UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA Plaintiff	)	
v.	)	Civil Action No.
DOMINION EXPLORATION & PRODUCTION, INC.	)	
and	)	
XTO ENERGY, INC. ENERGY ASSOCIATES, Defendants.	)	

COMPLAINT

The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this Complaint and alleges as follows:

NATURE OF ACTION

1. This is a civil action brought against Dominion Exploration & Production, Inc., ("Dominion E&P"), and XTO Energy, Inc. ("XTO"), pursuant to Section 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(b), for civil penalties and permanent injunctive relief regarding violations of the CAA's program to control the emission of hazardous air pollutants as set forth in Section 112 of the CAA, 42 U.S.C. § 7412 and the Part 71 Title V fee requirements, as set forth in 40 C.F.R. §71.9(h), and implementing regulations.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345 and 1355.

3. Venue is proper in this district pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 28 U.S.C. 1391(b) & (c) because the violations at issue occurred in this judicial district and because the Defendants are located in and doing business in this judicial district.

DEFENDANTS

4. Dominion E & P is a wholly owned subsidiary of Dominion Resources, Inc. Defendants XTO and Dominion are Delaware corporations authorized to do business in the State of Utah. Defendants are "persons" as defined in Section 302 (e) of the CAA, 42 U.S.C. § 602(e).

DESCRIPTION OF THE FACILITIES

5. "Uinta Basin Facilities" shall collectively mean the Kings Canyon, TAP-4, and TAP-5 compressor stations, each of which is located in the Uinta Basin near Vernal, Utah, within the external boundaries of the Uintah and Ouray Indian Reservation, on "Indian country" lands as defined at 18 U.S.C. § 1151 in Uintah County. EPA administers the Act's programs for the National Emission Standards for Hazardous Air Pollutants ("NESHAP"), and federal operating permits under Title V.

6. At all times relevant to this Complaint, Defendants owned and/or operated Kings Canyon, TAP-4 and TAP-5 compressor stations. Each of these compressor stations collects natural gas from production wells surrounding the facility, and then dehydrates and compresses the "dried" gas for transmission to other facilities or sales points.

STATUTORY AND REGULATORY BACKGROUND

7. As set forth in Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1), the CAA establishes a regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare.

Title V Permitting Program

8. As set forth in Title V of the CAA, 42 U.S.C. §§ 7661 *et seq.*, and the regulations promulgated thereunder at 40 C.F.R. Part 71, any "Part 71 source," which includes a "major source," is required to have a comprehensive federal air quality operating permit. *See* 40 C.F.R. §§ 71.1 and 71.3(a).

9. A "major source" means "any stationary source (or group of stationary sources located within a contiguous area and under common control) that is . . . defined in section 7412 of this title [Section 112 of the CAA]. . . ." Section 501(2) of the CAA, 42 U.S.C. § 7661(2). Under EPA's regulations at 40 C.F.R. § 63.760(h), an owner or operator of an affected source subject to the 40 C.F.R. Part 63, Subpart HH regulations that is a "major source" of hazardous air pollutants ("HAPs") is also subject to the 40 C.F.R. Part 70 or Part 71 operating permit requirements.

10. A major source under 40 C.F.R. Part 71 ("Part 71 Source") is required to submit an annual report of its actual emissions for the preceding year, a fee calculation worksheet, and payment of annual emission fees pursuant to 40 C.F.R. § 71.9(h)(1).

11. 40 C.F.R. Section 71 provides that:

> (b) Part 71 programs for Indian country. The Administrator will administer and enforce an operating permits program in Indian country, as defined in § 71.2, when an operating permits program which meets the requirements of part 70 of this

chapter has not been explicitly granted full or interim approval by the Administrator for Indian country. For purposes of administering the part 71 program, EPA will treat areas for which EPA believes the Indian country status is in question as Indian country.

12. Pursuant to 40 C.F.R. § 71.2, "Indian country" means all land within the limits of any Indian reservation under the jurisdiction of the United States government.

