UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
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Ref: 8P-AR

Mike Weaver
Midstream Operations Manager
Anadarko Uintah Midstream, LLC
P.O. Box 173779
Denver, Colorado 80202-3779

Re: Anadarko Uintah Midstream, LLC, Final Minor New Source Review Permits and Response to Comments for Multiple Facilities

Dear Mr. Weaver:

The U.S. Environmental Protection Agency Region 8 has completed its review of Anadarko Uintah Midstream, LLC's applications requesting permits pursuant to the Tribal Minor New Source Review (MNSR) Permit Program at 40 CFR part 49 for six (6) facilities located on Indian country lands within the Uintah and Ouray Indian Reservation, in Uintah County, Utah. The facilities are listed below.

- East Bench Compressor Station - Permit # SMNSR-UO-000824-2016.001;
- Sage Grouse Compressor Station - Permit # SMNSR-UO-001875-2016.001;
- North East Compressor Station - Permit # SMNSR-UO-001874-2016.001;
- North Compressor Station - Permit # SMNSR-UO-000071-2016.001;
- Archie Bench Compressor Station - Permit # SMNSR-UO-000817-2016.001; and
- Bitter Creek Compressor Station - Permit # SMNSR-UO-000818-2016.001.

The permits were requested to incorporate enforceable requirements of a March 27, 2008 federal consent decree (CD) between the United States of America (Plaintiff); the State of Colorado, Rocky Mountain Clean Air Action and the Natural Resources Defense Council (Plaintiff-Intervenors); and Kerr-McGee Corporation (Defendant) (Civil Action No. 07-CV-01034-EWN-KMT). Anadarko requested the MNSR permits to establish a permanent authority for the requirements that would apply after the CD is terminated.

Based on the information submitted in Anadarko's permit applications, the EPA issues the enclosed final MNSR permits for the six (6) facilities. Please review each condition carefully and note any restrictions placed on this source.

A 30-day public comment period was held from January 8, 2018 to February 7, 2018. The EPA received comments from WildEarth Guardians on February 7, 2018. No other comments were received during the public comment period. The EPA's responses to the public comments are enclosed. The final permits will be effective on July 7, 2018.

Under 40 CFR 49.159, within 30 days after the final permit decision has been issued, any person who commented on the specific terms and conditions of the draft permit may petition the Environmental Appeals Board to review any term or condition of the permit. Any person who failed to comment on the specific terms and conditions of this permit may petition for administrative review only to the extent that the changes from the draft to the final permit or other new grounds were not reasonably ascertainable during the public comment period. The 30-day period within which a person may request review begins with this dated notice of the final permit decision. If an administrative review of the final permit is requested, the specific terms and conditions of the permit that are the subject of the request for review must be stayed.

If you have any questions concerning the enclosed final permit, please contact Eric Wortman at (617) 918-1624.

Sincerely,

MONICA MATHEWS-MORALES

Digitally signed by MONICA MATHEWS-MORALES
Date: 2018.06.07 12:29:34 -06'00'

Monica Mathews-Morales
Director, Air Program
Office of Partnerships and Regulatory Assistance

Enclosures (7)

cc: Bruce Pargeets, Director, Energy, Minerals and Air, Ute Indian Tribe
Minnie Grant, Air Coordinator, Energy, Minerals, and Air, Ute Indian Tribe
Natalie Ohlhausen, Senior HSE Representative, Anadarko Uintah Midstream, LLC

EPA Responses to Comments from WildEarth Guardians on the Proposed MNSR Permits for Six Facilities Pursuant to the MNSR Permit Program at 40 CFR Part 49

Comments on Proposed Permit Issuance:

These facilities are located and operated within the Uinta Basin, an area that the EPA has acknowledged is currently in violation of National Ambient Air Quality Standards ("NAAQS") for ground-level ozone. We object to the EPA's proposal to approve these air pollution permits. The agency has failed to demonstrate that approval of the permits will not lead to emissions that will cause or contribute to violations of National Ambient Air Quality Standards NAAQS and Prevention of Significant Deterioration ("PSD") increments under the Clean Air Act.

