



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone: 800-227-8917

http://www.epa.gov/region08

2016 MAY 25 AM 10:26  
FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CAA-08-2016-0003

IN THE MATTER OF:

Bonanza Creek Energy Operating  
Company, LLC

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2)(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 receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 24<sup>th</sup> DAY OF MAY, 2016.

Elyana Sutin  
Regional Judicial Officer



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MAY 18 2016

Ref: 8ENF-L

**MEMORANDUM**

**SUBJECT:** In the Matter of Bonanza Creek Energy Operating Company, LLC  
Docket No. CAA-08-2016 -003  
Combined Complaint and Consent Agreement

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

**TO:** Hon. Elyana R. Sutin, Regional Judicial Officer

With this memorandum, the Office of Enforcement, Compliance and Environmental Justice is transmitting a combined complaint and consent agreement (CCCA) in the above-referenced matter. We request that you issue a Final Order approving it.

This action arises out of a voluntary self-disclosure report that the respondent Bonanza Creek Energy Operating Company, LLC (BCEOC) submitted to the EPA on September 8, 2015 pursuant to the EPA's audit policy, entitled Notification Under Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations (Audit Policy), 65 Fed. Reg. 19,618-19,627 (April 11, 2000).

Based on BCEOC's self-disclosure report, the EPA found a violation of the federal Clean Air Act (CAA), 42 U.S.C. §§ 7401-7671, and 40 C.F.R. part 60, subpart JJJJ--Standards of Performance for Stationary Spark Ignition Internal Combustion Engines at an oil and gas production facility located in the State of Colorado. BCEOC has notified the EPA of corrective actions taken to address this violation.

The Audit Policy requires a regulated entity to meet all nine conditions in the Audit Policy in order for the EPA to decline to seek (or reduce) gravity-based civil penalties. The EPA has determined that Respondent does not meet condition 7 of the Audit Policy, which requires that the same or closely-related violation must not have occurred at the same facility within the past 3 years. The EPA has given Respondent notice of the same or similar violations within the past 3 years and therefore, Respondent does not qualify for penalty mitigation under the Audit Policy.

The EPA has determined that it is appropriate to assess a civil penalty of \$7,500.00 for the CAA violation alleged in this action after consideration of 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). BCEOC has agreed to pay the penalty. The EPA has entered into this settlement under the authority of section 113(d) of the CAA, 42 U.S.C. § 7413(d).

The EPA has not issued a public notice of this action, because none is required under the applicable statute. However, the EPA conferred with the Colorado Department of Public Health and the Environment regarding this matter.

BCEOC is represented by Radcliffe Dann IV, Attorney, 1550 17<sup>th</sup> Street, Suite 500, Denver, Colorado 80202. His telephone number is (303) 892-7453 and his email address is [randy.dann@dgslaw.com](mailto:randy.dann@dgslaw.com).

The EPA attorney for this matter is Abigail Dean, Enforcement Attorney, at (303) 312-6106.

cc: Radcliffe Dann IV, Esq.



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2016 MAY 19 PM 2:25

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF: )  
)  
BONANZA CREEK ENERGY ) Docket No. CAA-08-2016-0003  
OPERATING COMPANY, LLC )  
)  
) COMBINED COMPLAINT AND  
Respondent. ) CONSENT AGREEMENT

**I. PRELIMINARY STATEMENT**

1. This is an administrative penalty assessment proceeding brought 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 Bonanza Creek Energy Operating Company, a limited liability company organized under the laws of Delaware and authorized to do business in the state of Colorado.
4. Respondent is a "person" as defined in section 302(e) of the CAA, 42 U.S.C. § 7602(e).
5. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this combined complaint and consent agreement (CCCA) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CCCA.

**II. JURISDICTION**

6. This CCCA 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 alleged violations in this CCCA are pursuant to section 113(a)(3)(A) of the CAA, 42 U.S.C. § 7413(a)(3)(A).
7. The Regional Judicial Officer is authorized to ratify this CCCA which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).
8. This CCCA and approval in a Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

### **III. GOVERNING LAW**

9. 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 JJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
10. Subpart JJJ applies to certain manufacturers, owners, and operators of SI ICE.
11. 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.
12. 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.
13. Subpart JJJ, at 40 C.F.R. § 60.4243(b)(2)(i) requires owners or operators of stationary SI ICE greater than 25 HP and less than or equal to 500 HP to conduct an initial performance test to demonstrate compliance with certain emission standards not later than 180 days after initial startup of such facility, as specified in 40 C.F.R. § 60.8(a).

### **IV. STIPULATED FACTS**

14. Respondent is engaged in the acquisition, exploration, development and production of onshore oil and natural gas, with operations primarily located in the Wattenberg Field in Colorado.
15. Respondent is an “owner or operator” of stationary SI ICE at the Park T-4 production facility (Facility), a stationary source, located in Weld County, Colorado.
16. The Facility includes a Caterpillar G3306BTA generating engine, identified internally as E-5, which is subject to 40 C.F.R. § 60.4243(b)(2)(i) because its site rated HP is more than 25 HP and less than 500 HP.
17. On September 8, 2015, Respondent submitted a voluntary self-disclosure report to the EPA. Respondent disclosed that E-5 was in potential noncompliance with the performance testing requirements of 40 C.F.R. §§ 60.8(a) and 60.4243, as initial startup occurred on July 3, 2014.
18. In a letter dated January 26, 2016, Respondent advised the EPA that the requisite testing pursuant to 40 C.F.R. §§ 60.8(a) and 60.4243(b)(2)(i) was performed on September 25, 2015, and the test results were submitted to the EPA on November 20, 2015.