13. The Federal operating permits program for stationary sources located in Indian Country became effective on March 22, 1999. *See* 64 Fed. Reg. 8247-01 (Feb. 19, 1999).

National Emission Standards For Hazardous Air Pollutants

14. Section 112 of the CAA, 42 U.S.C. § 7412, establishes a program for controlling emissions of hazardous air pollutants ("HAPs") using the maximum degree of emission reduction known as the "National Emission Standards for Hazardous Air Pollutants" or "NESHAPs." HAPs, also known as air toxics, are listed in Section 112(b) of the CAA, 42 U.S.C. § 7412(b), and include the following five that are typically contained in emissions from oil and natural gas facilities and natural gas transmission and storage facilities: benzene, toluene, ethyl benzene, xylenes, and hexane. HAPs are pollutants which are known or suspected to cause cancer or other serious health effects such as birth defects or reproductive effects in humans.

Subpart HH Regulations

15. Pursuant to the authority under Section 112 of the CAA, 42 U.S.C. § 7412, the Administrator of EPA promulgated regulations establishing NESHAPs for Oil and Natural Gas Production Facilities. These "Maximum Achievable Control Technology ("MACT")" regulations for Oil and Natural Gas Production Facilities are codified at 40 C.F.R. Part 63, Subpart HH. The effective date of Subpart HH was June 17, 1999.

16. The Subpart HH regulations apply to specified affected sources located at oil and natural gas production facilities that (a) are "major sources" of HAPs, and (b) either process, upgrade, or store hydrocarbon liquids prior to the point of custody transfer, or natural gas prior to the point at which natural gas enters the "natural gas transmission and storage source category or is delivered to a final end user." 40 C.F.R. § 63.760(a). Natural gas is deemed to enter the "natural gas and storage source category" after leaving a natural gas processing plant if there is one, and if there is not one, after the point of custody transfer. 40 C.F.R. § 63.760(a)(3).

17. A "major source" of HAPs means "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous pollutant to 25 tons per year or more of any combination of hazardous air pollutants." Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1). *See also* 40 C.F.R. § 63.2.

18. An "affected source," for purposes of the NESHAP regulations set forth at 40 C.F.R. Part 63, means the "stationary source, the group of stationary sources, or the portion of the stationary source that is regulated by a relevant standard or other requirement established pursuant to [Section 112 of the CAA]. Each relevant standard will define the 'affected source' for the purposes of that standard . . . ." 40 C.F.R. § 63.2.

19. Affected sources under Subpart HH are defined at 40 C.F.R. § 63.760(b)(1) - (4) to include glycol dehydration units, storage vessels with the potential for flash emissions, the group of all ancillary equipment (except compressors) intended to operate in volatile hazardous air pollutant service which are located at natural gas processing plants, and compressors

intended to operate in volatile hazardous air pollutant service which are located at natural gas processing plants.

20. The construction of any new, or the reconstruction of any existing, "major source" of HAPs is subject to a pre-construction approval process. Section 112(i)(1) of the CAA provides that "[a]fter the effective date of any emission standard, limitation, or regulation under subsection (d), (f), or (h) of this section, no person may construct any new major source subject to such emission standard, regulation, or limitation unless the Administrator . . . determines that such source, if properly constructed, reconstructed, and operated, will comply with the standard, regulation, or limitation." 42 U.S.C. § 7412(i)(1). *See also* 40 C.F.R. § 63.5(d)(1). 40 C.F.R. 63.5(b)(3) further provides that: "[a]fter the effective date of any relevant standard promulgated by the Administrator under this part . . . no person may construct a new major affected source . . . subject to such standard . . . without obtaining written approval, in advance, from the administrator in accordance with the procedures specified in paragraphs (d) and (e) of this section."

21. Pursuant to 40 C.F.R. § 63.760(f)(2) the owner or operator of an affected source, the construction or reconstruction of which commenced on or after February 6, 1998, shall achieve compliance with the provisions of 40 C.F.R. Part 63, Subpart HH immediately upon initial start up or June 17, 1999, whichever is later. 40 C.F.R. § 63.760(f)(1) specifies the Subpart HH compliance dates for an affected or area source which commenced construction or reconstruction before February 6, 1998.

