

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:
QEP Energy Company
1050 17th Street, Suite 500
Denver, Colorado 80265

Respondent

**ADMINISTRATIVE ORDER ON
CONSENT**

Docket No.: CAA-08-2009-0019

I. ADMINISTRATIVE CONSENT ORDER

1. The United States Environmental Protection Agency (“EPA”) is issuing this Administrative Order on Consent (“AOC”) to QEP Energy Company (“QEPE”), f/k/a Questar Exploration and Production Company pursuant to Sections 113(a)(3) and 114(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and § 7414(a)(1).

II. PRELIMINARY STATEMENT

2. EPA and QEPE (collectively, the “Parties”) are voluntarily entering into this AOC to resolve a dispute which has arisen between EPA and QEPE regarding QEPE’s well site facility FR 14P 20-14-20 (“14P well site”), located in Uintah County, Utah.

3. QEPE does not contest EPA’s jurisdiction to issue this AOC solely for the purposes of resolving the dispute between the Parties. QEPE has maintained that the 14P well site was never a major source of air pollutants under the Clean Air Act, 42 U.S.C. §§ 7401, *et seq.* (“CAA”) or its implementing regulations, and that the requirements of Subpart HH of the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) program, 40 C.F.R Part 63 (“Subpart HH”) never applied to the well site. By entering into this AOC, QEPE does not admit or acknowledge that the 14P well site is or ever was a major source of air pollutants under the CAA, or its

implementing regulations, nor that any of the requirements of Subpart HH apply or ever applied to the well site.

4. The Parties agree that either Party may enforce the AOC by seeking injunctive relief or any other relief otherwise available to it, in any United States District Court with subject matter and personal jurisdiction and venue.

III. STATUTORY AND REGULATORY BACKGROUND

5. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), states, *inter alia*, 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 or prohibition of subchapter I of CAA, other than those listed in § 113(a)(1-2), or subchapter V of the CAA, including, but not limited to, a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under those provisions or subchapters, the Administrator may issue an order requiring such person to comply with such requirement or prohibition.

6. Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), states that the Administrator may require any person subject to the Act to, among other things, maintain and keep records, make reports and any other information as the Administrator may reasonably require.

7. Section 302 (e) of the Act, 42 U.S.C. § 7602(e), defines the term "person" to include an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

IV. PURPOSE

8. This AOC shall resolve all civil liability of QEPE to EPA from the Effective Date of the AOC for alleged violations of Subpart HH and those requirements of Title V of the CAA and its

implementing regulations related to Subpart HH at the 14P well site during the time that the AOC is effective, so long as QEPE complies with the requirements of the AOC.

V. PARTIES BOUND

9. This AOC applies to and is binding upon EPA and QEPE and QEPE's successors and assigns. The signatories to this AOC certify that they are authorized to execute and legally bind the parties they represent in this AOC.

10. Any change in ownership or corporate status of QEPE including, but not limited to a name change, merger or other corporate change involving the sale of all or substantially all of QEPE's assets or its stock, shall in no way alter QEPE's responsibilities under this AOC. QEPE shall provide a copy of this AOC to any such subsequent owners or successors thereof before ownership rights of stock or assets in a corporate acquisition is transferred.

VI. FINDINGS OF FACT

11. QEPE, a Texas corporation, is the owner and operator of the 14P well site located in Section 20, Township 14 South, Range 20 East, in Uintah County, Utah. The 14P well site produces and dehydrates natural gas.

12. Production at the 14P well site commenced on or about August 1, 2007.

13. At the commencement of production in 2007 there were four dehydrators in operation at the site and each dehydrator was equipped with a glycol recirculating pump manufactured by Kimray:

Dehy No. 1: Kimray model 90/15;

Dehy No. 2: Kimray model 50/15;

Dehy No. 3: Kimray model 50/15; and

Dehy No. 4: Kimray model 50/15.

QEPE represents that prior to March 12, 2009, QEPE employees manually adjusted the pumps for each dehydrator at the 14P well site to reduce the maximum circulation rates of the pumps to less than 10 gallons per hour (“gph”) for the 90/15 pump and between 4 and 7 gph for the 50/15 pumps. QEPE represents that on or before March 12, 2009, QEPE “crippled” the four circulation pumps to reduce the maximum circulation rate of each pump to one-half of the design rate.

