

Chisholm Energy Operating, LLC
Docket No. CAA-06-2023-3317

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

23 MAR 21 AM 11:40
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

Chisholm Energy Operating, LLC
Fort Worth, Texas

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DOCKET NO. CAA-06-2023-3317

RESPONDENT

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act, (the "CAA" or the "Act"), 42 U.S.C. § 7413(d), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permit ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 ("EPA"). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division, EPA Region 6, has been delegated the authority to settle civil administrative penalty and compliance proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

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3. Chisholm Energy Operating, LLC (“Chisholm” or “Respondent”) is a limited liability company that, at relevant times, was doing business in the State of New Mexico.

Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(1)(B) and (a)(3)(A) of the Act, 42 U.S.C. § 7413(a)(1)(B), (a)(3)(A).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves a penalty assessment above \$414,364 and alleged violations that occurred more than a year before the initiation of this proceeding], is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. In satisfaction of the notice requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), on August 1, 2022, EPA issued to Respondent a Notice of Violation and Opportunity to Confer (the “NOVOC”) and provided a copy of the NOVOC to the State of New Mexico. In the NOVOC, EPA provided notice to both Respondent and the State of New Mexico that EPA found Respondent committed the alleged violations of the federal New Source Performance Standards (“NSPS”) and the New Mexico State Implementation Plan (“SIP”)

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described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

10. The Act is designed “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).

11. 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 SIPs and federally-enforceable permits.

a. NSPS 40 C.F.R. Part 60, Subparts OOOO and OOOOa

12. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes EPA to promulgate regulations establishing New Source Performance Standards (“NSPS”). Section 111(e) of the CAA, 42 U.S.C. § 7411(e), states that after the effective date of standards of performance promulgated under this Section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

13. In 2012, pursuant to its authority under Section 111(b)(1)(B) of the Act, 42 U.S.C. § 7411(b)(1)(B), to review and, if appropriate, revise the NSPS, EPA published the final rule,

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“Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution,” found at 40 C.F.R. Part 60, Subpart OOOO (“Subpart OOOO”).

14. In 2016, EPA made amendments to the 2012 NSPS with respect to standards for storage vessels and other changes, which are found at 40 C.F.R. Part 60, Subpart OOOOa (“Subpart OOOOa”).

15. Affected facilities that commence construction, modification, or reconstruction after August 23, 2011, and on or before September 18, 2015, are subject to the standards of Subpart OOOO. 40 C.F.R. § 60.5360. Affected facilities that commence construction, modification, or reconstruction after September 18, 2015, are subject to the standards of Subpart OOOOa. 40 C.F.R. § 60.5360a.

16. Among the “affected facilities” subject to NSPS Subparts OOOO and OOOOa are “storage vessel affected facilities.” 40 C.F.R. §§ 60.5365(e), 60.5365a(e). NSPS Subparts OOOO and OOOOa specifies that a “storage vessel affected facility” is a single storage vessel with the potential for VOC emissions equal to or greater than six (6) tons per year (“tpy”). 40 C.F.R. §§ 60.5365(e), 60.5365a(e).

17. For storage vessels that commenced construction, reconstruction, or modification after August 23, 2011, and on or before September 18, 2015, NSPS Subpart OOOO requires that the potential for VOC emissions “be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to the applicable emission determination deadline specified in” 40 C.F.R. § 60.5365(e). “The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local, or tribal authority.” 40 C.F.R. § 60.5365(e).

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18. For storage vessels that commenced construction, reconstruction, or modification after September 18, 2015, and on or before November 16, 2020, NSPS Subpart OOOOa requires that the potential for VOC emissions “be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput (as defined in [40 C.F.R.] § 60.5430a) determined for a 30-day period prior to the applicable emission determination deadline specified in” 40 C.F.R. § 60.5365a(e)(2)(i) and (ii). “The determination may take into account requirements under a legally and practicably enforceable limit in an operating permit or other requirement established under a Federal, state, local, or tribal authority.” 40 C.F.R. § 60.5365a(e)(1).

19. For storage vessels that commenced construction, reconstruction, or modification after November 16, 2020, NSPS Subpart OOOOa requires that the potential for VOC emissions be calculated for each individual storage vessel using a generally accepted model or calculation methodology, based on the maximum average daily throughput, as defined in 40 C.F.R. § 60.5430a, determined for a 30-day period of production, except as specified in 40 C.F.R. § 60.5365a(e)(3). “The determination may take into account requirements under a legally and practicably enforceable limit in an operating permit or other requirement established under a Federal, state, local, or tribal authority.” 40 C.F.R. § 60.5365a(e)(2).

20. NSPS Subparts OOOO and OOOOa require owners and operators, at all times, to maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. 40 C.F.R. §§ 60.5370(b), 60.5370a(b).