The EPA acknowledges in the technical support documents ("TSDs") prepared for each permit that regulations at 40 C.F.R. § 49.154(d) "require that an Air Quality Impact Assessment (AQIA) modeling analysis be performed if there is reason to be concerned that new construction would cause or contribute to a National Ambient Air Quality Standard (NAAQS) or PSD increment violation." *See e.g.*, TSD for Anadarko Uintah Midstream, LLC, Sage Grouse Compressor Station, Proposed Permit #SMNSR-UO-001875-2016.001 at 7. Here, there are major reasons to be concerned that the Anadarko facilities proposed for permitting by the EPA would cause or contribute to a violation of the NAAQS.

First and foremost, the Anadarko facilities will contribute to emissions that will undoubtedly cause or contribute to violations of NAAQS for ground-level ozone. According to the EPA, air quality in the Uinta Basin is so bad that that it violates NAAQS established in 2008 and 2015 for ground-level ozone. The EPA has even recommended that a portion of the Uinta Basin, including the areas where the Anadarko facilities are located, be designated as nonattainment due to ongoing violations of the 2015 ozone NAAQS. *See* Exhibit 1, EPA, "Utah: Northern Wasatch Front, Southern Wasatch Front, and Uinta Basin, Intended Area Designations for the 2015 Ozone National Ambient Air Quality Standards, Technical Support Document" (Dec. 20, 2017) at 49-50. According to the EPA, while the 2015 ozone NAAQS limit concentrations of ground-level ozone to no more than 0.070 parts per million, concentrations in the Uinta Basin frequently exceed this standard.

Given that the Anadarko facilities will be releasing emissions that contribute to the formation of ground-level ozone, namely volatile organic compounds ("VOCs"), nitrogen oxide ("NOx"), and carbon monoxide emissions, there is no doubt that the facilities will contribute to emissions that will cause or contribute to violations of the ozone NAAQS.

Furthermore, we are very concerned that EPA has failed to demonstrate that emissions of NOx will not cause or contribute to violations of the 1-hour nitrogen dioxide ("NO_2") NAAQS. Our concerns are underscored by the fact that EPA, to our knowledge, has never assessed the impact that emissions from the Anadarko facilities, particularly from compressor engines, have on ambient concentrations of NO_2. We are very concerned given the short-term nature of the NAAQS, given the level of emissions, and given that the exhaust stacks at the Anadarko facility are relatively near

ground-level, that emissions are very likely to cause or contribute to violations of the 1-hour NO_2 NAAQS.

In the TSDs for the proposed permits, EPA asserts that an air quality impacts analysis is not required because, in the agency's words, "The emissions at this existing facility will not be increasing due to this permit action[,] the emissions will continue to be well-controlled at all times[,] [and] this permit action does not authorize the construction of any new emission sources, or emissions increases from existing units, nor does it otherwise authorize any other physical modifications to the facility[.]" *See e.g.*, TSD for Anadarko Uintah Midstream, LLC, Sage Grouse Compressor Station, Proposed Permit #SMNSR-UO-001875-2016.001 at 7. Accordingly, the EPA claims its permitting actions "will have no adverse air quality impacts." *Id*. The EPA's claims, however, defy its own regulations, deny the real impact of its permitting actions, and fundamentally are completely unsupported.

To begin with, we are greatly concerned the EPA is misstating the impacts of proposed permitting actions. While the agency asserts that the Anadarko facilities are "existing," they are not existing facilities that have been permitted by the EPA. Thus, while the facilities may physically "exist," they do not physically exist as facilities that have been subject to air quality scrutiny, permitting, and any air quality analysis. In this sense, these facilities and their emissions are being newly constructed and the EPA must analyze them accordingly.

Furthermore, regardless of whether emissions will be increasing or will be "well controlled," as the EPA asserts, the agency's duty to analyze air quality impacts applies whenever there is "reason to be concerned" that emissions would cause or contribute to a violation of the NAAQS. 40 C.F.R. § 49.154(d). Here, even if emissions may not increase and there is still reason to be concerned that emissions would cause or contribute to a violation of the NAAQS. Accordingly, EPA's assertions are unsupported and contrary to its regulations.

