

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8
Docket No. CAA-08-2011-0018

2011 NOV -3 AM 9:18

11:00 AM
EPA REGION VIII
HEARING ROOM

In the Matter of:) **JOINT MOTION TO AMEND**
) **ADMINISTRATIVE COMPLAINT**
XTO ENERGY INC.) **AND CONSENT AGREEMENT**
)
Respondent.)

AUTHORITY

COMES NOW XTO Energy Inc. and withdraws its Unopposed Motion to Amend Administrative Complaint and Consent Agreement filed on or about October 12, 2011 and now files this Joint Motion to Amend the Administrative Complaint and Consent Agreement with the Complainant, the United States Environmental Protection Agency Region 8.

1. On August 26, 2011, the Court approved an Administrative complaint and Consent Agreement ("Agreement") in this matter (see August 26, 2011 Order Granting filing of an electronic Consent Agreement Final Order).

2. Pursuant to the terms of Paragraph F.13 of the Agreement, the purpose of this Motion is to request that the Court approve a revised and amended Appendix A, Tables A-3 and A-4 to the Agreement ("Revised Appendix A"). Additionally, as a result of the proposed revision, both Complainant and Respondent also seek to amend Section E, Paragraph 1 ("E.1") of the Agreement to reflect the increased civil penalty amount caused by the revision to Appendix A, Tables A-3 and A-4.

3. Complainant and Respondent respectfully request that Appendix A be amended to add one (1) additional source to Table A-3 and two (2) additional sources to Table A-4. Specifically, the Revised Table A-3 now includes a well named "FBIR Grinnel 41X-1," with the corresponding well-related information. In addition, the Revised Table A-4 now includes a well named "FBIR Nellie Old Mouse 13X-13," with corresponding well-related information and a well named "Thorris Federal 24X-12," with corresponding well-related information.


4. As a result of increasing the total number of emission sources listed in Appendix A by three (3) wells, from 21 to 24 wells, the civil penalty amount listed in the Agreement at E.1 should correspondingly be amended to "\$72,000.00" instead of \$63,000.00 as currently in the Agreement. Complainant and Respondent, therefore, respectfully seek to amend Section E.1 of the Agreement to reflect the appropriate civil penalty amount of \$72,000.00.

PRAYER

For the above-mentioned reasons, both the Complainant and Respondent respectfully request that the Court approve substitution of the attached Revised Appendix A, Tables A-3 and A-4 into the Agreement, and approve revision of Section E.1 of the Agreement, as described herein and attached to this motion.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8,
Complainant.**

Date: November 1, 2011



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

**XTO ENERGY INC.,
Respondent.**

Date: October 25, 2011



Christopher W. Armstrong
Counsel for XTO Energy Inc.

AMENDED SECTION E, Paragraph 1

Section E, Paragraph 1 of Administrative Complaint and Consent Agreement is hereby amended to read as follows:

E. CIVIL PENALTY

1. Pursuant to an analysis of the facts and circumstances of this case with the statutory factors described in section 113(d)(1)(B) of the CAA, 42 U.S.C. §7413(d)(1)(B), EPA has determined that an appropriate civil penalty to settle this action is the amount of \$3,000 per emission source listed in Appendix A for a total of \$72,000.

APPENDIX A

TABLE A-1 (Existing Emission Sources - Commenced construction by August 30, 2011)

WELL NAME	LAT/LONG	SECTION	TOWNSHIP	RANGE	COUNTY	CASING HEAD GAS CONTROLLED	CASINGHEAD GAS CONTROL DEVICE	TANK BATTERY CONTROL DEVICE	TANK BATTERY CONTROL DEVICE INSTALL DATE (on or about)	WELL SITE SPUD DATE	WELL COMPLETION (on or about)	DATE OF FIRST PRODUCTION	GROUPED WELLS ON SINGLE PAD
FBIR Baker 34X-25	47.689275 N, 102.393433 W	25	149N	92W	Dunn	Yes	VRU/Flare	VRU/Flare	1/15/2011	12/19/2010	1/15/2011	7/12/2011	Yes
FBIR Walker 34X-25	47.689275 N, 102.393342 W	25	148N	92W	Dunn	Yes	VRU/Flare	VRU/Flare	2/15/2011	1/7/2011	2/15/2011	7/13/2011	
FBIR Bird 31X-19	47.716519 N, 102.374297 W	19	149N	91W	Dunn	Yes	VRU/Flare	VRU/Flare	7/15/2011	3/23/2011	7/15/2011	8/8/2011	Yes
FBIR Stephen 31X-19	47.716767 N, 102.374297 W	19	149N	91W	Dunn	Yes	VRU/Flare	VRU/Flare	7/15/2011	3/29/2011	7/15/2011	8/10/2011	