Subpart ZZZZ

22. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated regulations, codified at 40 C.F.R. Part 63, Subpart ZZZZ, establishing NESHAPs for stationary reciprocating internal combustion engines ("RICE") at major sources of HAP emissions. 40 C.F.R. §§ 63.6584 & 63.6585. The effective date of Subpart ZZZZ was August 16, 2004.

23. Affected sources are defined at 40 C.F.R. Part § 63.6590 to include any existing, new, or reconstructed stationary RICE with a site-rating of more than 500 brake horsepower and located at a major source of HAP emissions. A "major source" of HAP emissions includes, with respect to oil and gas production facilities, a "surface site" that emits or has the potential to emit any single HAP at a rate of 10 tons or more per year, or any combination of HAPs at a rate of 25 tons or more per year. 40 C.F.R. § 63.6585(b).

24. The owner or operator of a new or reconstructed stationary RICE (defined by 40 C.F.R. § 63.6590(a)(2) & (3)) that is started up before August 16, 2004 must comply with the applicable emissions limitations and operating limitations set forth at 40 C.F.R. Part 63, Subpart ZZZZ, by no later than August 16, 2004. 40 C.F.R. § 63.6595(a)(2). For a new or reconstructed stationary RICE that is started up after August 16, 2004, the owner or operator must comply with the applicable emissions limitation and operating limitations set forth at 40 C.F.R. Part 63, Subpart ZZZZ, upon startup. 40 C.F.R. § 63.6595(a)(3).

Subpart KKK

25. EPA promulgated regulations, codified at 40 C.F.R. Part 60, Subpart KKK (§§ 60.630 - 60.636), which set forth standards of performance for affected facilities in onshore

natural gas processing facilities. Subpart KKK's requirements apply to "[a]ny affected facility that commences construction, reconstruction, or modification after January 20, 1984 . . . ." 40 C.F.R. § 60.630(b).

26. "Affected sources" include compressors in VOC service or in wet gas service, and all equipment within a "process unit" excluding other compressors (*i.e.*, excluding compressors not in VOC service or wet gas service). 40 C.F.R. § 60.630(a). A "process unit" means "equipment assembled for the extraction of natural gas liquids from field gas, the fractionation of the liquids into natural gas products, or other operations associated with the processing of natural gas products. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the products." 40 C.F.R. § 60.631.

FIRST CLAIM FOR RELIEF
(Kings Canyon Compressor Facility – Violations of NESHAP Subparts A and HH)

27. Paragraphs 1 through 26 are realleged and incorporated by reference.

28. In April 2005, Defendants constructed the tri-ethylene glycol dehydrators A and B at the Kings Canyon Compressor Facility ("Kings Canyon Facility"), thereby increasing the facility's potential to emit to greater than 100 tons per year of one or more hazardous air pollutants.

29. The addition of the TEG dehydrators A and B in April 2005, at the Kings Canyon Facility constituted the construction of a new "affected source" as defined in 40 C.F.R. § 63.760(b)(1), and a "major source" of HAPs within the meaning of Section 112(a)(1) of the

CAA, 42 U.S.C. § 7412(a)(1), and 40 C.F.R. §§ 63.2 and 63.761, triggering the applicability of Subparts A and HH of EPA's 40 C.F.R. Part 63 regulations.

30. Pursuant to Section 112(i)(1) of the CAA, 42 U.S.C. § 7412(i)(1), and 40 C.F.R. §§ 63.5(b)(3) & 63.5(d), the owner or operator of the Kings Canyon Facility was required to comply with a preconstruction approval process before installing dehydrators A and B. Such an application for approval of the construction of the dehydrators was not submitted, and the dehydrators were operated without EPA's approval.