21. NSPS Subparts OOOO and OOOOa require each storage vessel affected facility, that uses a control device to reduce emissions from the facility, to connect the facility through a

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closed vent system and route emissions to a control device or to a process. 40 C.F.R.

§§ 60.5395(e)(1), 60.5395a(b)(1).

22. NSPS Subpart OOOO requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process to meet the requirements of 40 C.F.R. § 60.5411(c). 40 C.F.R. § 60.5411(c) requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process, be designed and operated with no detectable emissions, as determined using olfactory, visual, and auditory inspections. Each closed vent system that routes emissions to a process must be operational 95 percent of the year or greater. 40 C.F.R. § 60.5395(e)(1).

23. NSPS Subpart OOOOa requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process to meet the requirements of 40 C.F.R. § 60.5411a(c) and (d). 40 C.F.R. § 60.5411a(c) requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process, be designed and operated with no detectable emissions, as determined using olfactory, visual, and auditory inspections or optical gas imaging inspections as specified in 40 C.F.R. § 5416a(c). 40 C.F.R. § 60.5395a(b)(1).

b. New Mexico State Implementation Plan

24. 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 air pollutants. Section 109(b) of the CAA, 42 U.S.C. § 7409(b), provides that the NAAQS establish primary air quality standards to protect public health and secondary standards to protect public welfare.

25. 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 SIP that provides for the implementation,

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maintenance, and enforcement of the NAAQS, and to submit it to the Administrator of EPA for approval.

26. The State of New Mexico has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart GG. The New Mexico SIP includes authorization for New Mexico to issue general construction permits to oil and gas facilities. *See* 40 C.F.R. § 52.1620(c); 20 N.M.A.C. 2.72.220.

27. Facilities “registered for coverage under a general permit shall be generally homogeneous in terms of operations, processes and emissions, subject to the same or substantially similar requirements, and not subject to case-by-case standards or requirements.” *Id.* “Any term or condition imposed by the department on a permit or permit revision is enforceable to the same extent as a regulation of the” New Mexico Environmental Improvement Board. 20 N.M.A.C. 2.72.210(D).

28. Pursuant to 20 N.M.A.C. 2.72.220, the State of New Mexico issued the New Mexico Air Quality Bureau General Construction Permit for Oil and Gas Facilities (“GCP-O&G”), which includes the following requirements relevant to this CAFO:

- a. To ensure compliance with allowable emissions limitations, GCP-O&G Part A205(B) requires the permittee to either limit the hydrocarbon liquid throughput and average separator pressure to the amount and pressure listed in the relevant Registration Form or, otherwise, operate the permitted facility’s control device and/or vapor recovery units “as a closed vent system that captures and routes all emissions from tanks back to the process stream or to the control device, and does not vent to the atmosphere.”
- b. GCP-O&G Part A100(F) requires the permittee to operate the facility as specified in the facility’s Registration Form.

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D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

29. At all times relevant to this proceeding, Respondent owned and/or operated the oil and natural gas production facilities listed in Appendix A, which are located in the New Mexico Permian Basin (the “Facilities”).

30. At all times relevant to this proceeding, Respondent was the owner and/or operator of the Facilities within the meaning of the Act, Section 111(a)(5), 42 U.S.C. § 7411(a)(5), 40 C.F.R. § 60.2, and/or 40 C.F.R. § 51.100(f).

31. At all times relevant to this proceeding, Respondent owned and/or operated units that emit Volatile Organic Compounds (“VOCs”) at the Facilities, which produce oil and gas.

32. The facilities in Table 1 of Appendix A (the “Unpermitted Facilities”) contain single storage vessels in the oil and natural gas production segments with the potential for VOC emissions equal to or greater than six (6) tons per year (tpy) and were constructed after September 18, 2015. They are therefore subject to the requirements of NSPS Subpart OOOOa.

33. The Facilities in Table 2 of Appendix A (the “GCP Facilities”) are permitted under the State of New Mexico’s General Construction Permits program for oil and gas facilities, located at 20 N.M.A.C. 2.72.220.

34. NMED issued air permits to Respondent, listed in Table 2 of Appendix A, under the SIP-approved General Construction Permits program. The permits cover various emission units at the GCP Facilities, including process equipment, tanks, and flares.

35. Respondent is required by the GCP Facilities’ permits listed in Appendix A to control the emission of waste gas streams from the GCP Facilities and to operate in compliance with certain provisions of the New Mexico SIP.

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36. EPA contracted helicopter flyovers of the Permian Basin between August 25, 2020 and October 15, 2020, to assess energy extraction facility emissions using Optical Gas Imaging (“OGI”) technology.

37. Flyovers of the Facilities at issue in this CAFO were conducted on October 9, 10, and 12, 2020. Appendix A identifies EPA’s observations at each Facility.

