

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, WY 82002, and Rowdy Pipeline, LLC, 105 South Fourth Street, Artesia, NM 88210 (Rowdy Pipeline), enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 4963-12 (NOV). As more fully set forth below, the NOV alleges that Rowdy Pipeline failed to conduct required testing for volatile organic compounds (VOCs) or formaldehyde emissions from certain engines at the West Hensley, Bluebird and Casper Compressor Station facilities (Facilities) located in Campbell and Johnson Counties, Wyoming, thereby violating the Wyoming Environmental Quality Act (Act), applicable Wyoming Air Quality Standards and Regulations (WAQSR), and various conditions of DEQ/AQD Permit Nos. MD-7945, CT-8423, and CT-9962.

Wyo. Stat. Ann. § 35-11-901(a)(ii) (2012) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation. To that end, Rowdy Pipeline and the DEQ/AQD hereby stipulate and agree as follows:

1. Rowdy Pipeline is a Delaware limited liability company that owns and/or operates the Facilities.
2. The DEQ/AQD is responsible for enforcing the Act, the WAQSR and permits issued thereunder, including permits MD-7945, CT-8423, and CT-9962.
3. Wyo. Stat. Ann. § 35-11-801(a) states: “[i]n granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards.”
4. Chapter 6, Section 2 of the WAQSR prescribes the applicability and procedures for issuing permits to sources under Wyoming’s construction and modification permitting program.
5. On or about December 29, 2008, the DEQ/AQD issued Permit No. MD-7945 to Rowdy Pipeline for the West Hensley Compressor Station facility located in Campbell County, Wyoming. In part, Condition No. 15a of Permit MD-7945 requires Rowdy Pipeline to conduct annual engine performance testing in accordance with 40 C.F.R. § 60.4244 for emissions of nitrogen oxides (NOx), carbon monoxide (CO), and volatile organic compounds (VOCs). The DEQ/AQD alleges that during a records review of this facility, it determined that Rowdy Pipeline had not conducted VOC testing for: Unit 252 (Caterpillar 3516 Engine, S/N: 4EK03375) in 2009 or 2010; Unit 251 (Caterpillar G3408 Engine, S/N: 6NB02228) in 2009 or 2010; and Unit 253 (AJAX 2802 Engine, S/N: 84905) in 2010. The DEQ/AQD also alleges that it determined that Rowdy Pipeline had not conducted NOx and CO performance testing for these three engines in accordance with 40 C.F.R. § 60.4244.
6. On or about January 8, 2009, the DEQ/AQD issued Permit No. CT-8423 to Rowdy Pipeline for the Bluebird Compressor Station facility located in Campbell County, Wyoming. In part, Condition No. 9(i) of Permit CT-8423 requires Rowdy Pipeline to conduct

Settlement Agreement between DEQ/AQD and Rowdy Pipeline

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initial engine performance testing for formaldehyde emissions. The DEQ/AQD alleges that during a records review of this facility, it determined that in 2010, Rowdy Pipeline had not conducted formaldehyde emission testing for a Waukesha H24GL Engine (S/N: 12979/1), as required by Condition No. 9(i) of Permit CT-8423.

7. On or about February 9, 2010, the DEQ/AQD issued Permit No. CT-9962 to Rowdy Pipeline for the Casper Compressor Station facility located in Johnson County, Wyoming. In part, Condition 10(i) of Permit CT-9962 requires Rowdy Pipeline to conduct initial engine performance testing for formaldehyde emissions. The DEQ/AQD alleges that during a records review of this facility, it determined that in 2010, Rowdy Pipeline had not conducted formaldehyde emission testing for a Waukesha H24GL Engine (S/N: 12999/1), as required by Condition No. 10(i) of Permit CT-9962.

8. On February 21, 2012, the DEQ/AQD issued NOV No. 4963-12 to Rowdy Pipeline, alleging that Rowdy Pipeline's failure to conduct engine emission testing for certain engines at the West Hensley, Bluebird and Casper Compressor Station Facilities violated the Act, the WAQSR, and certain conditions of Permit Nos. MD-7945, CT-8423, and CT-9962.

9. Without admitting liability and in lieu of litigation under Wyo. Stat. Ann. § 35-11-901(a)(ii), Rowdy Pipeline agrees to resolve the alleged violations described above and also set forth in the NOV as follows:

A. Rowdy Pipeline agrees to pay the DEQ/AQD, twelve thousand five hundred dollars and no cents (\$12,500.00) as a stipulated civil penalty. Rowdy Pipeline shall make full payment by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division, within thirty (30) days after Rowdy Pipeline has been notified by the DEQ/AQD that the final signature has been affixed to this Agreement. Rowdy Pipeline shall mail the payment to Nancy Vehr, Sr. Asst. Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

B. Rowdy Pipeline also agrees to complete the following Engine Testing (SEP):

i. A SEP is a project that is beneficial for the environment and is otherwise not required by applicable statutes, regulations, permits or orders.

ii. For this SEP, Rowdy Pipeline agrees to conduct three one-hour engine tests for NO_x, CO, VOC and formaldehyde emissions in accordance with 40 C.F.R. part 60, Subpart JJJJ, at the facilities and engines listed in Attachment A to this Agreement, if the engines are operated during normal operating conditions prior to June 1, 2013. Rowdy Pipeline estimates that completion of this SEP will implement additional comprehensive testing which will enable earlier identification and abatement of air quality emission issues. Rowdy may relocate engines to different facilities. If Rowdy relocates engines to different facilities, Rowdy agrees to provide notice to the DEQ/AQD prior to such relocation and the testing requirements will remain applicable to the relocated engine.

