

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
BEFORE THE ADMINISTRATOR

In the Matter of:	)	
	)	
Rosehill Operating Company, LLC	)	EPA Docket No. CAA-06-2020-3424
Houston, Texas	)	
	)	
	)	
Respondent	)	

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

The following Administrative Compliance Order on Consent (“Consent Order”) is issued pursuant to the authority of Section 113(a)(1)(A) of the Clean Air Act, 42 U.S.C.

§ 7413(a)(1)(A) (hereinafter referred to as “the Act” or the “CAA”). Section 113(a)(1) of the Act authorizes the Administrator of the United States Environmental Protection Agency (“EPA”) to issue an order requiring compliance to any person whom the Administrator finds to be in violation of the Act. The authority to issue this Consent Order has been delegated to the Regional Administrator of EPA Region 6 and re-delegated to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6.

STATUTORY AND REGULATORY BACKGROUND

1. 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.” CAA § 101(b)(1), 42 U.S.C. § 7401(b)(1).

2. 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.

3. 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 state implementation plan (“SIP”) that provides for the implementation, maintenance, and enforcement of the NAAQS, and to submit it to the Administrator of EPA for approval.

4. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a permit by rule (“PBR”) program, which can be found at 30 Tex. Admin. Code Chapter 106 – Permits by Rule. *See* 40 C.F.R. § 52.2270(c).

5. Subchapter A of Chapter 106 of the Texas Administrative Code (“TAC”) establishes general requirements that apply to all PBR established under Chapter 106 and contains the requirements that a facility must meet to qualify for a PBR. *See* 30 Tex. Admin. Code §§ 106.1-13.

6. Subchapter O of Chapter 106 of the TAC regulates permitting by rule for oil and gas facilities that produce more than a *de minimis* level of emissions, but too little for other permitting options. *See* 30 Tex. Admin. Code §§ 106.4(a) and 106.351-359.

7. Chapter 106 of the TAC provides the following requirements applicable to this Consent Order:

- a. 30 Tex. Admin. Code § 106.4(c) provides a general requirement for facilities subject to a PBR: “[t]he emissions from the facility shall comply with all rules and regulations of the [Texas Commission on Environmental Quality (“TCEQ”)] and with the intent of the Texas Clean Air Act (TCAA), including protection of health and property of the public, and all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility.”

- b. 30 Tex. Admin. Code § 106.6(b) provides that “[a]ll representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration under this section become conditions upon which the facility permitted by rule shall be constructed and operated.”
- c. Under 30 Tex. Admin. Code § 106.6(c), “[i]t shall be unlawful for any person to vary from [the representations described in § 106.6(b)] if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless the certified registration is first revised.”

8. 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 federally-enforceable SIPs or permits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Rosehill Operating Company, LLC (“Rosehill” or “Respondent”) is a limited liability company doing business in the state of Texas. Respondent is a “person” within the meaning of Section 113(a) of the CAA, 42 U.S.C. § 7413(a), and as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

10. At all times relevant to this Consent Order, Respondent has owned and/or operated the oil and natural gas production facilities listed in Attachment A, which are located in the Texas Permian Basin (the “Facilities”).

11. Respondent is the “owner or operator” of the Facilities within the meaning of 40 C.F.R. § 51.100(f).

12. At all times relevant to this Consent Order, Respondent owned or operated oil and gas facilities that emit volatile organic compounds (“VOCs”).

13. The Facilities are subject to the State of Texas’s Permits by Rule program for oil and gas facilities under Subchapter O of Chapter 106 of the TAC.

14. TCEQ issued air permits and/or approval letters for registrations to Respondent, listed in Attachment A, under the SIP-approved “Permits by Rule” program. The permits cover various emission units at the Facilities, including process equipment and/or tanks and flares.

15. Respondent is required by the air permits and/or approval letters for registrations to control the emission of waste gas streams from the Facilities. The permits listed in Attachment A require Respondent to operate in compliance with certain provisions of the Texas SIP.

16. During September 10 – October 3, 2019, EPA contracted helicopter flyovers of the Permian Basin area to assess energy extraction facility emissions using Optical Gas Imaging (“OGI”) technology.

