



REGION 8

DENVER, CO 80202



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

**Department of
Environmental Quality**

Kimberly D. Shelley
Executive Director

DIVISION OF AIR QUALITY
Bryce C. Bird
Director

VIA EMAIL

Mr. Brent Talbot, President
Finley Resources, Inc.
1308 Lake Street
Fort Worth, Texas 76102
Via Counsel: randy.damn@dgsllaw.com

FILED

12/22/2023

10:00 AM

**U.S. EPA REGION 8
HEARING CLERK**

Re: Notice of Violation to Finley Resources, Inc CAA-08-2022-0009

Dear Mr. Talbot:

The U.S. Environmental Protection Agency and the Utah Department of Environmental Quality, Utah Division of Air Quality are jointly issuing Finley Resources, Inc. the enclosed Notice of Violation and offering an opportunity to confer regarding alleged violations of the Clean Air Act and its implementing regulations.

Specifically, the EPA and the UDAQ jointly allege that Finley has violated or is violating:

- Standards of Performance for Stationary Spark Ignition Internal Combustion Engines under 40 C.F.R. Part 60, Subpart JJJJ (Subpart JJJJ); and
- Federally enforceable provisions of an Approval Order (state permit) issued by the State of Utah pursuant to an EPA-approved permitting program.

Separately, the EPA alleges Finley has violated or is violating the following at engines located in Indian Country:

- Standards of Performance for Stationary Spark Ignition Internal Combustion Engines under 40 C.F.R. Part 60, Subpart JJJJ (Subpart JJJJ).

Also, separately, UDAQ alleges that Finley has violated or is violating the following at engines located within State jurisdiction:

- Utah Admin. Code R307-510, promulgated under the authority of the Utah Air Conservation Act, Utah Code, Title 19, Chapter 2

We are offering Finley an opportunity to confer with the EPA and the UDAQ about the

Re: *Notice of Violation to Finley Resources, Inc*

violations alleged in the NOV. If Finley is interested in a conference to discuss the alleged violations, please have your counsel call or email Ms. Lauren Hammond, Senior Assistant Regional Counsel for EPA Region 8 at (303) 312-7081 or Hammond.lauren@epa.gov within 30 days of receipt of this NOV.

Sincerely,



Bryce C. Bird, Director
Utah Department of Environmental Quality
Division of Air Quality

ANGELIQUE DIAZ

Digitally signed by ANGELIQUE
DIAZ
Date: 2023.12.19 10:49:59 -0700

for Suzanne J. Bohan,
Director Enforcement and
Compliance Assurance
Division
EPA Region 8

Enclosure

(1) Notice of Violation

Ecc (w/Encl.):

Julius Murray, Chairman, Ute Indian Tribe
Christopher Tabbee, Vice-Chairman, Ute Indian Tribe
Mike Natchees, Councilman, Ute Indian Tribe
Luke Duncan, Councilman, Ute Indian Tribe
Cleveland Murray, Councilman, Ute Indian Tribe
Emmett Duncan Sr., Councilman, Ute Indian Tribe
Leila Longhair, Executive Director, Ute Indian Tribe
Lonnie Favel, Air Quality Program Director, Ute Indian Tribe
Jeremy Patterson, Attorney, Patterson Earnhart Real Bird & Wilson
Rik Ombach, Minor Source Compliance Branch, Utah Division of Air Quality, UDEQ
Marina Thomas, Assistant Attorney General, Utah Attorney General's Office
James D. Freeman, Attorney, U.S. Department of Justice

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

and

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH DIVISION OF AIR QUALITY**

NOTICE OF VIOLATION

IN THE MATTER OF:)

Finley Resources, Inc.)
1308 Lake Street)
Fort Worth, Texas 76102)

_____)

EPA Docket No.
CAA-08-2022-0009

Proceedings Pursuant to
the Clean Air Act,
42 U.S.C. §§ 7401-7671q,
and Utah Code, Title 19, Chapter 2

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency (EPA) and the Utah Department of Environmental Quality, Utah Division of Air Quality (UDAQ), jointly allege that Finley Resources, Inc. (Finley) has violated and is violating the Clean Air Act (the Act) at oil and natural gas production operations located in the Uinta Basin under the State of Utah’s jurisdiction. Specifically, the EPA and the UDAQ jointly allege Finley has violated and is violating Standards of Performance for Stationary Spark Ignition Internal Combustion Engines under 40 C.F.R. Part 60, Subpart JJJJ (Subpart JJJJ). The EPA and the UDAQ further jointly allege Finley has violated or is violating federally enforceable provisions of an Approval Order (state permit) issued by the State of Utah pursuant to an EPA-approved permitting program.

