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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGIONAL HEARING CLERK
REGION 6
BEFORE THE ADMINISTRATOR
EPA REGION VI

In the Matter of:

EOG Resources Inc.

Respondent

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EPA Docket No.
CAA 06-2019-3304

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

The following Administrative Compliance Order on Consent (“Consent Order”) is issued pursuant to the authority of Section 113(a)(1)(A) of the Clean Air Act, 42 U.S.C. § 7413(a)(1)(A) (hereinafter referred to as “the Act”). Section 113(a)(1) of the Act authorizes the Administrator of the United States Environmental Protection Agency (“EPA”) to issue an order requiring compliance to any person whom the Administrator finds to be in violation of the Act. The authority to issue this Consent Order has been delegated to the Regional Administrator of EPA Region 6 and re-delegated to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6.

STATUTORY AND REGULATORY BACKGROUND

1. The Act is designed to protect and enhance the quality of the nation’s air to promote public health and welfare and the productive capacity of its population. CAA § 101(b)(1), 42 U.S.C. § 7401(b)(1).
2. Section 109(a) of the CAA, 42 U.S.C. § 7409(a), requires the Administrator of EPA to publish national ambient air quality standards (“NAAQS”) for certain

pollutants. The NAAQS establish primary air quality standards to protect public health and secondary standards to protect public welfare.

3. To achieve the objectives of the NAAQS and the Act, Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each State to adopt a state implementation plan (“SIP”) that provides for the implementation, maintenance, and enforcement of the NAAQS, and to submit it to the Administrator of EPA for approval.

4. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a permit by rule (“PBR”) program, which can be found at 30 T.A.C. Chapter 106 – Permits by Rule. *See* 40 C.F.R. § 52.2270(c).

5. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a program for standard permits, which can be found at 30 T.A.C. Chapter 116, Subpart F – Standard Permits. *See* 40 C.F.R. § 52.2270(c).

6. Subchapter O of Chapter 106 of the Texas Administrative Code regulates permitting by rule for oil and gas facilities that produce more than a de minimis level of emissions, but too little for other permitting options. *See* 30 T.A.C. §§ 106.4(a) and 106.351-59.

- a. The provisions of 30 T.A.C. § 106.4(c) provides a general requirement for facilities subject to a permit by rule : “[t]he emissions from the facility shall comply with all rules and regulations of the [Texas Commission on Environmental Quality] and with the intent of the Texas Clean Air Act (“TCAA”), including protection of health and property of the public, and all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility.”
- b. Certain conditions are applicable to oil and gas site (“OGS”) facilities as delineated at 30 T.A.C. § 106.352(a): “This section applies to all

stationary facilities, or groups of facilities, at a site which handle gases and liquids associated with the production, conditioning, processing, and pipeline transfer of fluids or gases found in geologic formations on or beneath the earth's surface including, but not limited to, crude oil, natural gas, condensate, and produced water..."

- c. The provisions of 30 T.A.C. § 106.352(l) apply "to new and modified facilities." This section provides that "[a]ny oil or gas production facility, carbon dioxide separation facility, or oil or gas pipeline facility consisting of one or more tanks, separators, dehydration units, free water knockouts, gunbarrels, heater treaters, natural gas liquid recovery units, or gas sweetening and other gas conditioning facilities . . . are permitted by rule" for "those facilities named which handle gases and liquids associated with the production, conditioning, processing, and pipeline transfer of fluids found in geologic formations beneath the earth's surface." 30 T.A.C. § 106.352(l).
- d. 30 T.A.C. § 106.352(l)(1) requires that "flares shall meet the requirements of § 106.492."
- e. 30 T.A.C. § 106.492(l)(B) states that every flare subject to this section "shall be equipped with a continuously burning pilot or other automatic ignition system that assures gas ignition..."
- f. 30 T.A.C. § 106.492(1)(A) states that the flare shall be equipped with a flare tip designed to provide good mixing with air, flame stability, and a tip velocity less than 60 feet per second (ft/sec) for gases having a lower heating value less than 1,000 British thermal units per cubic foot (Btu/ft³) or a tip velocity less than 400 ft/sec for gases having a lower heating value greater than 1,000 Btu/ft³.
- g. 30 T.A.C. § 106.6(b) states that "[a]ll representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration under this section become conditions upon which the facility permitted by rule shall be constructed and operated."
- h. 30 T.A.C. § 106.6(c) states that "[i]t shall be unlawful for any person to vary from such representation if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless the certified registration is first revised."