Finally, EPA is simply incorrect that its permitting actions will have no impact on emissions. The proposed permits will impose enforceable emission limitations that will make the Anadarko facilities synthetic minor sources of air pollution. In doing so, the permits will ensure that emissions remain below certain rates, effectively limiting the sources' potential to emit. Although the EPA asserts that no "construction" will be authorized, construction will, in fact, occur. Construction is defined as, "any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions." 40 C.F.R. § 51.166(b)(8). Here, the permits will ensure Anadarko facilities are operated in such a manner and under such enforceable emissions limitations that there will result in a change in potential emissions. There is simply no support for EPA's claim that the permits are *pro forma* and have no practical impact on air quality at the end of the day.

EPA Response:

On December 22, 2017, the EPA responded to the Ute Indian Tribe's recommendation for designation of the 2015 ozone NAAQS by indicating the anticipated area of designation. This response started a 120-day period for states and tribes to provide additional information before the EPA determines the final designations. The EPA also opened a 30-day comment period for the public to provide input on the designation before it is finalized. We acknowledge that the commenter correctly points out that the EPA's technical support document for the intended area designations describes our intent to designate portions of the Uintah Basin in Utah as nonattainment for the 2015 ozone NAAQS. On April 30, 2018, the EPA designated portions of the Uintah Basin as a Marginal nonattainment area for the 2015 ozone NAAQS.[1]

The EPA disagrees with the commenter that the issuance of the proposed permits will cause or contribute to a violation of the 8-hour ozone or 1-hour NO_2 NAAQS or to a PSD increment violation. As to NO_2, there are no nonattainment area designations for the 1-hour NO_2 NAAQS (*see* 77 FR 9533 (February 17, 2012)), and current air quality monitoring data for the 1-hour NO_2 NAAQS in the Uinta Basin does not indicate any violations. As to ozone, under applicable EPA regulations these oil and natural gas sources were already existing at the time of the Uinta Basin nonattainment area designation for the 2015 ozone NAAQS (as well as at the time of the earliest air quality measurements used to support the designation). Furthermore, construction of these sources did not trigger preconstruction review requirements under the MNSR Permit Program. The emissions of each source at the time of construction were subject to federally enforceable limits under a federal CD. While construction of the sources did not trigger MNSR preconstruction review, the EPA is issuing these permits to permanently memorialize the requirements that were established in the CD, so that the CD can be terminated and to allow for continued operation of the emissions units that previously became subject to the CD requirements upon construction. Following a regulatory procedure to transfer requirements from a federal CD to federal minor source permits does not cause any new construction or new emissions to occur, and it does not trigger the provisions the commenter cites to assert that an air quality impact analysis (AQIA) is required. Further explanation follows.

The six (6) existing Anadarko facilities are (and were at the time of construction) true minor sources according to the regulatory definition of *potential to emit*, which is the maximum capacity of a source to emit a pollutant under its physical and operational design. 40 CFR 49.152. The definition further states that any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, "shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable as a practical matter." *Id.* When these sources were constructed (before October 3, 2016), true minor oil and natural gas sources were required to submit a registration to the EPA in accordance with 40 CFR 49.160 in lieu of applying for a minor source permit (see 49.151(c)(iii)).

[1] The designations were published in the Federal Register on June 4, 2018 and will be effective on August 3, 2018. *See* 83 FR 25776. Additional information on the EPA's regulatory actions regarding designations for the 2015 ozone NAAQS is available at https://www.epa.gov/ozone-designations/ozone-designations-regulatory-actions.

The 2008 CD contained requirements to control emissions from compressor engines, and to install low-emission dehydrators and low-bleed pneumatic controllers at all newly constructed compressor stations in the Uinta Basin. Upon commencing construction, these sources were subject to those terms of the CD. Federal CDs are considered enforceable as a practical matter.[2] Anadarko requested the proposed permits to retain the requirements of the CD after it is terminated. The EPA used the provisions of 40 CFR 49.158 (which is specified for existing synthetic minor sources) as the appropriate authority to issue the requested permits under the MNSR Permit Program, because the enforceable requirements for these sources were established in "a mechanism other than" an MNSR permit as provided at 40 CFR 49.158(c)(3), prior to the date that triggered preconstruction review for true minor oil and natural gas sources under the MNSR Permit Program as provided at 40 CFR 49.151(c)(iii), and there was no proposed new construction or modification that would trigger the permitting requirements for new or modified true minor sources. Existing sources that submit an application in accordance with § 49.158 are "subject to the preconstruction permitting requirements in §§ 49.154 and 49.155, except for the permit application content and permit application completeness provisions included in § 49.154(a)(2) and § 49.154(b)."

