to BP for the Salvador I/II compressor station on January 30, 2008.
31. Pursuant to Section II.C.6(b) of the operating permit for the Salvador I/II compressor station, the temperature to the inlet to the catalyst and the pressure drop across the catalyst shall be measured and recorded during each test run for each engine.
32. During the May 31, 2007 performance test for engine unit C7, the temperature at the inlet to the catalyst and the pressure drop across the catalyst were not recorded during run 1 and run 2. During the June 29, 2007 performance test for engine unit C8, the temperature at the inlet to the catalyst and the pressure drop across the catalyst were not recorded during run 2 and run 3.
33. Pursuant to Section II.D.4 of the operating permit for the Salvador I/II compressor station, the engine exhaust temperature at the inlet to the oxidation catalyst for units C2, C7, and C8 shall be measured at least once per week.

34. The engine exhaust temperature for unit C7 was not recorded during the weeks ending on May 24, 2007, June 7, 2007, June 14, 2007, and June 21, 2007. The engine exhaust temperature for unit C8 was not recorded during the weeks ending on May 24, 2007 and May 31, 2007.

VIOLATIONS

Count I

35. Respondent exceeded the emissions limitation for CO from engine unit TS8-1 on June 27, 2007, in violation of the CAA Title V operating permit for the Treating Site # 8 compressor station.

Count II

36. Respondent failed to record the temperature at the inlet to the catalyst and the pressure drop across the catalyst for engine unit TS8-3 during run 2 of the test conducted on June 4, 2007, in violation of the CAA Title V operating permit for the Treating Site # 8 compressor station.

Count III

37. Respondent failed to provide written notification to EPA prior to replacement of engine unit DC3, in violation of the CAA Title V operating permit for the Dry Creek compressor station.

Count IV

38. The temperature at the inlet to the catalyst and the pressure drop across the catalyst data for the twelve peaker engines at the Florida River Compression Facility was lost due to a software backup problem for the time period from January 2005 through January 2006

and due to operator error from February 2006 to December 2006, in violation of the CAA Title V operating permit for the Florida River Compression Facility.

Count V

39. The temperature at the inlet to the catalyst and the pressure drop across the catalyst were not recorded during run 1 and run 2 for the performance test for engine unit C7, conducted on May 31, 2007; and the temperature at the inlet to the catalyst and the pressure drop across the catalyst were not recorded during run 2 and run 3 for the performance test for engine unit C8, conducted on June 29, 2007, in violation of the CAA Title V operating permit for the Salvador I/II compressor station.

Count VI

40. The engine exhaust temperature for unit C7 was not recorded during the weeks ending on May 24, 2007, June 7, 2007, June 14, 2007, and June 21, 2007; and the engine exhaust temperature for unit C8 was not recorded during the weeks ending on May 24, 2007 and May 31, 2007, in violation of the CAA Title V operating permit for the Salvador I/II compressor station.

CONSENT AGREEMENT

41. Respondent admits the jurisdictional allegations and neither admits nor denies the factual allegations stated above.
42. Respondent waives his/her rights to a hearing before any tribunal, to contest any issue of law or fact set forth in this Complaint and Consent Agreement.
43. This Complaint and Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and

assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Complaint and Consent Agreement contains all terms of the settlement agreed to by the parties.

44. Respondent will comply with the Off Permit Changes requirements found in Section IV.R of the Florida River Compression Facility's Title V permit when replacing existing permitted turbines with a new or overhaul turbine.

45. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), and 40 C.F.R. Part 19 authorize the assessment of a civil penalty of up to \$32,500 per day of violation for each violation of the regulations associated with the Title V program, for violations occurring on or after March 15, 2004, but before January 12, 2009. For purposes of determining the amount of any civil penalty to be assessed, Section 113(e)(1) of the CAA, 42 U.S.C.