14. On May 5, 2008, EPA sent a request for information pursuant to Section 114 of the CAA to Questar Market Resources (“QMR”), QEPE’s former parent, regarding a number of well site facilities, including the 14P well site. QMR submitted its response to that request on June 4, 2008. On May 12, 2009, EPA issued a Compliance Order, Docket No. CAA-08-2009-0019 (the “Compliance Order”), alleging that the 14P well site was not in compliance with Section 112(c) and (d) of the CAA, 42 U.S.C. § 7412(c) and (d), and the regulations promulgated thereunder, in particular 40 C.F.R. Part 63, Subpart HH. QEPE denied the allegations in the Compliance Order and on July 10, 2009 filed a Petition for Review of Final Compliance Order in the Tenth Circuit Court of Appeals (“Petition for Review”), pursuant to section 307(b) of the CAA, 42 U.S.C. § 7607(b), requesting that the Compliance Order be dismissed as invalid and unconstitutional. *Petition for Review of Final Compliance Order, Questar Exploration and Production Company v. U.S. Environmental Agency and the United States of America*, No. 09-9538 (July 10, 2009).

15. The Parties entered into mediation to resolve the issues raised by the Compliance Order and Petition for Review and have reached the settlement outlined below.

VII. AGREEMENT

16. Upon the Effective Date the Compliance Order will be deemed withdrawn, and within 10 days after the Effective Date, QEPE shall dismiss the Petition for Review.

17. On or before the Effective Date, QEPE shall install and operate at the 14P site glycol circulation pump(s) with maximum pumping rate(s), as specified by its/their manufacturer(s), that will result in a total, calculated, uncontrolled potential to emit, as defined in 40 C.F.R. § 63, hazardous air pollutants (“HAPs”) from the dehy(s) that is below the thresholds for a major source as the term “major source” is defined in 40 C.F.R. § 63.2. Within 30 days after the Effective Date, QEPE shall provide written notice to EPA of the manufacturer, model, maximum pumping rate, and serial number of the pump(s) installed that satisfy this requirement. QEPE shall also submit to EPA the GRI-GLYCalc emission results (both the Input Summary and the Aggregate reports) estimating the potential to emit for each glycol dehydrator, as well as the associated extended gas analysis used.

18. In the event QEPE determines in its sole discretion that any pump installed in satisfaction of QEPE’s obligation under paragraph 13 above requires replacement during the life of this AOC, QEPE shall replace it with a pump or combination of pumps that will maintain a calculated, uncontrolled, combined potential to emit, as defined in 40 C.F.R. § 63.2, of HAPs that is below the thresholds for a major source as the term “major source” is defined in 40 C.F.R. § 63.2. QEPE shall notify EPA in writing of the installation of any replacement pump(s) within 60 days after installation, including the pump’s manufacturer, model, and maximum pumping rate, except that QEPE shall not be required to notify EPA if the replacement pump has the same manufacturer, model and maximum pumping rate as the pump being removed.

19. Within 90 days after the Effective Date, QEPE shall install a control device to control HAP emissions from the dehydrator(s) appropriately sized for the operating parameters of the 14P well site and for which the manufacturer represents will achieve a destruction efficiency of at least 95% of the relevant HAPs with respect to the volumetric flow and BTU content of the 14P well site's waste gas stream; or which reduces the concentration of either total organic carbon ("TOC") or total HAP in the exhaust gases at the outlet of the device to a level equal to or less than 20 parts per million by volume on a dry basis. All emissions from the dehydrator(s) will be routed to the control device. At all times, including periods of startup, shutdown, and malfunction, QEPE must operate and maintain the control device in a manner consistent with safety and good air pollution control practices for minimizing emissions. QEPE shall provide notice to EPA within 14 days after the installation of the control device. At least 30 days prior to installation of the control device, QEPE shall provide EPA with a copy of the manufacturer's representation as to the destruction efficiency of the control device.

20. QEPE shall install an appropriate, reliable temperature sensor/transmitter that indicates continuous ignition of the pilot flame on the control device. The sensor/transmitter will be connected to the existing 14P well site Supervisory Control and Data Acquisition (SCADA) System. The temperature sensor/transmitter will be appropriate for the specific control device and SCADA system requirements. The SCADA system will record temperature readings at a specified frequency and will be programmed to trigger an alarm if temperatures outside of a pre-programmed range are detected. For the purpose of this paragraph, "continuous" monitoring equipment shall measure and record values at least once every hour. An excursion from the continuous monitoring requirement is deemed to have occurred when monitoring data are not available for at least 75% of the operating hours in a day, and QEPE is entitled to one such

excused excursion per six month period, regardless of the reason for the excursion. Such excused excursion is not a violation of this AOC. In addition, such an excursion is not a violation of the requirements of this AOC if it occurs: (a) during a period of startup, shutdown or malfunction; or (b) during periods of non-operation of the 14P wellsite dehydrator(s).