38. On February 1, 2021, EPA sent Respondent OGI video captures showing potentially unauthorized hydrocarbon emissions from process equipment and vapor recovery systems at the Facilities. EPA asked Respondent to verify ownership, provide current site-specific permit information, and take any necessary corrective action to address unauthorized hydrocarbon emissions at each facility. EPA considered information provided by Respondent to determine whether violations occurred at the facilities.

39. On February 22, 2021 and May 12, 2022, Respondent provided information to EPA that corrective actions were completed at the Facilities listed in Attachment A to address some of the compliance issues observed during the flyovers.

40. More than thirty (30) days before the issuance of this CAFO, Respondent was notified of the violations alleged herein. On September 1, 2022, EPA sent Respondent the NOVOC and provided a copy to the State of New Mexico, in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

41. On October 4, 2022, and on various other occasions, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

42. On February 15, 2022, Respondent sold all the Facilities identified in the NOVOC.

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43. On October 28, 2022, Respondent submitted the following additional documentation to EPA to confirm that Respondent is no longer the owner or operator of the Facilities, and that all associated permits are no longer issued to Respondent.

1. Confirmation from NMED regarding the change in ownership of the Facilities and the transfer of all permits relating to the Facilities listed in the NOVOC to Earthstone Operating, LLC.

E. ALLEGED VIOLATIONS

44. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the OGI video captures, facility permitted operations, and information provided by Respondent. Based on this review, EPA alleges the following violations for the Facilities:

- a. Respondent violated NSPS Subpart OOOOa, 40 C.F.R. §§ 60.5370a(b), by failing to maintain and operate the Unpermitted Facilities in a manner consistent with good air pollution control practice for minimizing emissions.
- b. Respondent violated NSPS Subpart OOOOa, 40 C.F.R. §§ 60.5395a(b)(1), by failing to use the Unpermitted Facilities control device(s) to reduce emissions from the Facilities by connecting the Facilities through a closed vent system and routing emissions to a control device or to a process.
- c. Respondent violated NSPS Subpart OOOOa, 40 C.F.R. § 60.5395a(b)(1), by failing to operate the closed vent systems of the Unpermitted Facilities—which all use control devices or route emissions to process and operate as closed vent systems—with no detectable emissions, as determined using olfactory, visual and auditory

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inspections or optical gas imaging inspections as specified in 40 C.F.R. § 60.5416a(c), as required by 40 C.F.R. § 60.5411a(c).

d. Respondent violated 20.2.72.200.E NMAC, at the Unpermitted Facilities, which requires all sources subject to Part 72 to file applications for permits “prior to the commencement of the construction, modification or installation. Regardless of the anticipated commencement date, no construction, modification or installation shall begin prior to issuance of the permit.”

e. Respondent violated 20.2.72.220.C(6)(a) NMAC, at the Unpermitted Facilities, by commencing construction of a source without a permit, in violation of 20.2.72.220.C(6)(a), which subjects sources to an enforcement action if “[c]onstruction of a source is commenced prior to the receipt of the Department’s written approval of registration under a general construction permit.”

f. Respondent violated 20 N.M.A.C. 2.72.210(D) by failing to comply with the GCP Facilities’ permit conditions, as identified in subparagraph 45f – 45g.

g. Respondent violated Part A205(B) of the GCP Facilities’ GCP-O&G permit(s) by failing to either limit the hydrocarbon liquid throughput and average separator pressure to the amount and pressure listed in the relevant Registration Form or, otherwise, operate a control device and/or vapor recovery unit as a closed vent system that captures and routes tank emissions to the process stream or to the control device, and does not vent to atmosphere.

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h. Respondent violated Part A100(F) of the GCP Facilities' GCP-O&G permit(s) by failing Respondent to operate the GCP Facilities as specified in the Facilities' Registration Form(s).

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

a. General

45. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. consents to the assessment of a civil penalty, as stated below;
- d. consents to the issuance of any specified compliance or corrective action order¹;
- e. consents to the conditions specified in this CAFO;
- f. consents to any stated Permit Action;
- g. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
- h. waives its rights to appeal the Final Order included in this CAFO.

46. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraphs (d) and (f) are not applicable to this particular case.

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b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;

c. 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 CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);

d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the District of New Mexico;

e. waives any right it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and

f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to these Facilities, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

b. Penalty Assessment and Collection

47. Upon consideration of the entire record herein, including the Findings of Fact and

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Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violations, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violations, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$440,000.00 (the "EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

48. Respondent agrees to:
- a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO; and
 - b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, *e.g.* FedEx), payment should be remitted to:

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U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as "remittance express" or "REX"):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White
(301) 887-6548

For Online Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2023-3317 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket

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number CAA-06-2023-3317. Respondent's adherence to this request will ensure proper credit is given when penalties are received for Region 6. Respondent shall also email a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following email addresses:

Aimee Boss
U.S. EPA Region 6
Boss.Aimee@epa.gov

And

Region 6 Hearing Clerk
U.S. EPA Region 6
Vaughn.Lorena@epa.gov

49. Respondent agrees to pay the following on any overdue EPA Penalty:

a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C.

