



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

2019 MAR -4 PM 12: 25

FILED  
 EPA REGION VIII  
 HEARING CLERK

DOCKET NO.: CAA-08-2019-0004

IN THE MATTER OF: )  
 )  
 HIGHPOINT RESOURCES CORPORATION ) FINAL ORDER  
 )  
 )  
 )  
 )  
 )  
 )  
 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 4<sup>th</sup> DAY OF March, 2019.

Katherin E. Hall  
 Katherin E. Hall  
 Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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IN THE MATTER OF: )  
 )  
HIGHPOINT RESOURCES ) Docket No. CAA-08-2019-0004  
CORPORATION )  
 )  
 )  
Respondent. )  
 )  
 ) CONSENT AGREEMENT

**I. PRELIMINARY STATEMENT**

1. This is an administrative penalty assessment proceeding under section 113(d) of the Clean Air Act (CAA), 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 United States Environmental Protection Agency, Region 8 (EPA). On the EPA's behalf, Suzanne J. Bohan, Assistant Regional Administrator for the Office of Enforcement, Compliance and Environmental Justice, is delegated the authority to settle civil administrative penalty proceedings under section 113(d) of the CAA.
3. Respondent is HighPoint Resources Corporation, a corporation organized under the laws of Delaware.
4. Respondent HighPoint Resources Corporation is the successor to Bill Barrett Corporation.
5. Respondent is a "person" as defined in section 302(e) of the CAA, 42 U.S.C. § 7602(e).
6. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement (Agreement) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Agreement.

**II. JURISDICTION**

7. This Agreement is entered into under section 113(d) of the CAA, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. part 22. The violations in this Agreement are alleged pursuant to section 113(a)(3)(A) of the CAA, 42 U.S.C. § 7413(a)(3)(A).
8. The Regional Judicial Officer is authorized to ratify this Agreement with a final order, which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. This Agreement and approval in a final order simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

### **III. GOVERNING LAW**

10. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes the Administrator to promulgate regulations regarding emissions from new sources, including those from stationary spark ignition (SI) internal combustion engines (ICE). The relevant regulations promulgated by the EPA, pursuant to section 111 of the CAA, are set forth in 40 C.F.R. part 60, subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (Subpart JJJJ).
11. Subpart JJJJ applies to certain manufacturers, owners, and operators of SI ICE. 40 C.F.R. § 60.4230.
12. Section 111(a) of the CAA, 42 U.S.C. § 7411(a), defines the term “owner or operator” as any person who owns, leases, operates, controls, or supervises a stationary source.
13. The term “stationary source” is defined as any building, structure, facility, or installation which emits or may emit any air pollutant. 42 U.S.C. § 7411.
14. Subpart JJJJ, at 40 C.F.R. § 60.4233, sets forth emission standards for owners and operators of stationary SI ICE.
15. Subpart JJJJ, at 40 C.F.R. § 60.4233(e), requires owners and operators of stationary SI ICE with a maximum engine power greater than or equal to 75 KW (100 HP) to comply with the emission standards in Table 1 to Subpart JJJJ for their stationary SI ICE. Table 1 to Subpart JJJJ requires owners and operators of non-emergency SI natural gas engines with  $HP \geq 500$  manufactured after July 1, 2007, to meet a nitrogen oxides ( $NO_x$ ) emission standard of 2.0 grams per HP-hour (g/HP-hr), a carbon monoxide (CO) emission standard of 4.0 g/HP-hr, and a volatile organic compounds (VOC) emission standard of 1.0 g/HP-hr, or a  $NO_x$  emission standard of 160 ppmvd at 15 percent oxygen ( $O_2$ ), a CO emission standard of 540 ppmvd at 15 percent  $O_2$ , and a VOC emission standard of 86 ppmvd at 15 percent  $O_2$ .

### **IV. STATEMENT OF FACTS**

16. Until December 31, 2017, Respondent owned and operated the Pelican Lake Compressor Station facility (Facility), which compresses natural gas prior to being discharged to a gathering pipeline.
17. The Facility is a stationary source.
18. The Facility’s Cummins KTA38GCE (Cummins Engine) is a 4-stroke rich burn 760 HP engine that was manufactured in August 2009 and is subject to the requirements of Subpart JJJJ.
19. The EPA and representatives of the Ute Indian Tribe inspected the Facility on September 20, 2017, for compliance with Subpart JJJJ.
20. At the time of the inspection, emission testing was performed to verify compliance with the Subpart JJJJ engine emissions requirements found at 40 C.F.R. § 60.4233.

21. The engine testing was conducted pursuant to EPA Conditional Test Method (CTM-030), which is based on ASTM Method D6522-00.
22. The engine testing revealed NOx emissions at the Cummins Engine at 4.0 g/hp-hr and 256 ppmvd at 15% O<sub>2</sub>, which exceeded the emission standard for NOx found in Table 1 of Subpart JJJJ.
23. The engine testing revealed CO emissions at the Cummins Engine at 13.4 g/hp-hr and 1395 ppmvd at 15% O<sub>2</sub>, which exceeded the emission standard for CO found in Table 1 of Subpart JJJJ.
24. On October 17, 2017, Respondent performed a stack test demonstrating the Cummins Engine had returned to compliance with the emission standard for NOx and CO.