Among other things, applicable parts of §§ 49.154 and 49.155 require assessing any concern about the impacts of the emissions of a new source or existing source modification, and allow the EPA to require an AQIA if there is reason to be concerned that the construction or modification would cause or contribute to a NAAQS or PSD increment violation. But because the allowable emissions for these sources before and after permit issuance would be the same, this action would not result in increases in allowable emissions. That is, construction of new sources or modification of existing sources would not result from issuing these permits, and the EPA had no "reason to be concerned" under 40 CFR 49.154(d)(1) that construction or modification would cause or contribute to a NAAQS or PSD increment violation. Therefore, the EPA determined that an AQIA modeling analysis was not required for the proposed permits.

The EPA also disagrees with the commenter that the proposed permits authorize construction and the existing sources should be treated as "new" sources. Applicable EPA regulations do not provide for treating existing sources as new sources under the MNSR permit program. While 40 CFR 49.151(c)(ii)(D) does give the EPA the discretion to require additional controls for previously established synthetic minor sources based on the circumstances of the source, we are not aware of any additional control options that would be economically or technically feasible at these sources, given that through the CD they are already subject to emissions controls that are equivalent to those considered to be the "Best System of Emissions Reductions" or the "Maximum Achievable Control Technologies" for equivalent emissions units in existing EPA standards, such as New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAP). The requirements in the proposed permits are intended to be equivalent to the CD requirements. Additionally, the definition of "construction" cited by the commenter is not met because the proposed permits do not authorize any physical change in the method of operation that result in a change of emissions, but

[2] *See* "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act," Memorandum from John S. Seitz, Director, EPA Office of Air Quality Planning & Standards (Jan. 25, 1995; available at https://www.epa.gov/sites/production/files/2015-08/documents/ptememo.pdf).

instead only incorporate existing requirements from the CD into an MNSR permit. If the proposed permits are not issued, the emissions at each source will remain the same under the limits established by the CD. Although the proposed permits add new monitoring, recordkeeping and reporting requirements that are not in the CD, but are required by the MNSR permit program, the proposed permits do not add new emission limits or control requirements that would alter the emissions-reducing effects of the CD.

Furthermore, the commenter is incorrect in asserting that "the proposed permits will impose enforceable emission limitations that will make the An[a]darko facilities synthetic minor sources." As noted above, these facilities are already synthetic minor sources, by virtue of the CD entered in 2008. The control requirements in the proposed permits merely memorialize requirements for substantial emissions reductions from the equipment at the facilities that have already been achieved as a result of the CD. Specifically, the proposed permits require a 93% reduction in carbon monoxide from the engines operating at each facility, as well as limiting VOC emissions from pneumatic controllers consistent with the requirements in the EPA's NSPS at 40 CFR part 60, subpart OOOO. In addition, the proposed permit for the facility that operates a dehydrator requires the operation of a Low Emission Dehydrator, which has emissions of less than 1 tpy VOC. The control requirements proposed in the permits meet or exceed the limitations for similar equipment subject to federal regulations.[3]

[3] *See* New Source Performance Standards for the Oil and Natural Gas Industry at 40 CFR part 60, subpart OOOO (available at https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/new-source-performance-standards-and#Final rules); National Emission Standards for Hazardous Air Pollutants from the Oil and Natural Gas Industry at 40 CFR part 63, subpart HH (available at https://www.epa.gov/stationary-sources-air-pollution/oil-and-natural-gas-production-facilities-national-emission); New Source Performance Standards for Stationary Spark Ignition Internal Combustion Engines at 40 CFR part 60, subpart JJJJ (available at https://www.epa.gov/stationary-engines/new-source-performance-standards-stationary-spark-ignition-internal-combustion).