31. EPA was not provided an initial notice of the applicability of the EPA's NESHAP regulations to the Kings Canyon Facility within 15 days after the date of startup of dehydrators A and B as required by 40 C.F.R. § 63.9(b)(5) and (d). EPA was first notified that the Kings Canyon Facility was subject to the Subpart HH regulations in January 2007.

32. Pursuant to 40 C.F.R. §§ 63.6(e)(3) and 63.762(d), a Startup, Shutdown, and Malfunction ("S/S/M") plan must be prepared for an affected source by the applicable compliance date, which for sources, the construction or reconstruction of which commenced on or after February 6, 1998, is the date of the initial start-up of the affected source. An S/S/M plan was not prepared for dehydrators A and B at the Kings Canyon Facility before its initial start-up, in April, 2005.

33. Defendants failed to submit a timely Notification of Compliance Status Report for the Kings Canyon Facility in violation of 40 C.F.R. §§ 63.9(h) and 63.775(d).

34. Defendants failed to submit a timely Periodic Report for the Kings Canyon Facility in violation of 40 C.F.R. § 63.775(e).

35. Defendants are liable for civil penalties and permanent injunctive relief on account of each violation of the NESHAP Subpart A and HH requirements pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

SECOND CLAIM FOR RELIEF
(Kings Canyon Compressor Facility - Violations of Title V)

36. Paragraphs 1-35 are realleged and incorporated by reference.

37. Defendants failed to submit a timely Title V permit application for the Kings Canyon Facility prior to the installation of dehydrators A and B in April 2005, in violation of 40 C.F.R. §71.5.

38. Defendants failed to submit an annual report of its actual emissions at the Kings Canyon Facility for each calendar year, a fee calculations and work sheet, and full payment of the annual fee each year, in violation of 40 C.F.R. § 71.9(h).

39. Defendants are liable for civil penalties and permanent injunctive relief on account of each Title V violation at the Kings Canyon Facility, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

THIRD CLAIM FOR RELIEF
(Kings Canyon Compressor Facility - Violations of NESHAP Subpart ZZZZ)

40. Paragraphs 1 through 39 are realleged and incorporated by reference.

41. Defendants operate one or more stationary reciprocating internal combustion engines ("RICE") at the Kings Canyon Facility, considered to be "new" and "affected sources" as these terms are defined at 40 C.F.R. § 63.6590(a)(1) & (2).

42. At the time Defendants' RICE were installed and started up, the Kings Canyon Facility was a major source of HAPs as defined by 40 C.F.R. § 63.6585(b).

43. The Subpart ZZZZ regulations provide that an owner or operator that starts up a new stationary RICE before August 16, 2004 must comply with emission and operating limitations in 40 C.F.R. § 63.6600(b) by no later than August 16, 2004 (the "compliance date"). 40 C.F.R. § 63.6595(a)(2).

44. Defendants' RICE at the Kings Canyon Facility operated without oxidation catalyst controls in violation of 40 C.F.R. § 63.6600(b).

45. Defendants failed to prepare an S/S/M plan for the RICE operated at the Kings Canyon Facility by the applicable compliance date, in violation of 40 C.F.R. § 63.6(e)(3).

46. Defendants failed to provide EPA at least 60 days advance notice of an intention to conduct a performance test or other compliance demonstration of the RICE at the Kings Canyon Facility, in violation of 40 C.F.R. § 63.7(b)(1).

47. Defendants failed to conduct a timely initial performance test or compliance demonstration of the RICE at the Kings Canyon Facility within 180 days after the compliance date, in violation of 40 C.F.R. § 63.6610(a).

48. Defendants are liable for civil penalties and permanent injunctive relief on account of each violation of the above NESHAP Subpart A and ZZZZ regulations pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

FOURTH CLAIM FOR RELIEF
(TAP-4 Compressor Facility – Violations of NESHAP Subparts A and HH)

49. Paragraphs 1 through 48 are realleged and incorporated by reference.

50. In April 2006, Defendants constructed a glycol dehydrator at the TAP-4 Compressor Facility ("TAP-4 Facility"), thereby increasing the facility's potential to emit to greater than 100 tons per year of one or more hazardous air pollutants.