Separately, the EPA alleges that Finley has violated or is violating Subpart JJJJ regulations for oil and natural gas production facilities located in Indian Country within the exterior boundaries of the Uintah and Ouray Reservation.

Also separately, the UDAQ alleges violations of State-enforceable air quality regulations, Utah Admin. Code R307-510, promulgated under the authority of the Utah Air Conservation Act, Utah Code, Title 19, Chapter 2 at facilities under the State of Utah’s jurisdiction.

This Notice of Violation (NOV) is in addition to the NOV issued to Finley on September 16, 2022.

I. STATUTORY AND REGULATORY BACKGROUND

1. The Act’s purpose is “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).
2. Section 108 of the Act, 42 U.S.C. § 7408, directs the EPA to identify pollutants that “may reasonably be anticipated to endanger public health or welfare” and to issue air quality criteria based on the “latest scientific knowledge” about the effects of the

pollutants on public health and the environment. These pollutants are known as “criteria pollutants.”

3. Section 109 of the Act, 42 U.S.C. § 7409, requires the EPA to establish national ambient air quality standards (“NAAQS”) for criteria pollutants. The primary standard must be set at a level “requisite to protect the public health” with an adequate margin of safety, and the secondary standard is intended to protect the “public welfare.”
4. Ground-level ozone is one of six criteria pollutants for which the EPA has promulgated national standards, due to its adverse effects on human health and the environment. Short-term exposures (1 to 3 hours) to ground-level ozone can cause acute health effects observed even at low concentrations, including temporary pulmonary inflammation. Long-term exposure (months to years) may cause permanent damage to lung tissue. Children and adults who are active outdoors are particularly susceptible to the adverse effects of exposure to ozone. *See National Ambient Air Quality Standards for Ozone*, 73 Fed. Reg. 16,436, 16,440 (Mar. 27, 2008).
5. Ozone is not emitted directly from sources of air pollution. Ozone is a photochemical oxidant, formed when volatile organic compounds (“VOCs”) and nitrogen oxides (NO_x) react in the presence of sunlight. NO_x and VOCs are known as “ozone precursors.” Sources that emit ozone precursors are regulated to reduce ground-level ozone. *See National Ambient Air Quality Standards for Ozone*, 62 Fed. Reg. 38,856, 38,858 (July 18, 1997).
6. A “stationary source” is a building, structure, facility, or installation that emits or may emit any air pollutant. 42 U.S.C. § 7411(a)(3).

A. New Source Performance Standards

7. Section 111(b) of the Act authorizes the Administrator of the EPA to promulgate standards of performance applicable to “new sources” within categories of sources that cause “air pollution which may reasonably be anticipated to endanger public health or welfare.” 42 U.S.C. § 7411(b).
8. A “new source” is any stationary source, the construction or modification of which is commenced after the promulgation of the standards of performance that will apply to such source. 42 U.S.C. § 7411(a)(2).
9. In 1979, the EPA listed “Crude Oil and Natural Gas Production” as a source category that contributes significantly to air pollution and for which standards of performance would be established. *See Priority List and Additions to the List of Categories of Stationary Sources*, 44 Fed. Reg. 49,222 (Aug. 21, 1979).
10. It is unlawful for owners or operators of any new source to operate in violation of applicable standards of performance after the standards have gone into effect. 42 U.S.C. § 7411(e).

i. 40 C.F.R. Part 60, Subpart JJJJ (NSPS JJJJ)