7. Subchapter F of Chapter 116 of the Texas Administrative Code regulates standard permits for air pollution control projects that reduce or maintain authorized emission rates for existing facilities. This Subchapter also establishes standards for emission control equipment. *See* 30 T.A.C. §§ 116.601-620.

- a. The standard permit regulations state that “[a]ll representations with regard to construction plans, operating procedures, and maximum emission rates in any registration for a standard permit become conditions upon which the facility or changes thereto, must be constructed and operated.” 30 T.A.C. § 116.615(2).
- b. The standard permit regulations further provide that “facilities covered by the standard permit may not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations.” 30 T.A.C. § 116.615(9).
- c. 30 T.A.C. § 116.620 establishes standards for emission controls at oil and gas facilities.
- d. 30 T.A.C. § 116.620(a)(12) requires adequate combustion in flares and pilot flame monitoring.
- e. 30 T.A.C. § 116.620(b)(1) requires “[f]loating roofs or equivalent controls” on “all new or modified storage tanks. . .” and “[i]n lieu of a floating roof, tank emissions may be routed to a destruction device such that a minimum VOC destruction efficiency of 98% is achieved or a vapor control system such that a minimum VOC recovery efficiency of 95% is achieved.” 30 T.A.C. § 116.620(b)(1)(D)(i) and (ii).

8. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally-enforceable SIPs or permits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. EOG Resources Inc. (“EOG Resources” or “Respondent”) is a corporation doing business in the state of Texas. Respondent is a “person” within the meaning of Section 113(a) of the CAA, 42 U.S.C. § 7413(a), and as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

10. At all times relevant to this Consent Order, Respondent has owned and/or operated the oil and natural gas production facilities listed in Attachment A, (the “Facilities”), which are located in the Texas Eagle Ford Shale area.

11. Respondent is the owner and/or operator of the Facilities within the meaning of 40 C.F.R. § 51.100(f).

12. At all times relevant to this Consent Order, Respondent owned and/or operated oil and gas Facilities that emit Volatile Organic Compounds.

13. The Facilities are subject to the State of Texas’s Permits by Rule program for oil and gas facilities under Subchapter O of Chapter 106 of the Texas Administrative Code and/or the Standard Permits program under Subchapter F of Chapter 116 of the Texas Administrative Code.

14. The Texas Commission on Environmental Quality (“TCEQ”) issued air permits and/or approval letters for registrations to the Respondent, listed in Attachment A, under the SIP-approved Permits by Rule and/or Standard Permit program. The permits cover various emission units at the Facilities, including process equipment and/or vapor recovery systems, tanks, and flares.

15. Respondent utilizes flares to control the emission of waste gas streams from the Facilities. The permits listed in Attachment A require Respondent to operate compliance with certain provisions of the Texas SIP.

16. During May 8 – 16, 2018, EPA conducted helicopter flyovers of the Eagle Ford Shale area to assess energy extraction facility emissions using Optical Gas Imaging (“OGI”) technology.

17. On October 18, 2018 EPA sent Respondent OGI video captures showing hydrocarbon emissions from flares, process equipment, and vapor recovery systems at the Facilities.

18. Based upon its review of the images obtained during the flyovers and preliminary permit information available from online state databases for oil and gas facilities, EPA Region 6 notified Respondent and TCEQ of violations of the Texas SIP on October 18, 2018.

19. On November 15, 2018, Respondent and EPA Region 6 conferred regarding violations of the Texas SIP.

20. On January 30, 2019, Respondent provided information to EPA that corrective actions have been completed at the Facilities to address some of the compliance issues observed during the flyovers.

21. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the flyover video captures and facility permitted operations. Based on this review, EPA has made the following findings for one or more of the Facilities:

- a. Respondent violated 30 T.A.C. § 106.4(c) by failing to maintain in good condition and properly operate the emissions control equipment at certain facilities;
- b. Respondent violated 30 T.A.C. § 106.492(1)(B) by failing to equip certain facilities with a continuously burning pilot or automatic ignition system that assures gas ignition;

- c. Respondent violated 30 T.A.C. § 106.492(2)(A) by failing to operate the flare such that a combustible mixture of gases were routed to the flare (i.e., gases burned may not have contained greater than 200 Btu/ft³ prior to the addition of air);
- d. Respondent violated 30 T.A.C. § 106.352(l)(1) by failing to comply with the requirements of 30 T.A.C. § 106.492, which requires flares to be equipped with a continuously burning pilot or other automatic ignition system that assures gas ignition;
- e. Respondent violated 30 T.A.C. § 106.6(b) by failing to operate equipment consistent with operating procedures in the certified registration for the facility permit;
- f. Respondent violated 30 T.A.C. § 106.6(c) by varying from representations in the certified registration for permits regarding emissions at the Facilities;
- g. Respondent violated 30 T.A.C. § 116.615(2) by failing to operate equipment consistent with the operating procedures set forth in the permits listed in Attachment A;
- h. Respondent violated 30 T.A.C. § 116.615(9) by failing to ensure that equipment was maintained in good working order and operating properly during normal facility operations; and
- i. Respondent violated 30 T.A.C. § 116.620(a)(12) by failing to ensure adequate combustion in flares and failing to properly conduct pilot flame monitoring.

22. More than thirty days before the issuance of this Consent Order, the Respondent was notified of the violations alleged herein. On October 18, 2018, the Respondent and the State of Texas were notified of the violations alleged herein, in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

23. The parties to this Consent Order agree that an opportunity to confer has been satisfied in accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4).

24. The parties further agree that in order to avoid protracted litigation, and in the best interest of all the parties and the environment, this Administrative Order will be entered into on Consent and by mutual agreement of the parties.

25. Only for the purposes of this proceeding, including any subsequent proceeding by EPA to enforce this document, Respondent admits the jurisdictional allegations contained herein; however, Respondent neither admits nor denies the specific findings of fact and conclusions of law contained in this Consent Order.

26. Respondent also consents to and agrees not to contest EPA's jurisdiction to either issue this Consent Order or enforce its terms. Further, Respondent will not contest EPA's jurisdiction to either compel compliance with this Consent Order in any subsequent enforcement proceedings, whether administrative or judicial, or require Respondent's full compliance with the terms of this Consent Order or impose sanctions for violations of this Consent Order. Respondent consents to the terms of this Consent Order.

ORDER ON CONSENT

27. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), provides in pertinent part that the Administrator may issue an Order requiring compliance with any requirement of a state implementation plan. Pursuant to this authority, EPA has decided to issue this Consent Order after investigating all relevant facts, taking into account Respondent's compliance history, efforts made by Respondent to comply with applicable regulations, and based upon the foregoing Findings of Fact and Conclusions of Law herein.

28. Respondent has consented to, and is hereby ordered to satisfy, the following requirements regarding the Facilities:

- a. Within four (4) months of the Effective Date of this Consent Order, Respondent shall complete all permitting and operations reviews and all site inspections in accordance with Sections A and B of Attachment B.

- b. An engineering assessment, as outlined in Section C of Attachment B, shall be completed at each facility where emissions are not due to operational upsets and routine inspections and/or maintenance of process equipment indicate the need for a facility design-related analysis to determine an appropriate corrective action. An engineering assessment shall also be completed where recurring emission releases for specific facility operations are identified (e.g., where repairs and/or replacements for the same equipment have occurred multiple times over the last 12-month period). All engineering assessments shall be completed within seven (7) months of the Effective Date of this Consent Order.
- c. Within eleven (11) months of the Effective Date of this Consent Order, Respondent shall send a letter report to EPA outlining all corrective actions taken or improvements made or planned to be made, including best practices implemented at the Facilities, that will ensure or improve compliance in accordance with Section E of Attachment B. The letter report should also include an estimation of the total emission reductions for specific completed or planned actions at the Facilities (see item E.2. of Attachment B).