51. The addition of the glycol dehydrator in April 2006, at the TAP-4 Facility constituted the construction of a new "affected source" as defined in 40 C.F.R. § 63.760(b)(1), and a "major source" of HAPs within the meaning of Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), and 40 C.F.R. §§ 63.2 and 63.761, triggering the applicability of Subparts A and HH of EPA's 40 C.F.R. Part 63 regulations.

52. Pursuant to Section 112(i)(1) of the CAA, 42 U.S.C. § 7412(i)(1), and 40 C.F.R. §§ 63.5(b)(3) & 63.5(d), the owner or operator of the TAP-4 Facility was required to comply with a preconstruction approval process before installing the glycol dehydrator. Such an application for approval of the construction of the dehydrator was not submitted, and the dehydrator was operated without EPA's approval.

53. EPA was not provided an initial notice of the applicability of the EPA's NESHAP regulations to the TAP-4 Facility within 15 days after the date of startup of the glycol dehydrator as required by 40 C.F.R. § 63.9(b)(5) and (d). EPA was first notified that the TAP-4 Facility was subject to the Subpart HH regulations in January 2007.

54. Pursuant to 40 C.F.R. §§ 63.6(e)(3) and 63.762(d), a Startup, Shutdown, and Malfunction ("S/S/M") plan must be prepared for an affected source by the applicable compliance date, which for sources, the construction or reconstruction of which commenced on or after February 6, 1998, is the date of the initial start-up of the affected source. An S/S/M plan was not prepared for the glycol dehydrator at the TAP-4 Facility before its initial start-up, in April, 2006.

55. Defendants failed to submit a timely Notification of Compliance Status Report for the TAP-4 Facility in violation of 40 C.F.R. §§ 63.9(h) and 63.775(d).

56. Defendants failed to submit a timely Periodic Report for the TAP-4 Facility in violation of 40 C.F.R. § 63.775(e).

57. Defendants are liable for civil penalties and permanent injunctive relief on account of each violation of the NESHAP Subpart A and HH requirements pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

FIFTH CLAIM FOR RELIEF
(TAP-4 Compressor Facility - Violations of Title V)

58. Paragraphs 1-57 are realleged and incorporated by reference.

59. Defendants failed to submit a timely Title V permit application for the TAP-4 Facility prior to the installation of the glycol dehydrator in April 2006, in violation of 40 C.F.R. §71.5.

60. Defendants failed to submit an annual report of its actual emissions at the TAP-4 Facility for each calendar year, a fee calculations and work sheet, and full payment of the annual fee each year, in violation of 40 C.F.R. § 71.9(h).

61. Defendants are liable for civil penalties and permanent injunctive relief on account of each Title V violation at the TAP-4 Facility, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

SIXTH CLAIM FOR RELIEF
(TAP-4 Compressor Facility - Violations of NESHAP Subpart ZZZZ)

62. Paragraphs 1 through 61 are realleged and incorporated by reference.

63. Defendants operate one or more stationary reciprocating internal combustion engines ("RICE") at the TAP-4 Facility, considered to be "new" and "affected sources" as these terms are defined at 40 C.F.R. § 63.6590(a)(1) & (2).

64. At the time Defendants' RICE were installed and started up, the TAP-4 Facility was a major source of HAPs as defined by 40 C.F.R. § 63.6585(b).

65. The Subpart ZZZZ regulations provide that an owner or operator that starts up a new stationary RICE before August 16, 2004 must comply with emission and operating limitations in 40 C.F.R. § 63.6600(b) by no later than August 16, 2004 (the "compliance date"). 40 C.F.R. § 63.6595(a)(2).

66. Defendants' RICE at the TAP-4 Facility operated without oxidation catalyst controls in violation of 40 C.F.R. § 63.6600(b).