11. In 2008, the EPA promulgated “Subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines” under section 111 of the Act, 73 Fed. Reg. 3591 (Jan. 18, 2008). These standards are set forth in 40 C.F.R., part 60, subpart JJJJ (NSPS Subpart JJJJ).
12. The provisions of NSPS Subpart JJJJ are applicable to manufacturers, owners, and operators of stationary spark ignition (SI) internal combustion engines (ICE).
13. The “date that construction commences” is the date the engine is ordered by the owner or operator. 40 C.F.R § 60.4230(a).
14. Owners and operators of stationary SI ICE are subject to the requirements of NSPS Subpart JJJJ if the maximum engine power is less than 500 horsepower (HP) and the stationary SI ICE is manufactured on or after July 1, 2008. 40 C.F.R. § 60.4230(a)(4)(iii).
15. An owner or operator of a stationary source SI ICE manufactured after July 1, 2008, that must comply with the emission standards in 40 C.F.R. § 60.4233(a)-(c), must comply by purchasing an engine certified to the emission standards in 40 C.F.R. § 60.4231(a)-(c), as applicable, for the same engine class and maximum engine power. Additionally, owner and operators must meet one of the requirements of 40 C.F.R. §§ 60.4243(a)(1) or (a)(2). *See* 40 C.F.R. § 60.4243(a).
16. If an owner or operator operates and maintains the certified stationary SI ICE and associated control device according to the manufacturer's emission-related written instructions, they must keep records of conducted maintenance to demonstrate compliance, but no performance testing is required as the owner or operator. The owner and operator must also meet the requirements specified in 40 CFR part 1068, subparts A through D, as they apply. If the owner or operator adjusts engine settings according to and consistent with the manufacturer's instructions, the stationary SI ICE will not be considered out of compliance. 40 C.F.R. § 60.4243(a)(1).
17. If owners and operators do not operate and maintain the certified stationary SI ICE and associated control device according to the manufacturer's emission-related written instructions, the engine will be considered a non-certified engine, and owners or operators must demonstrate compliance according to 40 C.F.R. §§ 60.4243(a)(2)(i) through (iii) of NSPS Subpart JJJJ, as appropriate.
 - (i) Owners or operators of a stationary SI ICE less than 100 HP must keep a maintenance plan and records of conducted maintenance to demonstrate compliance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions, but the owner or operator is not required to conduct performance testing. 40 C.F.R. § 60.4243(a)(2)(i).
 - (ii) An owner or operator of a stationary SI ICE greater than or equal to 100 HP and less than or equal to 500 HP must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for

NOTICE OF VIOLATION IN THE MATTER OF: Finley Resources, Inc.

minimizing emissions. In addition, the owner or operator must conduct an initial performance test within 1 year of engine startup to demonstrate compliance. 40 C.F.R. § 60.4243(a)(2)(ii).

- (iii) An owner or operator of a stationary SI internal combustion engine greater than 500 HP must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, an owner or operator must conduct an initial performance test within 1 year of engine startup and conduct subsequent performance testing every 8,760 hours or 3 years, whichever comes first thereafter, to demonstrate compliance. 40 C.F.R. § 60.4243(a)(2)(iii).
- 18. Owners and operators of stationary SI ICE with a maximum engine power greater than 19 kilowatts (kW) (25 HP) and less than 75 KW (100 HP) must comply with the emission standards for field testing at non-emergency stationary SI ICE in 40 C.F.R. § 1048.101(c). 40 C.F.R. § 60.4233(d).
 - 19. The owner or operator of an emergency stationary SI ICE with a maximum engine power greater than 19 kilowatts (kW) (25 HP) and less than 75 KW (100 HP) must comply and with the emission standards in Table 1 to NSPS Subpart JJJJ for emergency stationary SI ICE. 40 C.F.R. § 60.4233(d).
 - 20. Owners and operators of stationary SI ICE that are required to meet standards that reference 40 C.F.R. § 1048.101 must, if testing their engines in use, meet the standards in that section applicable to field testing. 40 C.F.R. 60.4233(h).
 - 21. The engines subject to this NOV are fueled by “natural gas” or “pipeline-quality natural gas” as defined in 40 C.F.R. § 60.4248:
 - a. “Natural gas” is defined as a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the Earth's surface, of which the principal constituent is methane. Natural gas may be field or pipeline quality for natural gas.
 - b. “Pipeline-quality natural gas” is defined as a naturally occurring fluid mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth’s surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions, and which is provided by a supplier through a pipeline. Pipeline-quality natural gas must either be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1,100 British thermal units per standard cubic foot.
 - 22. 40 C.F.R. § 1048.101 sets forth exhaust emission standards for certain nonroad ICE, applicable by model year, including field-testing standards. The applicable provision is below:
 - a. Beginning in 2007, exhaust emissions from SI ICE may not exceed field-testing standards, as set forth in 40 C.F.R. Part 1048.101(c), “Control of Emissions from New, Large Non-Road Spark-Ignition Engines.” Applicable standards are as follows:

- b. The NO_x standard is 3.8 grams per kilowatt-hour (g/kW-hr) and the carbon monoxide (CO) standard is 6.5 g/kW-hr [4.85 g/hp-hr].¹ For natural gas-fueled engines, owners and operators are not required to measure nonmethane hydrocarbon emissions or total hydrocarbon emissions for testing to show that the engine meets the emission standards of this paragraph (c); that is, owners and operators may assume HC emissions are equal to zero. 40 C.F.R. § 1048.101 (c)(2).