17. Based upon its review of the images obtained during the flyovers and preliminary permit information available from online state databases for oil and gas facilities, EPA identified unauthorized emissions at facilities that EPA learned were owned or operated by Respondent.

18. On January 14, 2020, Respondent received OGI video captures from EPA showing hydrocarbon emissions process equipment at these 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.

19. On February 16, 2020, Respondent provided information to EPA that it has taken corrective action measures at the Facilities listed in Attachment A to address the compliance issues observed during the flyovers.

20. EPA Region 6 notified Respondent and TCEQ of violations of the Texas SIP on June 12, 2020.

21. On June 24, 2020, Respondent and EPA Region 6 conferred regarding violations of the Texas SIP.

22. 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 has made the following findings for the Facilities:

- a. Respondent violated 30 Tex. Admin. Code § 106.4(c) by failing to maintain in good condition and properly operate the emissions control equipment at the Facilities.
- b. Respondent violated 30 Tex. Admin. Code § 106.6(b) by failing to operate equipment consistent with operating procedures in the certified registration for each Facility's permit.
- c. Respondent violated 30 Tex. Admin. Code § 106.6(c) by varying from representations in the certified registration for Permit Nos. 144292 and 144294 regarding emissions at each Facility.

23. More than thirty (30) days before the issuance of this Consent Order, Respondent was notified of the violations alleged herein. On June 12, 2020, Respondent and the State of Texas were notified of the violations alleged herein, in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

24. The parties to this Consent Order agree that an opportunity to confer has been satisfied in accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4).

25. The parties further agree that in order to avoid protracted litigation, and in the best interest of all the parties and the environment, this Administrative Compliance Order will be entered into on Consent and by mutual agreement of the parties.

26. Only for the purposes of this proceeding, including any subsequent proceeding by EPA to enforce this document, Respondent admits the jurisdictional allegations contained herein;

however, Respondent neither admits nor denies the specific findings of fact and conclusions of law contained in this Consent Order.

27. Respondent also consents to and agrees not to contest EPA's jurisdiction to either issue this Consent Order or enforce its terms. Further, Respondent will not contest EPA's jurisdiction to either compel compliance with this Consent Order in any subsequent enforcement proceedings, whether administrative or judicial, or require Respondent's full compliance with the terms of this Consent Order or impose sanctions for violations of this Consent Order.

Respondent consents to the terms of this Consent Order.

ORDER ON CONSENT

28. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), provides in pertinent part that the Administrator may issue an Order requiring compliance with any requirement of a SIP. Pursuant to this authority, EPA has decided to issue this Consent Order after investigating all relevant facts, taking into account Respondent's compliance history, efforts made by Respondent to comply with applicable regulations, and based upon the foregoing Findings of Fact and Conclusions of Law herein.

29. Respondent has consented to, and is hereby ordered to satisfy, the following requirements regarding the Facilities listed in Attachment A:

- a. Within thirty (30) days of the Effective Date of this Consent Order, Respondent shall inspect and evaluate all oil and water storage tanks and associated hatches, valves, gaskets, and pressure relief devices at the Facilities to ensure there are no unauthorized emissions.
- b. Within ninety (90) days of the Effective Date of this Consent Order, Respondent shall review its operation and maintenance procedures for inspecting process equipment at each Facility, and update the procedures, as necessary, to ensure that problems are timely identified and addressed to minimize emissions from process equipment. If Respondent does not have such procedures, it shall create such procedures. Respondent shall ensure that these procedures include, at a minimum, the following:

- i. the use of a standard site inspection checklist during regular inspections that requires evaluation of the following: well pad, flares, separators, heater treaters, tank batteries, compressors, fuel skid, well heads, spill containment, solid waste and chemical storage, and miscellaneous facility-wide operations;
 - ii. a quality control program that ensures the quality, efficiency, and performance of facility maintenance activities; and
 - iii. appropriate and regular training for personnel implementing the operation and maintenance procedures.
- c. Within ninety (90) days from the review discussed in sub-paragraph “b.” above, Respondent shall send a letter to EPA detailing:
 - i. the equipment that was inspected under sub-paragraph “a.” above at each Facility, the method of inspection, and any actions taken, or improvements made to ensure or improve compliance; and
 - ii. any updates that were made to the operation and maintenance procedures for the Facilities to ensure that problems are timely identified and addressed to minimize emissions from process equipment.