67. Defendants failed to prepare an S/S/M plan for the RICE operated at the TAP-4 Facility by the applicable compliance date, in violation of 40 C.F.R. § 63.6(e)(3).

68. Defendants failed to provide EPA at least 60 days advance notice of an intention to conduct a performance test or other compliance demonstration of the RICE at the TAP-4 Facility, in violation of 40 C.F.R. § 63.7(b)(1).

69. Defendants failed to conduct a timely initial performance test or compliance demonstration of the RICE at the TAP-4 Facility within 180 days after the compliance date, in violation of 40 C.F.R. § 63.6610(a).

70. Defendants are liable for civil penalties and permanent injunctive relief on account of each violation of the above NESHAP Subpart A and ZZZZ regulations pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

SEVENTH CLAIM FOR RELIEF
(TAP-5 Compressor Facility – Violations of NESHAP Subparts A and HH)

71. Paragraphs 1 through 70 are realleged and incorporated by reference.

72. In April 2005, Defendants constructed a glycol dehydrator at the TAP-5 Compressor Facility ("TAP-5 Facility"), thereby increasing the facility's potential to emit to greater than 100 tons per year of one or more hazardous air pollutants.

73. The addition of the glycol dehydrator in April 2005, at the TAP-5 Facility constituted the construction of a new "affected source" as defined in 40 C.F.R. § 63.760(b)(1), and a "major source" of HAPs within the meaning of Section 112(a)(1) of the CAA, 42 U.S.C. §

7412(a)(1), and 40 C.F.R. §§ 63.2 and 63.761, triggering the applicability of Subparts A and HH of EPA's 40 C.F.R. Part 63 regulations.

74. Pursuant to Section 112(i)(1) of the CAA, 42 U.S.C. § 7412(i)(1), and 40 C.F.R. §§ 63.5(b)(3) & 63.5(d), the owner or operator of the TAP-5 Facility was required to comply with a preconstruction approval process before installing the glycol dehydrator. Such an application for approval of the construction of the dehydrator was not submitted, and the dehydrator was operated without EPA's approval.

75. EPA was not provided an initial notice of the applicability of the EPA's NESHAP regulations to the TAP-5 Facility within 15 days after the date of startup of the glycol dehydrator as required by 40 C.F.R. § 63.9(b)(5) and (d). EPA was first notified that the TAP-5 Facility was subject to the Subpart HH regulations in January 2007.

76. Pursuant to 40 C.F.R. §§ 63.6(e)(3) and 63.762(d), a Startup, Shutdown, and Malfunction ("S/S/M") plan must be prepared for an affected source by the applicable compliance date, which for sources, the construction or reconstruction of which commenced on or after February 6, 1998, is the date of the initial start-up of the affected source. An S/S/M plan was not prepared for the glycol dehydrator at the TAP-5 Facility before its initial start-up, in April, 2005.

77. Defendants failed to submit a timely Notification of Compliance Status Report for the TAP-5 Facility in violation of 40 C.F.R. §§ 63.9(h) and 63.775(d).

78. Defendants failed to submit a timely Periodic Report for the TAP-5 Facility in violation of 40 C.F.R. § 63.775(e).

79. Defendants are liable for civil penalties and permanent injunctive relief on account of each violation of the NESHAP Subpart A and HH requirements pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

EIGTH CLAIM FOR RELIEF
(TAP-5 Compressor Facility - Violations of Title V)

80. Paragraphs 1-79 are realleged and incorporated by reference.

81. Defendants failed to submit a timely Title V permit application for the TAP-5 Facility prior to the installation of the glycol dehydrator in April 2006, in violation of 40 C.F.R. §71.5.

82. Defendants failed to submit an annual report of its actual emissions at the TAP-5 Facility for each calendar year, a fee calculations and work sheet, and full payment of the annual fee each year, in violation of 40 C.F.R. § 71.9(h).