B. Approval Order

23. All potential sources of air pollution subject to the State of Utah's air quality regulations must submit a notice of intent and receive an approval order (AO) from the State prior to initiation of construction, modification, or relocation, unless exempt under the regulations. *See* Utah Admin. Code r. R307-401.
24. The EPA approved the State of Utah's notice of intent and approval order requirements into Utah's State Implementation Plan minor new source review program. 79 Fed. Reg. 7072 (Feb. 6, 2014). Requirements in AOs are therefore federally enforceable. *See* 40 C.F.R. § 52.23.
25. On January 18, 2018, the UDAQ issued AO DAQE-AN157810001-18 for UTE 13-15A-4-1 to Finley. This AO was in effect at all times pertinent to this NOV. UTE 13-15A-4-1 was converted to be regulated under the Utah permit-by-rule on July 21, 2023.
26. This AO contains conditions applicable to the pump-jack engine, including compliance with 40 C.F.R. Part 60, Subpart JJJJ, *see* Condition II.B.2.a, and maintenance of documentation demonstrating that the pump-jack engine meets the emission standards in 40 C.F.R. Part 60, Subpart JJJJ, *see* Condition II.B.2.a.1.

C. State of Utah Permit-by-Rule Regulations

27. Effective March 5, 2018, well sites (as defined in Utah Admin. Code R307-401-10(5)), including centralized tank batteries (as defined in R307-506-2), are not required to obtain AOs under Utah regulations if they are not major sources as defined by Utah Admin. Code R307-101-2 and they are registered with the UDAQ as required by R307-505. Utah Admin. Code r. R307-401-10(5).
28. Owners or operators registering with the UDAQ under R307-505 must, among other things, certify that the registered facility is in compliance with R307-506 through R307-510. Utah Admin. Code r. R307-505-3(4). These regulations are referred to collectively as a "permit-by-rule."²
29. Utah Admin. Code R307-510-4 contains emission standards applicable to the stationary engines at the centralized tank batteries subject to permit-by-rule regulations and at

¹ 1 Kilowatt is equivalent to 1.34102 mechanical horsepower. Therefore, 6.5 g/kW-hr divided by 1.34102 horsepower is 4.85 g/hp-hr.

² On October 10, 2018, rule R307-511 was added to the permit-by-rule regulations for certain facilities to be able to utilize the "permit-by-rule" process. Utah Admin. Code R307-505-3(4) has not yet been amended to reflect the addition of R307-511.

the well sites that began operations, installed new engines, or made modifications to existing engines after January 1, 2016. Utah Admin. Code r. R307-510-3(1).

30. “Regardless of construction, reconstruction, or modification date, each stationary engine at a well site shall comply with the emission standards listed in Table 1 when the engine is installed, relocated, or modified.” Utah Admin. Code r. R307-510-4(1). For stationary engines with horsepower equal to or greater than 25 HP but less than 100 HP, R307-510-4 requires a CO emission standard of 4.85 g/hp per hour. Utah Admin. Code r. R307-510-4(1), Table 1.
31. The provisions referenced in Paragraphs 27 through 30 are enforceable only by the State of Utah.

II. **FACTUAL BACKGROUND & FINDINGS OF VIOLATION**

A. **Factual Background**

32. Finley is a privately-held corporation incorporated in the State of Texas and at all relevant times to this NOV, was and is doing business in the State of Utah.
33. Finley is a “person” within the meaning of Section 302(e) of the Act. 42 U.S.C. § 7602(e).
34. Finley owns or operates oil and natural gas production facilities located in the Uinta Basin.
35. A pumpjack is a device used to extract crude oil from an oil well where there is not high enough pressure in the well to force the oil to the surface. A pumpjack engine also provides power to the heat trace pumps, which provide heat to the rest of the natural gas production facility. All pumpjack engines operated by Finley are fueled with natural gas.
36. Finley operates the engines continuously. When the production is down, the engines are still operated at maximum power to continue generating power for heat trace circulation pumps.
37. On September 15, 2021, and September 29, 2021, the EPA conducted inspections, jointly with the Ute Indian Tribal Air Program, of Finley’s oil and natural gas production facilities in the Uinta Basin. Alliance Source Testing, LLC (Alliance), an EPA contractor, performed EPA Test Methods 3A, 7E, 10, 19, and 25A (“stack testing”) for 14 engines located at the oil and natural gas production facilities. *See Appendix A, Finley Pumpjack Engine Performance Test Results 2021* Tables 2-1, 2-2, 2-3, 2-4, and 2-5.
38. On August 2, 2022, the EPA conducted inspections, jointly with the Utah Department of Environmental Quality (UDAQ), of Finley’s oil and natural gas production facilities in the Uinta Basin. Alliance Source Testing, LLC (Alliance), an EPA contractor, performed EPA Test Methods 3A, 7E, 10, 19, and 25A for seven engines located at the oil and gas production facilities. *See Appendix B, Finley Pumpjack Engine Performance Test Results 2022* Tables 2-1 and 2-2.
39. At the oil and natural gas production facilities inspected by the EPA, UDAQ, and/or Ute Indian Tribal Air Program, Finley operates two-stroke, lean burn engines.