29. Any information or correspondence submitted by Respondent to EPA

under this Consent Order shall be addressed to the following:

Cynthia Kaleri
Air Permitting Enforcement Section (ECDAP)
Enforcement and Compliance Assurance Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Phone: (214) 665-6772
Email: kaleri.cynthia@epa.gov

30. To the extent this Consent Order requires Respondent to submit any information to EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. § 2.203. EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R Part 2, Subpart B. *See* 41 Fed. Reg. 36,902 (Sept. 1, 1976). If Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential

treatment under 40 C.F.R Part 2, Subpart B. "Emission data" is defined in 40 C.F.R. § 2.301.

31. By signing this Consent Order, Respondent acknowledges that this Consent Order will be available to the public and agrees that this Consent Order does not contain any confidential business information.

GENERAL PROVISIONS

32. Pursuant to Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), this Consent Order shall be effective when fully executed, as set forth below in Paragraph 48, shall not exceed a term of one year, and shall be nonrenewable.

33. The provisions of this Consent Order shall apply to and be binding upon Respondent, its officers, directors, agents, and employees solely in their capacity of acting on behalf of Respondent.

34. Respondent neither admits nor denies any of the factual or legal determinations made by the EPA in this Consent Order.

35. The provisions of this Consent Order shall be transferable to any other party, upon sale or other disposition of the Facilities. Upon such action, the provisions of this Consent Order shall then apply to and be binding upon any new owner/operator, its officers, directors, agents, employees, and any successors in interest.

36. By signing this Consent Order, the undersigned representative of EOG Resources Inc. certifies that he or she is fully authorized by the Respondent to execute and enter into the terms and conditions of this Consent Order and has the legal capacity to bind Respondent to the terms and conditions of this Consent Order.

37. Nothing in this Consent Order shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or

departments to obtain compliance, penalties, or injunctive relief under any applicable Federal, State, or local laws or regulations, including 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.

38. Nothing contained in this Consent Order shall affect the responsibility of Respondent to comply with all other applicable Federal, State, or local laws or regulations, including Section 303 of the CAA, 42 U.S.C. § 7603.

39. EPA does not waive any rights or remedies available to EPA for any violations by Respondent of Federal laws, regulations, statutes, or permitting programs.

40. Any and all information required to be maintained or submitted pursuant to this Consent Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §§3501 et seq., because it seeks to collect information from specific entities to assure compliance with this administrative action.

41. By signing this Consent Order, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, to the best of its knowledge and belief, truthful, accurate, and complete for each 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.

42. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order. This Consent Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights,

remedies, powers, and/or authorities, civil or criminal, which EPA has under any statutory, regulatory, or common law authority of the United States.

43. This Consent Order does not resolve any civil or criminal claims of the United States for the violations alleged in this Consent Order; nor does it limit the rights of the United States to obtain penalties or injunctive relief under the Act or other applicable federal law or regulations.

44. Respondent has entered into this Order in good faith without trial or adjudication of any issue of fact or law.

45. Respondent 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 Consent Order, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1).

46. The parties shall bear their own costs and fees in this action, including attorneys' fees.

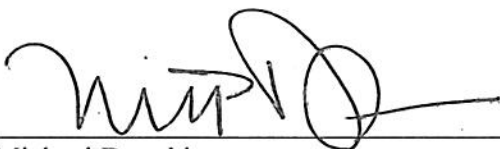
FAILURE TO COMPLY

47. Failure to comply with this Consent Order may result in an enforcement action for appropriate injunctive relief as well as civil penalties pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b) or, in appropriate cases, criminal penalties.

EFFECTIVE DATE


48. This Consent Order shall become effective upon the later of the two signatures below.

4-17-19
Date



Michael Donaldson
Executive Vice President, General Counsel
and Corporate Secretary
1111 Bagby Street
Sky Lobby 2
Houston, TX 77002

April 30, 2019
Date



Cheryl T. Seager
Director
Enforcement and Compliance Assurance
Division

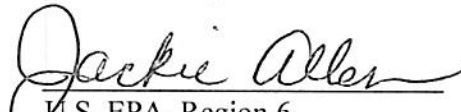
CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Administrative Order on Consent was placed in the United States mail to the following by the method indicated:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # 701 515 20 0003 3990 8210

Michael Donaldson
Executive Vice President, General Counsel and Corporate Secretary
1111 Bagby Street
Sky Lobby 2
Houston, TX 77002

Date: APR 30 2019


U.S. EPA, Region 6
Dallas, Texas