30. Any information or correspondence submitted by Respondent to EPA under this Consent Order shall be addressed to the following:

Jamie Salabogi
Air Permitting Enforcement Section (ECDAP)
Enforcement and Compliance Assurance Division
U.S. EPA - Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270
Phone: (214) 665-7533
Email: salabogi.jamie@epa.gov

31. To the extent this Consent Order requires Respondent to submit any information to EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. § 2.203. EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. See 41 Fed. Reg. 36,902 (Sept. 1, 1976). If Respondent does not assert a

confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. “Emission data” is defined in 40 C.F.R. § 2.301.

32. By signing this Consent Order, Respondent acknowledges that this Consent Order will be available to the public and agrees that this Consent Order does not contain any confidential business information.

GENERAL PROVISIONS

33. Pursuant to Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), this Consent Order shall be effective when fully executed, as set forth below in Paragraph 51, shall not exceed a term of one year, and shall be nonrenewable.

34. The provisions of this Consent Order shall apply to and be binding upon Respondent, its officers, directors, agents, and employees solely in their capacity of acting on behalf of Respondent.

35. Respondent neither admits nor denies any of the factual or legal determinations made by EPA in this Consent Order.

36. The provisions of this Consent Order shall be transferable to any other party, upon sale or other disposition of the Facilities. Upon such action, the provisions of this Consent Order shall then apply to and be binding upon any new owner or operator, its officers, directors, agents, employees, and any successors in interest.

37. By signing this Consent Order, the undersigned representative of Rosehill certifies that he or she is fully authorized by Respondent to execute and enter into the terms and

conditions of this Consent Order and has the legal capacity to bind Respondent to the terms and conditions of this Consent Order.

38. Nothing in this Consent Order shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain compliance, penalties, or injunctive relief under any applicable Federal, State, or local laws or regulations, including 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.

39. Nothing contained in this Consent Order shall affect the responsibility of Respondent to comply with all other applicable Federal, State, or local laws or regulations, including Section 303 of the CAA, 42 U.S.C. § 7603.

40. EPA does not waive any rights or remedies available to it for any violations by Respondent of Federal laws, regulations, statutes, or permitting programs.

41. Any and all information required to be maintained or submitted pursuant to this Consent Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501 *et seq.*, because it seeks to collect information from specific entities to assure compliance with this administrative action.

42. By signing this Consent Order, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, to the best of its knowledge and belief, 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.

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

To EPA: tripathi.arati@epa.gov

To Respondent: jjohnson@rosehillres.com

44. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order. This Consent Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which EPA has under any statutory, regulatory, or common law authority of the United States.

45. This Consent Order does not resolve any civil or criminal claims of the United States for the violations alleged in this Consent Order; nor does it limit the rights of the United States to obtain penalties or injunctive relief under the Act or other applicable federal law or regulations.

46. Respondent enters into this Consent Order in good faith without trial or adjudication of any issue of fact or law.

47. Respondent 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 Consent Order, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1).

48. The parties shall bear their own costs and fees in this action, including attorneys' fees.

49. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Paragraph 29 is restitution or required to come into compliance with the law.

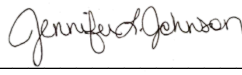
FAILURE TO COMPLY

50. Failure to comply with this Consent Order may result in an enforcement action for appropriate injunctive relief as well as civil penalties pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b) or, in appropriate cases, criminal penalties.

EFFECTIVE DATE

51. This Consent Order shall become effective upon the later of the two signatures below.

9/9/2020
Date



Jennifer L. Johnson
General Counsel, Corporate Secretary &
Compliance Officer, Rosehill
Operating Company, LLC

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Administrative Compliance Order on Consent was sent this day in the following manner to the addressees:

Copy via Email to Respondent:
jjohnson@rosehillres.com

U.S. EPA, Region 6
Dallas, Texas

Attachment A
Rosehill Operating Company, LLC

Site Identity	TCEQ Regulated Entity Number	Permit Number
Z&T 42 East Tank Battery	RN109517243	144294
Z&T 20 West Tank Battery	RN109517227	144292