§ 7413(e)(1), requires that EPA

... as appropriate, shall take into consideration (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 violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

46. Based on the factors listed in paragraph 45, and Respondent's acknowledgment that it is in full compliance with the requirements of the CAA, EPA has determined that an appropriate civil penalty to settle this action is Eighty-One Thousand, Two Hundred Thirty-Nine Dollars (\$81,239.00).

47. Section 113(d)(1)(C) of the CAA, 42 U.S.C. § 7413(d)(1)(C), states, in relevant part:

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for administrative penalty action. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.

48. On February 9, 2009, the Department of Justice concurred with EPA's recommendation that enforcement and resolution of this matter be handled by EPA as an administrative penalty action.

49. Respondent consents, for the purpose of settlement, to the issuance of a final order in this matter and agrees to pay the civil penalty cited in the foregoing paragraph as follows:

- a. Payment is to be made of Eighty-One Thousand, Two Hundred Thirty-Nine Dollars (\$81,239.00) due within 30 calendar days from the date written on a Final Order, issued by the Regional Judicial Officer, which adopts this Complaint and Consent Agreement. If the due date falls on a weekend or legal Federal holiday, the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
- b. Payment of the penalty shall: (1) be made by certified or cashier's check payable to "Treasurer, United States of America;" (or be paid by one of the other methods listed below) (2) identify the case title and docket number of this action (either on the check or in a transmittal letter accompanying the check); and (3) remitted to:

Regular Mail:

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

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire Transfers:

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 310006
CTX Format

On Line Payment

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:
www.pay.gov

Enter sfo 1.1 in the search field

Open form and complete required fields.

- c. A copy of the 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 to both:

Regional Hearing Clerk (8RC)
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

and to:

Emilio Llamozas
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

46. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received.
47. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 61st day from the date of the final order, and each subsequent thirty-day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of

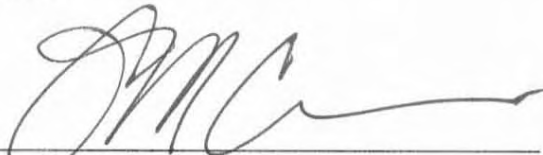
the due date. Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.

48. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
49. Nothing in this Complaint and Consent Agreement shall relieve Respondent of the duty to comply with the CAA and its implementing regulations.
50. Failure by Respondent to comply with any term of this Complaint and Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and such other relief as may be appropriate.
51. Nothing in this Complaint and Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Complaint and Consent Agreement.
52. If the undersigned is a representative of the Respondent, he/she certifies that he/she is fully authorized to enter into the terms and conditions of this Complaint and Consent Agreement and to bind the parties he/she represents to the terms and conditions of this Complaint and Consent Agreement.
53. The parties agree to submit this Complaint and Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
54. Each party shall bear its own costs and attorney fees in connection with this matter.

55. This Complaint and Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the complaint portion of this Complaint and Consent Agreement.

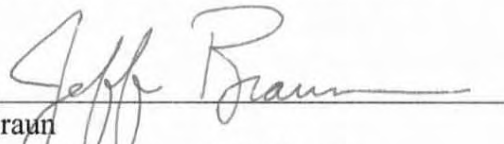
UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Date: 12/23/2009

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

BP AMERICA PRODUCTION COMPANY

Date: 12/17/2009

By: 
Jeff Braun
San Juan Performance Unit Leader
BP America Production Company

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSOLIDATED COMPLAINT, CONSENT AGREEMENT/FINAL ORDER** in the matter of **BP AMERICA PRODUCTION CO.; DOCKET NO.: CAA-08-2010-0004** was filed with the Regional Hearing Clerk on December 29, 2009.

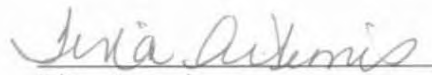
Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Linda Kato, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on December 24, 2009, to:

Stephen A. Palmer
BP America, Inc.
501 West Lake Park Blvd.
Houston, TX 77079

E-mailed to:

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

December 29, 2009



Tina Artemis
Paralegal/Regional Hearing Clerk