83. Defendants are liable for civil penalties and permanent injunctive relief on account of each Title V violation at the TAP-5 Facility, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

NINTH CLAIM FOR RELIEF
(TAP-5 Compressor Facility - Violations of NESHAP Subpart ZZZZ)

84. Paragraphs 1 through 83 are realleged and incorporated by reference.

85. Defendants operate one or more stationary reciprocating internal combustion engines ("RICE") at the TAP-5 Facility, considered to be "new" and "affected sources" as these terms are defined at 40 C.F.R. § 63.6590(a)(1) & (2).

86. At the time Defendants' RICE were installed and started up, the TAP-5 Facility was a major source of HAPs as defined by 40 C.F.R. § 63.6585(b).

87. The Subpart ZZZZ regulations provide that an owner or operator that starts up a new stationary RICE before August 16, 2004 must comply with emission and operating limitations in 40 C.F.R. § 63.6600(b) by no later than August 16, 2004 (the "compliance date"). 40 C.F.R. § 63.6595(a)(2).

88. Defendants' RICE at the TAP-5 Facility operated without oxidation catalyst controls in violation of 40 C.F.R. § 63.6600(b).

89. Defendants failed to prepare an S/S/M plan for the RICE operated at the TAP-5 Facility by the applicable compliance date, in violation of 40 C.F.R. § 63.6(e)(3).

90. Defendants failed to provide EPA at least 60 days advance notice of an intention to conduct a performance test or other compliance demonstration of the RICE at the TAP-5 Facility, in violation of 40 C.F.R. § 63.7(b)(1).

91. Defendants failed to conduct a timely initial performance test or compliance demonstration of the RICE at the TAP-5 Facility within 180 days after the compliance date, in violation of 40 C.F.R. § 63.6610(a).

92. Defendants are liable for civil penalties and permanent injunctive relief on account of each violation of the above NESHAP Subpart A and ZZZZ regulations pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

TENTH CLAIM FOR RELIEF
(Kings Canyon Compressor Facility - Violations of NSPS Subpart KKK)

93. Paragraphs 1 through 92 are realleged and incorporated by reference.

94. EPA's NSPS regulations set forth at 40 C.F.R. Part 60, Subpart KKK – Standards of Performance for Equipment Leaks for VOC from Onshore Natural Gas Processing Plants, and the general provisions set forth at 40 C.F.R. Part 60, Subpart A, apply to the natural gas liquids process at the Kings Canyon Facility's hydrocarbon dew-point skid, which commenced operations on April 4, 2005.

95. Defendants failed to comply with 40 C.F.R. § 60.7(a)(3) by failing to notify EPA in writing of the actual date of the initial startup of the Kings Canyon hydrocarbon dew-point skid.

96. Defendants failed to conduct a performance test within 60 days after achieving the maximum production rate at the Kings Canyon hydrocarbon dew-point skid, but not later than 180 days after initial startup, and to furnish EPA a timely written report of such performance test(s), in violation of 40 C.F.R. § 60.8(a).

97. Defendants failed to submit written reports to EPA containing specified information for the Kings Canyon hydrocarbon dew-point skid on a semi-annual basis, in violation of 40 C.F.R. § 60.636(a).

98. Defendants failed to implement and keep records documenting the implementation of a leak detection and repair program at the Kings Canyon hydrocarbon dew-point skid to monitor leaks in affected equipment, in violation of 40 C.F.R. § 60.635.

99. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Defendants are liable for civil penalties for each day of each violation of the Subpart KKK leak detection and record keeping requirements at the Kings Canyon hydrocarbon dew-point skid.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully prays that this Court enter judgment against each of the Defendants:

A. For each violation of the Clean Air Act, and the regulations promulgated thereunder, a civil penalty pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, up to $27,500 per day per violation for violations occurring on or after January 30, 1997 through March 15, 2004; up to $32,500 per day for each violation that occurs after March 15, 2004, and $37,500 after January 12, 2009;

B. Permanently enjoining Defendants from continuing to violate the Clean Air Act, and the regulations promulgated thereunder; and

C. For such other relief as this Court deems just and proper.

Respectfully submitted,

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