TABLE A-2 (New Sources - Commence construction between August 31, 2011 and December 31, 2011)

WELL NAME	SECTION	TOWNSHIP	RANGE	COUNTY	WELL SITE SPUD DATE	GROUPED WELLS ON SINGLE PAD
FBIR Smith 11X-10	10	149N	92W	Dunn	7/3/2011	No
FBIR IronWoman 21X-10	10	148N	92W	Dunn	6/27/2011	Yes
FBIR YellowWolf 21X-10	10	148N	92W	Dunn	6/30/2011	
FBIR Darcie 34X-14	14	148N	92W	Dunn	8/21/2011	No
FBIR HuntsMedicine 24X-8	8	149N	91W	Dunn	9/17/2011	Yes
FBIR Beaks 24X-8	8	149N	91W	Dunn	9/20/2011	
FBIR WalterPacksWolf 31X-12	12	149N	92W	Dunn	10/2/2011	No
FBIR GoesEverywhere 31X-11	11	149N	92W	Dunn	11/12/2011	No
FBIR GuyBlackHawk 24X-27	27	149N	92W	Dunn	12/10/2011	No
FBIR YoungBear 31X-9	9	148N	92W	Dunn	12/25/2011	No

TABLE A-3 (New Sources - Commence construction between January 1, 2012 and March 31, 2012)

WELL NAME	SECTION	TOWNSHIP	RANGE	COUNTY	WELL SITE SPUD DATE	GROUPED WELLS ON SINGLE PAD
FBIR Lawrence 24X-26	26	149N	92W	Dunn	1/22/2012	No
FBIR HeadlessTurtle 44X-32	32	149N	91W	Dunn	2/6/2012	No
FBIR Grinnell 34X-33	33	149N	91W	Dunn	3/5/2012	No
FBIR BlackMedicine 24X-21	21	149N	91W	Dunn	3/20/2012	No
FBIR Grinnel 41X-1	1	148N	92W	Dunn	3/24/2012	No

TABLE A-4 (New Sources - Commence construction between April 1 2012 and June 30, 2012)

WELL NAME	SECTION	TOWNSHIP	RANGE	COUNTY	WELL SITE SPUD DATE	GROUPED WELLS ON SINGLE PAD
FBIR HuntsAlong 31X-31	2	148N	92W	Dunn	5/2/2012	No
FBIR GeorgeBlackHawk 21X-6	6	148N	91W	Dunn	5/30/2012	No
FBIR Smith 11X-10 (2)	10	149N	92W	Dunn	6/14/2012	No
FBIR Nellie Old Mouse 13X-13	13	148N	92W	Dunn	6/18/2012	No
Thorris Federal 24X-12	12	147N	95W	Dunn	5/29/2012	No

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached Joint Motion to Amend Administrative Complaint and Consent Agreement in the matter of XTO Energy, Inc., Docket No. CAA-08-2011-0018, was filed with the Regional Hearing Clerk on November 2, 2011.

Further, the undersigned certifies that a true and correct copy of the document was hand-delivered to Cynthia Reynolds, Director, EPA Air & Toxics Technical Enforcement Program, 1595 Wynkoop Street, Denver, CO 80202 and mailed by first-class U.S. mail to Christopher Armstrong, counsel for XTO Energy, Inc., at 810 Houston Street, Fort Worth, TX 76102.

Date: November 2, 2011

David Rochlin

David Rochlin
Senior Enforcement Attorney
U.S. Environmental Protection Agency