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

19. Based on Respondent’s self-disclosure, the EPA determined that engine E-5 at the Park T-4 site had not been tested within 180 days of initial startup, in violation of 40 C.F.R. §§ 60.4243(b)(2)(i) and 60.8(a).
20. The EPA alleges that this violation continued from December 30, 2014, until September 25, 2015.

## VI. TERMS OF CONSENT AGREEMENT

21. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
- a. admits that the EPA has jurisdiction over the subject matter alleged in this CCCA;
  - b. neither admits nor denies the alleged 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 CCCA;
  - e. waives any right to contest the alleged violations of law set forth in Section V of this CCCA; and
  - f. waives its rights to appeal any Final Order which approves this CCCA.
22. For the purposes of this proceeding, Respondent:
- a. agrees that this CCCA states a claim upon which relief may be granted against Respondent;
  - b. acknowledges that this CCCA 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 CCCA, 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 CCCA 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 CCCA and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.
23. 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 \$37,500 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).
24. The EPA's Policy on Incentives for Self-Policing; Discovery, Disclosure, Correction and Prevention of Violations (April 11, 2000), commonly referred to as the "Audit Policy" requires a regulated entity to meet certain conditions in the Audit Policy in order for the EPA to decline to seek (or

reduce) gravity-based civil penalties. The EPA has determined that Respondent does not meet condition 7 of the Audit Policy.

25. Penalty Payment. Respondent agrees to:

- a. pay a civil penalty of \$7,500.00 (EPA Penalty) within 30 calendar days of the Effective Date of this CCCA;
- 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).

26. If Respondent fails to timely pay any portion of the penalty assessed under this CCCA, 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 (ii) 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.

27. The provisions of this CCCA, upon incorporation into a Final Order, shall apply to and be binding upon the EPA and upon Respondent, its successors and assigns. From the Effective Date of this CCCA until the penalty is paid in full, Respondent must give written notice and a copy of this CCCA to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this CCCA unless the EPA has provided written approval of the release of said obligations or liabilities.

28. By signing this CCCA, Respondent acknowledges that this CCCA will be available to the public and agrees that this CCCA does not contain any confidential business information or personally identifiable information.
29. By signing this CCCA, 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 CCCA and has the legal capacity to bind the Party he or she represents to this CCCA.
30. By signing this CCCA, both Parties agree that each Party's obligations under this CCCA constitute sufficient consideration for the other Party's obligations.
31. This CCCA, 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 CCCA.
32. By signing this CCCA, 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.
33. Except as qualified by Paragraph 26, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

## **VII. EFFECT OF CCCA**

34. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CCCA resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
35. Penalties paid pursuant to this CCCA shall not be deductible for purposes of federal, state or local taxes.
36. This CCCA 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.
37. The terms and conditions of this CCCA may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.
38. 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.



39. 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.
40. The EPA reserves the right to revoke this CCCA and settlement penalty if and to the extent that the EPA finds, after signing this CCCA, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

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

41. Respondent and Complainant agree to issuance of a final order approving this CCCA. Upon filing, the EPA will transmit a copy of the filed CCCA to the Respondent. This CCCA 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 Combined Complaint and Consent Agreement In the Matter of Bonanza Creek Energy Operating Company, LLC, is Hereby Stipulated, Agreed, and Approved.

Bonanza Creek Energy Operating Company, LLC  
RESPONDENT


  
\_\_\_\_\_  
Signature

5/9/2016  
\_\_\_\_\_  
Date

Printed Name: David Stewart  
Title: Vice President EHS + RC  
Address: 1410 17th Street Suite 1400 Denver CO 80202  
Respondent's Federal Tax Identification Number: 61-1630631

United States Environmental Protection Agency, Region 8, Office of Enforcement, Compliance and Environmental Justice  
COMPLAINANT

5/18/16  
\_\_\_\_\_  
Date

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

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **Bonanza Creek Energy Operating Company, LLC.; DOCKET NO.: CAA-08-2016-0003** was filed with the Regional Hearing Clerk on May 19, 2016.

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 May 25, 2016, to:

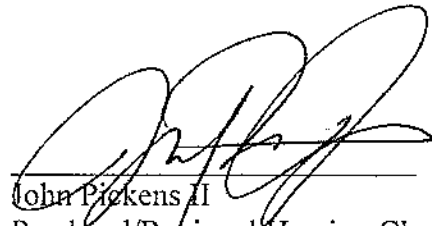
Respondent

Radcliffe Dann IV, Esq  
1550 17th Street, Suite 500  
Denver, CO 80202

And emailed to:

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

May 25, 2016

  
John Pickens II  
Paralegal/Regional Hearing Clerk