40. All the engines inspected were greater than 25 horsepower but less than 100 HP.
41. Seventeen of the engines inspected and stack tested were manufactured after July 1, 2008, and four engines were manufactured before July 1, 2008. All engines subject to this NOV were manufactured on or after 2012. *See* Tables 1 and 2, below.
42. During the 2021 and 2022 inspections, EPA inspectors observed that Finley did not operate fuel flow monitors at the pumpjack engines to quantify the amount of fuel used by each engine. Finley could not produce records about the amount of fuel used by each engine.
43. Finley meters the natural gas throughput at each gas plant.
44. During the inspections, Finley representatives stated to inspectors that Finley does not have a maintenance program to proactively and immediately respond to excess emissions from the engines. According to the maintenance schedule submitted to the EPA on January 6, 2022, there is a manufacturer's recommended schedule for AJAX and Arrow L-795 model engines. *See* Tables 1 and 2, below. However, to date, the EPA has only received a one-time maintenance record for AJAX engines performed in July 2023 and no records for Arrow L-795 engines.
45. Finley uses dry natural gas from nearby gas plants and compressor stations to fuel each and every pumpjack engine the EPA inspected and stack tested. This dry natural gas does not meet the Subpart JJJJ definition of pipeline-quality natural gas in 40 CFR § 60.4248. The fuel analysis provided by Finley indicates that the dry natural gas Finley uses for fuel is not composed of at least 70 percent methane by volume and does not have a gross calorific value between 950 and 1,100 British thermal units per standard cubic foot.
46. During the 2021 and 2022 inspections, casinghead gas, produced from each well, was being used as fuel for the pumpjack engines when the inlet pressure of the processed natural gas from the gas plant decreased below 20 pounds per square gauge. Finley did not produce any results on fuel analyses for casinghead gas to the EPA therefore, the hydrocarbon content of the casinghead gas is unknown.
47. On November 15, 2021, the EPA issued an inspection report to Finley describing the findings from the September 15 and 29, 2021, inspections.
48. On November 15, 2022, the EPA issued an inspection report to Finley describing the findings from the August 2, 2022, inspection.

B. Findings of Violation

- i. *NSPS Subpart JJJJ (Jointly Alleged by EPA and Utah for Facilities in State Jurisdiction and Separately Alleged by EPA Only for Facilities in Indian Country)***
49. The nine engines identified in Tables 1 and 2, below, were manufactured after 2008 with a maximum engine power of less than 500 HP and are subject to the requirements of NSPS Subpart JJJJ.

50. Finley owns and operates nine engines listed in Tables 1 and 2.

51. The stack test results from the inspections conducted on September 15, 2021, September 29, 2021, and August 2, 2022, demonstrate that three engines exceeded the NO_x emission standard of 3.8 g/kW-hr [2.83 g/hp-hr] as set forth in 40 C.F.R. § 1048.101(c). The engines that exceeded NO_x emission standards are identified in Table 1, below:

| Facility Name | Year Inspected | Location | Manufacturer, Model, & Year Manufactured | Serial # | Type of Engine | Horse power | NO _x (g/hp-hr) |
|---|----------------|----------|--|----------|----------------|-------------|---------------------------|
| UTE 13-15A-4-1 | 2021 | State | Ajax E-42-2012 | 86154 | 2SLB | 42 | 14.1 |
| Hackford 11-15A-4-2 | 2022 | State | Ajax E-565-2017 | 86759 | 2SLB | 40 | 43.6 |
| Gardner 36-2A-3-2, Gardner 3-36-3-2E, Gardner 36-3B-3-4 | 2022 | State | Ajax E-565-2014 | 86568 | 2SLB | 40 | 41.5 |

52. Finley has operated and continues to operate the pumpjack engines identified in Table 1 in violation of 40 C.F.R § 60.4233(d) and the emission standards as set forth in 40 C.F.R. § 1048.101(c).