21. QEPE shall provide EPA with the recorded pilot flame temperature data in electronic format using an Excel spreadsheet within one month after the end of the first six month period of operation of the control device. Thereafter, QEPE shall provide EPA with the data recorded from the temperature monitor/SCADA system within one month after the end of 12 months of operation of the control device. QEPE shall maintain these records for a three year period after their creation.

22. In the event EPA or the United States files an enforcement action for alleged past violations of the Subpart HH or Title V of the CAA related to Subpart HH at the 14P well site while the AOC is in effect, QEPE may elect in writing provided to EPA within 60 days of the date EPA files an enforcement action to be automatically released from its obligations under the AOC and shall be free to assert any and all defenses available to it now or in the future. Should QEPE so elect to be released from its obligations hereunder, (i) this AOC does not resolve QEPE's liability, if any, for alleged violations of Subpart HH or Title V at the 14P well site and, (ii) EPA or the United States may seek additional injunctive relief above and beyond the terms of the then-released AOC.

VIII. NOTIFICATIONS

23. All notifications made in connection with this AOC shall be made in writing to the following designated representatives:

TO EPA :

Director, Air and Toxics
Technical Enforcement Program
Office of Enforcement,
Compliance and Environmental
Justice (8ENF-AT)
U.S.E.P.A. Region 8
1595 Wynkoop
Denver, Colorado 80202-1129

TO QEPE:

Dan Ryan, Senior Environmental
Engineer
QEP Energy Company
1050 17th Street, Suite 500
Denver, CO 80265
(303) 308-3070

IX. FORCE MAJEURE

24. QEPE agrees to perform all of its obligations under this AOC within the time limits established under this AOC, unless the performance is delayed by a force majeure. For the purposes of this AOC, a force majeure is defined as any event arising from causes not foreseeable or beyond the control of QEPE that delays or prevents performance of any obligation under this AOC despite QEPE's diligent efforts to fulfill such obligations including, without limitation, inability to access the site due to severe weather. The requirement that QEPE use "diligent efforts to fulfill such obligation," includes using diligent efforts to address the effects of any force majeure event (a) as it is occurring and (b) after it has occurred to minimize any resulting delay to the greatest extent possible. Force majeure does not include QEPE's financial inability to perform any obligation under this AOC. In the event of a dispute between the parties as to whether any particular event constitutes force majeure, QEPE shall bear the burden of demonstrating by a preponderance of the evidence that the delay has been or will be caused by force majeure, that the duration of the delay was or will be reasonable under the circumstances, and that diligent efforts were exercised to avoid and mitigate the effects of the delay.

25. QEPE shall immediately notify EPA orally after QEPE becomes aware of events that constitute a force majeure, followed by written notice within five (5) days after the oral notification.

X. DISPUTE RESOLUTION

26. Any dispute that arises with respect to the meaning or requirements of this AOC shall be, in the first instance, the subject of informal negotiations between EPA and QEPE to attempt to resolve such dispute. Both parties reserve all remedies and defenses in the event a dispute cannot be resolved between the parties.

XI. EFFECTIVE DATE AND COMPUTATION OF TIME

27. This AOC shall be deemed effective for the purposes of Paragraphs 8, 16, 17 and 19 above as of the date it is executed by the Parties (the "Effective Date"). All time periods for performance of the activities required by this AOC shall be computed pursuant to Rule 6 of the Federal Rules of Civil Procedure.


XII. TERMINATION

28. QEPE's obligations under this AOC shall terminate twelve (12) months after QEPE provides EPA notice of the installation of the control device pursuant to ¶17, above, except for the obligation to maintain records pursuant to ¶21, which shall terminate at the expiration of the time period set forth therein.

THE UNDERSIGNED PARTIES enter into this Administrative Order on Consent,
Docket No. CAA-08-2009-0019 .

For the United States Environmental Protection Agency, Region 8:


Date: JUN 17 2011



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

For QEP Energy Company:

Date: 6/8/11



Jay B. Neese
Executive Vice President