iii. Rowdy Pipeline agrees to complete this SEP by June 1, 2013. Within thirty (30) days after Rowdy Pipeline has completed this SEP, Rowdy Pipeline agrees to submit a SEP Completion Report to the DEQ/AQD, Attn: Mr. Robert Gill, 122 West 25th Street, Cheyenne, WY 82002. The SEP Completion Report shall describe the completed SEP and include itemized costs and certification that the SEP has been fully implemented pursuant to the provisions of this Agreement.

iv. Rowdy Pipeline estimates that the testing and labor costs to complete this SEP is over twenty five thousand dollars and no cents (\$25,000.00). In the event that Rowdy Pipeline does not spend at least twenty five thousand dollars and no cents (\$25,000.00) to complete this SEP, Rowdy Pipeline agrees to pay the DEQ/AQD the Remaining Balance by August 1, 2013, up to twelve thousand five hundred dollars and no cents (\$12,500.00). The Remaining Balance is equal to the amount calculated by taking the \$25,000.00 SEP value and subtracting the amount that Rowdy actually spent on the SEP and then dividing that difference by a factor of two (2).

v. Rowdy Pipeline certifies that as of the date it signs this Agreement, Rowdy Pipeline is not required to perform or develop this SEP by any federal, state or local law or regulation; nor is Rowdy Pipeline required to perform or develop this SEP pursuant to any other agreement or relief in any other case. Rowdy Pipeline further certifies that it has not received and is not presently negotiating to receive credit for this SEP in any other pending action.

10. Rowdy Pipeline, by entering into this Agreement, does not concede or admit to any liability or fault, and this Agreement constitutes no admission of liability or fault.

11. Full compliance with this Agreement shall constitute full satisfaction and release for all claims by the DEQ/AQD against Rowdy Pipeline based on the NOV and, solely in reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against Rowdy Pipeline for these particular alleged violations.

12. In the event that Rowdy Pipeline fails to fulfill its obligations under this Agreement, Rowdy Pipeline waives any statute of limitation claims which may apply in an enforcement action by the DEQ/AQD involving the specific matters described in the NOV.

13. This Agreement shall be admissible by either Rowdy Pipeline or the DEQ/AQD (hereinafter Rowdy Pipeline and the DEQ/AQD may be referred to individually as "Party" and collectively as "Parties") without objection by the other Party only in an action between these Parties relating to the specific NOV herein; provided, however, that nothing herein constitutes an admission by Rowdy Pipeline of liability or fault.

14. Neither Party hereto shall have any claim against the other for attorneys' fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of this Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by both Parties. Each Party assumes the risk

of any liability arising from its own conduct. Neither Party agrees to insure, defend or indemnify the other.

15. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

16. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

17. This Agreement consisting of five (5) pages, and Attachment A, consisting of one (1) page, represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

18. The State of Wyoming and the DEQ/AQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. Ann. § 1-39-104(a) and all other state law.

19. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of Party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

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20. Each Party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the Parties once executed by all parties.

IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

ROWDY PIPELINE, LLC:

By: 
J.B. Smith, President
Agave Energy Company

Date: 11/7/2012

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

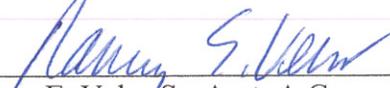
By: 
Steven A. Dietrich, AQD Administrator

Date: 11-13-12

By: 
John Corra, DEQ Director

Date: 10/30/12

APPROVAL AS TO FORM:


Nancy E. Vehr, Sr. Asst. A.G.
Attorney for DEQ/AQD

Date: 10/30/2012


Matthew Joy, Jordan Bischoff & Hiser, P.L.C.
Attorney for Rowdy Pipeline

Date: 11/5/12

ENGINE TESTING SUPPLEMENTAL ENVIRONMENTAL PROJECT

DEQ/AQD Permit	Facility Name	Engine	Unit
CT-4172	Benchmark	Ajax 2802	310
MD-656A	Carson	Ajax 2802	120-131
CT-4434	Cat	Caterpillar G3412	120-372
		Caterpillar G3516	120-373
		Caterpillar G3412	120-374
CT-3409	C.E.G.S. - Greasewood	Waukesha H-24	120-460
MD-1135	C.E.G.S. - Hanslip	Caterpillar G3516	120-451
CT-3848	C.E.G.S. - Uprising	DPC 2802-LE	120-490
CT-3568A	Dry Creek	Caterpillar G3412	110-154
		Caterpillar G3412	110-155
		Caterpillar G3412	110-159
		Caterpillar G3412	110-160
CT-4531	Dry Fork	Cat 3516	120-650
		Cat 3412-LE	120-651
		Wauk H-24	120-652
CT-4199	Iberlin	Cat 3412	120-365
		Cat 3412	120-366
		Cat 3412	120-367
MD-977	Kline Draw II	Ajax 2803	120-165
MD-1234	Kline Draw III	Ajax 2802	120-171
AP-0587	Mustank	GM 454	120-903
MD-7115	Nemesis	Caterpillar G3606	110-572
MD-1020A2	Pine Tree	DPC 2803-LE	120-700
MD-1423	Pumpkin Creek	Caterpillar G3412	120-353
		Caterpillar G3516	120-354
		Caterpillar G3412	120-357
		Caterpillar G3516	120-359
CT-3387	Shadow	Cat 3412	120-360
		Cat 3412	120-361
		Cat 3412	120-362
MD-8803A	Spotted Horse	Waukesha H-24	120-106
MD-1105	Store Draw	Ajax 2802	120-600
		Caterpillar G3408	120-601
CT-4052	Tear Drop	Caterpillar G3412	110-580
		Caterpillar G3412	110-581
CT-3575	Wardner	Caterpillar G3516	110-352
		Caterpillar G3516	110-353
MD-1328A	W Kitty	Ajax 2802	120-204