53. Finley has not operated and maintained the pumpjack engines identified in Table 1 in accordance with the manufacturer's emission-related written instructions and/or kept records of conducted maintenance to demonstrate compliance with the applicable emission standards in 40 C.F.R. § 60.4233. Therefore, pursuant to 40 C.F.R. § 60.4243(a)(2), as an owner and operator of these stationary SI ICEs with maximum power of less than 100 HP, Finley must demonstrate that each engine complies with 40 C.F.R. § 60.4233 according to 40 C.F.R. § 60.4243(a)(2)(i). Finley has not performed such demonstration. Therefore, Finley has operated and continues to operate the engines in violation of § 60.4243(a).

54. Finley has not kept a maintenance plan and records of conducted maintenance for the engines listed in Table 1 to demonstrate compliance with the applicable emissions standards and/or has not maintained and operated these engines in a manner consistent with good air pollution control practices for minimizing emissions. Therefore, Finley has operated and continues to operate the engines in violation of 40 C.F.R. § 60.4243(a)(2)(i).

55. The EPA and Utah jointly allege the violations set forth in Paragraphs 50-54 for all engines identified in Table 1.

56. The stack test results from the inspections conducted on September 15, 2021, September 29, 2021, and August 2, 2022, demonstrate that six engines exceeded the CO emission standard of 6.5 g/kW-hr [4.85 g/hp-hr] as set forth in 40 C.F.R. § 1048.101(c). The engines that exceeded the CO emissions standard are identified in Table 2, below:

| Table 2. Engines that Exceeded Carbon Monoxide Emission Standards | | | | | | | |
|--|-----------------------|-----------------|---|-----------------|-----------------------|--------------------|----------------------------------|
| Facility Name | Year Inspected | Location | Manufacturer, Model, & Year Manufactured | Serial # | Type of Engine | Horse power | Carbon Monoxide (g/hp-hr) |
| Fin Federal 33-6a-7-20/Fin Federal 33-6b-7-20 | 2021 | Indian Country | Ajax E-565-2014 | 86702 | 2SLB | 40 | 8.5 |
| Fin Federal 4-5a-8-20/ Fin Federal 4-5b-8-20/Fin Federal 4-6a-8-20/Fin Federal 4-6b-8-20 | 2021 | Indian Country | Ajax E-565-2014 | 86693 | 2SLB | 40 | 5.1 |
| Fin Federal 4-5a-8-20/ Fin Federal 4-5b-8-20/Fin Federal 4-6a-8-20/Fin Federal 4-6b-8-20 | 2021 | Indian Country | Ajax E-565-2014 | 86727 | 2SLB | 40 | 5 |
| Pelican 88 22-4a-7-20 | 2021 | Indian Country | Ajax E-42-2014 | 66772 | 2SLB | 40 | 174.1 |
| Three Rivers 32-41-720 | 2021 | Indian Country | Arrow-L795-2012 | L-601186 | 2SLB | 65 | 56.4 |
| Hackford 11-15A-4-2 | 2022 | State | Ajax-E565-2017 | 86759 | 2SLB | 40 | 61.3 |

57. Finley has operated and continues to operate the engines identified in Table 2 in violation of 40 C.F.R § 60.4233(d) and the emission standards as set forth in 40 C.F.R. § 1048.101(e).

58. Finley has not operated and maintained the pumpjack engines identified in Table 1 in accordance with the manufacturer's emission-related written instructions and/or kept records of conducted maintenance to demonstrate compliance with the applicable emission standards in 40 C.F.R. § 60.4233. Therefore, pursuant to 40 C.F.R. § 60.4243(a)(2), as an owner and operator of these stationary SI ICEs with maximum power of less than 100 HP, Finley must demonstrate that each engine complies with 40 C.F.R. § 60.4233 according to 40 C.F.R. § 60.4243(a)(2)(i). Finley has not performed such demonstration. Therefore, Finley has operated and continues to operate the engines in violation of § 60.4243(a).

