

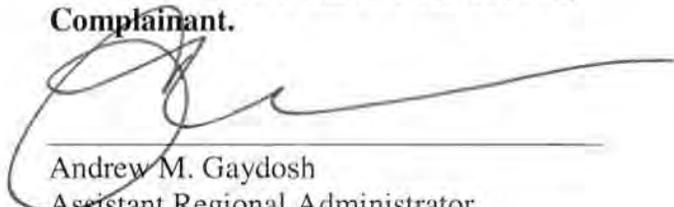
\$27,000.00. Complainant and Respondent, therefore, respectfully seek to amend Section E.1 of the Agreement to reflect the appropriate civil penalty amount of \$99,000.00.

PRAYER

For the above-mentioned reasons, both the Complainant and Respondent respectfully request that the Court approve substitution of the attached Revised Appendix A, Table A- 5 into the Agreement, and approve revisions of Sections D.1, D.2 and E.1 of the Agreement, as described herein and attached to this motion.

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

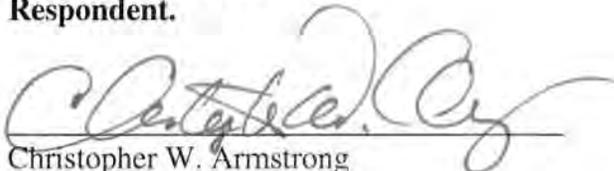
Date: June 12, 2012



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

**XTO ENERGY INC.,
Respondent.**

Date: 6/8/2012



Christopher W. Armstrong
Counsel for XTO Energy Inc.

AMENDED SECTION D

Section D of Administrative Complaint and Consent Agreement is hereby amended to read as follows:

D. REQUIREMENTS UNDER THIS AGREEMENT

The EPA and Respondent, by their undersigned representatives, hereby consent and agree as follows:

1. Permitting

- a. Within one year of the effective date of this Agreement, for all Existing Emission Sources listed in Appendix A, Table A-1, Respondent shall submit to EPA a complete synthetic minor source permit application under EPA's Tribal Minor NSR Rule. If Respondent determines that an emission source was incorrectly included in Appendix A, Table A-1, it may notify EPA of that fact by October 14, 2011. In this circumstance, Paragraph F.13 below shall apply.
- b. By October 1, 2011, Respondent shall submit to EPA a complete synthetic minor source permit application for New Emission Sources listed in Appendix A, Table A-2 that will commence construction during the period starting August 31, 2011, and ending December 31, 2011.
- c. By November 1, 2011, Respondent shall submit to EPA a complete synthetic minor source permit application for New Emission Sources listed in Appendix A, Table A-3 that will commence construction during the period starting January 1, 2012, and ending March 31, 2012.
- d. By January 1, 2012, Respondent shall submit to EPA a complete synthetic minor source permit application for New Emission Sources listed in Appendix A, Table A-4 that will commence construction during the period starting April 1, 2012, and ending June 30, 2012.
- e. By June 15, 2012, Respondent shall submit to the EPA a complete synthetic minor permit application for new emission sources listed in Appendix A, Table A-5, that will commence construction during the period starting July 1, 2012, and ending August 25, 2012.
- f. Inclusion of an emission source listed in Appendix A, Table A-2, A-3, A-4 or A-5 does not preclude Respondent from commencing construction of that emission source after the date specified in the relevant Paragraph D.1.b,c, and d above. However, all such emission sources must commence construction prior to August 25, 2012.
- g. If those emission sources listed in Appendix A, Tables A-2, A-3, A-4 and/or A-5 do not commence construction by August 25, 2012, then they are therefore not subject to Section D of this Agreement.

2. Control Requirements

- a. For all Existing Emission Sources listed in Appendix A, Table A-1, the Respondent shall comply with the requirements of Appendix B by no later than December 1, 2011.
- b. For all New Emission Sources listed in Appendix A, Tables A-2, A-3, A-4 and A-5 the Respondent shall comply with the requirements of Appendix B upon start-up of production. Emission sources that receive an effective synthetic minor source permit before commencing construction are not subject to the requirements of this Agreement.

3. Notification

Respondent shall notify the EPA on the last business day of each month of all of the emission sources subject to this Agreement that commence construction in the previous month. Respondent shall also notify the EPA whether those emission sources are meeting the control requirements as required by Appendix B and whether they have received an effective synthetic minor source permit. This notice shall also include a list of emissions sources that are removing a 98% control device and using a 90% control device as outlined in appendix B.

Unless otherwise specified herein, whenever Respondent's notification, submissions, or communication are required by this Agreement, they shall be made electronically or mailed to the following:

Cynthia J. Reynolds, Director
U.S. EPA Region 8 (8ENF-AT)
Air & Toxics Technical Enforcement Program
1595 Wynkoop St.
Denver, CO 80208-1129
reynolds.cynthia @epa.gov

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 \$99,000.

TABLE A-5 (New Sources - Commence construction between June 30, 2012 and August 26, 2012)

WELL NAME	SECTION	TOWNSHIP	RANGE	COUNTY	WELL SITE SPUD DATE	GROUPED WELLS ON SINGLE PAD
FBIR Baker 34X-25A	25	149N	92W	Dunn	8/15/2012	No
FBIR Baker 34X-25F	25	149N	92W	Dunn	8/18/2012	No
FBIR Smith 11X-10F	10	149N	92W	Dunn	8/25/2012	No
FBIR Bird 31X-19D	19	149N	91W	Dunn	8/25/2012	No
FBIR Bird 31X-19H	19	149N	91W	Dunn	8/25/2012	No
FBIR Stephen 31X-19D	19	149N	91W	Dunn	8/25/2012	No
FBIR Darcie 34X-14D	14	148N	92W	Dunn	8/25/2012	No
FBIR Darcie 34X-14G	14	148N	92W	Dunn	8/25/2012	No
FBIR WalterPacksWolf 31X-12G	12	149N	92W	Dunn	8/25/2012	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 June ~~14~~ 15, 2012. DR

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: June ¹⁵ 14, 2012
DR

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