#### **V. ALLEGED VIOLATIONS OF LAW**

25. Based on the facts set forth in Section IV of this Agreement, the EPA finds Respondent violated Subpart JJJJ at 40 C.F.R. § 60.4233(e).

#### **VI. TERMS OF AGREEMENT**

26. For the purposes of this administrative proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
  - a. admits the EPA has jurisdiction over the subject matter alleged in this Agreement;
  - b. neither admits nor denies the alleged statement of facts or violations of law stated above;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the conditions specified in this Agreement;
  - e. waives any right to contest the alleged violations of law set forth in Section V of this Agreement; and
  - f. waives its rights to appeal any final order which approves this Agreement.
27. For the purposes of this administrative proceeding, Respondent:
  - a. agrees this Agreement states a claim upon which relief may be granted against Respondent;
  - b. acknowledges this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
  - c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Agreement, including any right of judicial review under section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);

- d. consents to personal jurisdiction in any action to enforce this Agreement in the United States District Court for the District of Colorado; and
  - e. waives any rights it 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 and to seek an additional penalty for such noncompliance with this Agreement and agrees that federal law shall govern in any such civil action to enforce compliance with this Agreement.
28. 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 \$46,192 per day of violation for each violation of the implementing regulations associated with the requirements of 42 U.S.C. § 7411. To determine the amount of the civil penalty to be assessed, the EPA took into account the facts of this case as they relate to the factors set forth in section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1).
29. Penalty Payment. Respondent agrees to:
- a. pay a civil penalty of \$85,000 (EPA Penalty) within 30 calendar days of the Effective Date of this Agreement;
  - b. pay the EPA Penalty using any method, or combination of methods, provided on the websites <https://www.epa.gov/financial/makepayment> and <http://www2.epa.gov/financial/additional-instructions-making-payments-epa>, and identifying each and every payment with the docket number associated with this matter. Within 24 hours of payment of the EPA Penalty, send proof of payment to [Stovern.Michael@epa.gov](mailto:Stovern.Michael@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 the EPA requirements, in the amount due).
30. If Respondent fails to timely pay any portion of the penalty assessed under this Agreement, the EPA may:
- a. request the Attorney General to 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 Respondent's 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.
- 31. The provisions of this Agreement, upon incorporation into a final order, shall apply to and be binding upon the EPA and upon Respondent, its successors and assigns.
- 32. By signing this Agreement, Respondent acknowledges this Agreement will be available to the public and agrees this Agreement does not contain any confidential business information or personally identifiable information.
- 33. By signing this Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that 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.
- 34. By signing this Agreement, both Parties agree that each Party's obligations under this Agreement constitute sufficient consideration for the other Party's obligations.
- 35. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the Parties, shall be a complete, full and final settlement of the EPA's civil penalty claims against Respondent for the specific violations alleged in this Agreement.
- 36. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges 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.
- 37. Except as qualified by paragraph 30 above, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

## **VII. EFFECT OF AGREEMENT**

- 38. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
- 39. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal, state or local taxes.
- 40. 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 hereof.
- 41. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor shall it restrict the

EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

42. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

#### **VIII. EFFECTIVE DATE**

43. Respondent and Complainant agree to issuance of a final order approving this Agreement. Upon filing, the EPA will transmit a copy of the filed Agreement to the Respondent. This Agreement and subsequently issued final order shall become effective after execution of the final order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of HighPoint Resources Corporation is Hereby Stipulated, Agreed, and Approved.

HIGHPOINT RESOURCES CORPORATION

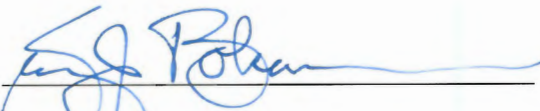
  
\_\_\_\_\_  
Signature

2/13/19  
\_\_\_\_\_  
Date

Printed Name: Kenneth A Worstolen  
Title: SVP - General Counsel  
Address: 1099 18th St, Suite 2300, Denver, CO 80202  
Respondent's Federal Tax Identification Number: 80-0000545

RESPONDENT

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,

  
\_\_\_\_\_

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

United States Environmental Protection Agency  
1595 Wynkoop Street, 8ENF  
Denver, Colorado 80202-1129

COMPLAINANT



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT and FINAL ORDER** in the matter of **HIGHPOINT RESOURCES CORPORATION; DOCKET NO.: CAA-08-2019-0004** was filed with the Regional Hearing Clerk on March 4, 2019.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Abigail Dean, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on March 4, 2019, to:

Respondent

Kenneth A. Wonstolen  
Highpoint Resources Corporation  
1099 18<sup>th</sup> Street, Suite 2300  
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

March 4, 2019

  
Melissa Haniewicz  
Regional Hearing Clerk