59. Finley has not kept a maintenance plan and records of conducted maintenance for the engines listed in Table 1 to demonstrate compliance with the applicable emissions standards and/or has not maintained and operated these engines in a manner consistent with good air pollution control practices for minimizing emissions. Therefore, Finley has operated and continues to operate the engines in violation of 40 C.F.R. § 60.4243(a)(2)(i).

60. The EPA and Utah jointly allege all violations in Paragraphs 56-59 for the engine located at Hackford 11-15A-4-2 identified on Table 2.

61. The EPA separately alleges Paragraphs 56-59 for all engines identified as located in Indian Country on Table 2.

62. Finley has violated and continues to violate section 111(e) of the Act, 42 U.S.C. § 7411(e), and its implementing regulations at NSPS Subpart JJJJ.

ii. State of Utah AO (Jointly Alleged by EPA and Utah)

63. One engine identified in Table 3, below, was manufactured after 2008 with a maximum engine power of less than 500 HP and is subject to the requirements of NSPS Subpart JJJJ as stated in the applicable State of Utah’s AO DAQE-AN157810001-18 (UTE 13-15A-4-1), Conditions II.B.2.a and II.B.2.a.1.

64. Finley owns and operates the engine listed in Table 3.

65. The stack test results from the inspections conducted on September 15, 2021, September 29, 2021, and August 2, 2022, demonstrate that this engine exceeded the NOx emission standard of 3.8 g/kW-hr [2.83 g/hp-hr] as set forth in 40 C.F.R. § 1048.101(c) as identified in the Table 3, below:

| Table 3: Engine that Exceeded NO_x Emission Standards in Violation of State of Utah’s AO | | | | | | | | |
|---|-----------------------|-----------------|--|-----------------|--------------------|-----------|-------------------|-------------------------------|
| Facility Name | Year Inspected | Location | Manufacturer, Model & Year Manufactured | Serial # | ENGINE TYPE | HP | CO g/hp-hr | NO_x g/hp-hr |
| UTE 13-15A-4-1 | 2021 | State | Ajax E-42-2012 | 86154 | 2SLB | 42 | | 14.1 |

66. Finley has operated and continues to operate the pumpjack engine identified in Table 3 in violation of Conditions II.B.2.a and II.B.2.a.1 of the AO DAQE-AN157810001-18 due to violating 40 C.F.R § 60.4233(d) and the emission standards as set forth in 40 C.F.R. § 1048.101(c).

67. Finley has not operated and maintained the pumpjack engine identified in Table 3 in accordance with the manufacturer’s emission-related written instructions and/or kept records of conducted maintenance to demonstrate compliance with the applicable emission standards in 40 C.F.R. § 60.4233. Therefore, pursuant to 40 C.F.R. § 60.4243(a)(2), as an owner and operator of these stationary SI ICEs with a maximum power of less than 100 HP, Finley must demonstrate that each engine complies with 40 C.F.R. § 60.4233 according to 40 C.F.R. § 60.4243(a)(2)(i). Finley has not performed such a demonstration. Therefore, Finley has operated and continues to operate the engine in violation of § 60.4243(a) and Conditions II.B.2.a. and II.B.2.a.1 of the AO DAQE-AN157810001-18.

68. Finley has not kept a maintenance plan and records of conducted maintenance for the engine listed in Table 3 to demonstrate compliance with the applicable emissions standards and/or has not maintained and operated this engine in a manner consistent with good air pollution control practices for minimizing emissions. Therefore, Finley has

operated and continues to operate the engines in violation of 40 C.F.R. § 60.4243(a)(2)(i) and Conditions II.B.2.a. and II.B.2.a.1 of the AO DAQE-AN157810001-18.

69. The EPA and Utah jointly allege the violations in Paragraphs 63-68.

iii. Permit-by-Rule Regulations (Utah Only Allegations)

70. Finley registered the following three well sites with the UDAQ under Utah Admin. Code R307-505 as “permit-by-rule” facilities:

| Table 4. Utah Permit by Rule Registration Violations | |
|--|---|
| Well Site/Centralized Tank Battery | Permit-by-Rule Registration Number |
| UTE 13-1 C | 4712 |
| Hackford 11-15A-4-2 | 100391 |
| Gardner 36-2A-3-2, Gardner 3-36-3-2E, Gardner 36-3B-3-2 (3-3 and 3-4) | 4710 |

71. Facilities registered under permit-by-rule must comply with Utah Admin. Code R307-506 through R307-510. Utah Admin. Code r. R307-505-3(4).