§ 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).

b. Nonpayment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph (a) of this Paragraph.

50. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including, but not limited to, attorney's fees incurred by the United States for collection proceedings.

51. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

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- a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- b. collect the above-referenced debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- c. suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

c. Additional Terms of Settlement

52. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

53. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. *See* 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

54. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to

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execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

55. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, 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.

56. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: RichSteinmetz.Lindsay@epa.gov

To Respondent: Bradgrandstaff@gmail.com

57. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 51 of this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

58. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

59. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

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60. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

61. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

62. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$109,024 per day of violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

63. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

64. Nothing herein shall be construed to limit the power of 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.

H. EFFECTIVE DATE

65. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall

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Chisholm Energy Operating, LLC
Docket No CAA-06-2023-3317

become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.


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Chisholm Energy Operating, LLC
Docket No CAA-06-2023-3317

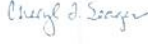
The foregoing Consent Agreement In the Matter of Chisholm Energy Operating, LLC, Docket No. CAA-06-2023-3317, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 3/20/2023

DocuSigned by:

C40A7390433B400
Brad Grandstaff
Vice President – Operations
3987 West Vickery Blvd
Fort Worth TX 76107
Chisholm Energy Operating, LLC

FOR COMPLAINANT:


Digitally signed by Seager, Cheryl
Date: 2023.03.21 09:18:11 -05'00'
Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

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Chisholm Energy Operating, LLC
Docket No. CAA-06-2023-3317

APPENDIX A: FACILITIES
Chisholm Energy Operating, LLC
CAA-06-2023-3317

Table 1. Unpermitted Facilities

Site Identity	New Mexico AIRS Number	Permit Number	Application Type	NSPS Applicability	Flyover Date	Flyover Video ID	EPA Team Observations of Flyover Video Capture
Salt Draw 10 State Com 3BS #004H	350152233	8551	GCP – O&G	OOOOa	10/9/20	1447	Multiple leaking tank pressure relief valves.
Asteroid 20 29 Federal Com 3BS #003H	350152490	9190	GCP – O&G	OOOOa	10/12/20	1584	Four pressure relief valve leaks.

Table 2. General Construction Permit Facilities

Site Identity	New Mexico AIRS Number	Permit Number	Application Type	Flyover Date	Flyover Video ID	EPA Team Observations of Flyover Video Capture
Cottonwood 29 32 Federal Com WCB #004H	350152207	8497	GCP - O&G	10/11/20	1533	Tank hatch leak.
Cottonwood 28 33 Federal 2BS #001H	350152100	8238	GCP - O&G	10/11/20	1534	Multiple leaking tank pressure relief valves.
Cottonwood 28 33 Federal WCA #004H	350152210	8500	GCP - O&G	10/11/20	1535	Multiple tank hatch leaks.
Black River 3 10 Federal Com WCA #004H	35012206	8498	GCP - O&G	10/12/20	1578	Pressure relief valve leak.
McCord Enterprises 23 WCA #002H	350152101	8241	GCP - O&G	10/12/20	1585	Two pressure relief valve leaks.
Dark Canyon 15 22 State Com 3BS #004H	350152295	8665	GCP - O&G	10/12/20	1596	Three pressure relief valve leaks and one tank hatch leak.

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Chisholm Energy Operating, LLC
Docket No. CAA-06-2023-3317

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

Chisholm Energy Operating, LLC
Fort Worth, Texas

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DOCKET NO. CAA-06-2023-3317

RESPONDENT

FINAL ORDER

Pursuant to section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

Chisholm Energy Operating, LLC is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

THOMAS
RUCKI

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
ou=THOMAS RUCKI,
e=9.2342.19206300.100.1.1468001003655804
Date: 2023.03.21 12:16:32 -0400

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

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**Chisholm Energy Operating, LLC
Docket No. CAA-06-2023-3317**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

EMAIL - READ RECEIPT REQUESTED

Brad Grandstaff
Vice President - Operations
Chisholm Energy Operating, LLC
Bradgrandstaff@gmail.com
3987 West Vickery Blvd
Fort Worth TX 76107

LINDSAY RICH
STEINMETZ

Digitally signed by LINDSAY
RICH STEINMETZ
Date: 2023.03.21 21:05:35
-05'00'

U.S. EPA, Region 6
Dallas, Texas