72. Utah Admin. Code R307-510-4 contains emission standards applicable to the stationary engines at the well sites subject to permit-by-rule regulations that began operations, installed new engines, or made modifications to existing engines after January 1, 2016. Utah Admin. Code r. R307-510-3(1).

73. Hackford 11-15A-4-2, Gardner 36-2A-3-2, Gardner 3-36-3-2E, Gardner 36-3B-3-2 (3-3 and 3-4) well sites began operations after January 1, 2016.

74. On information and belief, Finley made modifications to the UTE 13-1-C well site after January 1, 2016.

75. “Regardless of construction, reconstruction, or modification date, each stationary engine at a well site shall comply with the emission standards listed in Table 1 when the engine is installed, relocated, or modified.” Utah Admin. Code r. R307-510-4(1). For stationary engines with horsepower equal to or greater than 25 HP but less than 100 HP, R307-510-4 requires a CO emission standard of 4.85 g/hp per hour. Utah Admin. Code r. R307-510-4(1), Table 1.

76. Four engines identified in Table 5, below, have horsepower equal to or greater than 25 HP but less than 100 HP and are subject to the requirements of Utah Admin. Code R307-510-4(1).

77. Finley owns and operates the engines listed in Table 5.

78. The stack test results from the inspections conducted on September 15, 2021, September 29, 2021, and August 2, 2022, demonstrate that these engines exceeded the CO emission standard of 4.85 g/hp per hour as set forth in Utah Admin. Code R307-510-4(1) as identified in the Table 5, below:

| Facility Name | Year Inspected | Location | Manufacturer, Model & Year Manufactured | Serial # | Engine Type | Horsepower | Carbon Monoxide g/hp-hr |
|---|----------------|----------|---|----------|-------------|------------|-------------------------|
| UTE 13-1-C | 2021 | State | Ajax E-42-1951 | 51036 | 2SLB | 42 | 220.4 |
| Hackford 11-15A-4-2 | 2022 | State | Ajax E-565-2017 | 86759 | 2SLB | 40 | 61.3 |
| Gardner 36-2A-3-2, Gardner 3-36-3-2E, Gardner 36-3B-3-2 | 2022 | State | Ajax-E565-2014 | 86629 | 2SLB | 40 | 14.1 |
| Gardner 36-2A-3-2, Gardner 3-36-3-2E, Gardner 36-3B-3-4 | 2022 | State | Ajax-E-565-2014 | 86568 | 2SLB | 40 | 11.7 |

79. Finley has operated and continues to operate the pumpjack engines identified in Table 5 in violation of Utah Admin. Code R307-510-4.

80. Utah separately alleges Paragraphs 70-79.

III. ENFORCEMENT AUTHORITY

81. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), provides the Administrator with the authority that whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement of prohibition of the Act other than State Implementation Plans, including New Source Performance Standards, the Administrator may issue an order requiring such person to comply with the requirements or prohibition of the Act, issue an administrative penalty order in accordance with section 113(d) of the Act, or bring a civil action in accordance with section 113(b) of the Act for injunctive relief or civil penalties.

82. Section 19-2-107(2)(a)(xiii) of the Utah Code authorizes the Director of the UDAQ (subject to the provisions of the Utah Air Conservation Act) to enforce rules through the issuance of orders, including (A) prohibiting or abating discharges of wastes affecting ambient air; (B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or (C) adopting other remedial measures to prevent, control, or abate air pollution.

- a. Section 19-2-110(1) of the Utah Code provides that whenever the Director “has reason to believe that a violation of any provision of this chapter [Utah Air Conservation Act, Title 19, Chapter 2] or any rule issued under it has occurred, the director may serve a written notice of the violation upon the alleged violator.”
- b. For the UDAQ-only alleged violations, civil penalties may be imposed under Section 19-2-115(2)(a) of the Utah Code. Declaratory and injunctive relief may be sought under Section 19-2-116 of the Utah Code.

NOTICE OF VIOLATION IN THE MATTER OF: Finley Resources, Inc.

83. The issuance of this NOV does not in any way limit or preclude the EPA or UDAQ from pursuing additional enforcement options concerning inspections referenced in this NOV. Also, this NOV does not preclude enforcement action for violations not specifically addressed in this NOV.

ANGELIQUE
DIAZ

Digitally signed by ANGELIQUE DIAZ
Date: 2023.12.19 11:10:31 -0700

for Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division
Environmental Protection Agency, Region 8



12/21/2023

Bryce C. Bird, Director
Utah Division of Air Quality
Utah Department of Environmental Quality