



Office of the Attorney General

Governor
Matthew H. Mead

Water and Natural Resources Division
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Division Deputy
Jay A. Jerde

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Peter K. Michael

ROUTING MEMO

TO: AQD file

THROUGH: Karen Godman, AQD Compliance Program Principal

FROM: Matthias Sayer, Asst. Attorney General

DATE: 8/28/2013

RE: *In re NOV Docket No. 5132-13 issued to Huntington Energy, LLC*

Attached for the DEQ/AQD files are one original copy of the Settlement Agreement and a copy of the \$18,402.00 stipulated penalty payment and the \$21,857.00 for eleven months of past due Title V fees.

AQD must send EPA a copy of the Settlement Agreement.

This matter appears resolved and I will close my file.

Call me if you have any questions (3539).

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, WY 82002, and Huntington Energy, L.L.C., 908 NW 71st St., Oklahoma City, OK 73116-7402, enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 5132-13 (Notice of Violation). As more fully set forth below, the Notice of Violation alleges that Huntington Energy failed to obtain an air quality permit before commencing construction of the Hanover Canal Battery/Hanover Canal #1 facility (Facility) located in Washakie County, Wyoming, thereby violating the Wyoming Environmental Quality Act (Act) and applicable Wyoming Air Quality Standards and Regulations (Air Quality Rules).

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

1. Huntington Energy, a Texas limited liability company, owns and operates the Facility.
2. The DEQ/AQD is responsible for enforcing the Act and the Air Quality Rules.
3. Wyo. Stat. Ann. § 35-11-801(c) provides: “A permit to construct is required before construction or modification of any industrial facility capable of causing or increasing air or water pollution in excess of standards established by the department is commenced.”
4. Chapter 6, Section 2 of the Air Quality Rules prescribes the applicability and procedures for issuing permits to sources under Wyoming’s construction and modification permitting program.
5. Chapter 6, Section 2(a)(i) of the Air Quality Rules provides: “Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality before any actual work is begun on the facility.”
6. Huntington Energy voluntarily disclosed to the Wyoming Department of Environmental Quality, Air Quality Division that it was flaring sour gas from its Hanover

1 well during a meeting held on September 10, 2012. Huntington Energy voluntarily shut in the Hanover # 1 on October 2, 2012. On October 22, 2012, Huntington Energy submitted an air quality permit application to the DEQ/AQD for the Facility. During the DEQ/AQD's permit application review and based on discussions with Huntington Energy, the DEQ/AQD determined that Huntington Energy's Facility started production on November 3, 2011, and began flaring all produced sour gas from the Hanover #1 from that date unless the well was shut in. The well was shut in from May 5, 2012 to June 19, 2012, in addition to the period following October 2, 2012. The Wyoming Oil and Gas Conservation Commission consented to the extended flaring of the gas from the Hanover #1.

7. On March 4, 2013, the DEQ/AQD issued Permit No. CT-14048 for the Facility.

8. On February 26, 2013, the DEQ/AQD issued the Notice of Violation to Huntington Energy alleging that Huntington Energy failed to obtain an air quality permit before commencing Construction of the Facility. The DEQ/AQD alleged in the Notice of Violation that during 2012, Huntington Energy emitted an estimated 283.9 tons of sulfur dioxide from the flaring of produced gas at the Facility.

9. Without admitting liability, and in lieu of litigation pursuant to Wyo. Stat. Ann. § 35-11-901(a)(ii), Huntington Energy agrees to pay to the DEQ/AQD the amount of eighteen thousand four hundred two dollars and no cents (\$18,402.00) as a stipulated settlement amount and the amount of twenty-one thousand eight hundred fifty-seven dollars and no cents (\$21,857.00) for eleven months of past-due Title V fees and to resolve the violations alleged in the Notice of Violation. Huntington Energy shall make full payment by check made payable to the Wyoming DEQ/AQD, within thirty (30) days after Huntington Energy has been notified by DEQ/AQD that the final signature has been affixed to this Agreement. Huntington Energy shall mail the payment to Matthias Sayer, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

10. Huntington Energy, by entering into this Agreement, does not concede or admit to any liability or fault, and this Agreement constitutes no admission of liability, fault or noncompliance with any allegations, findings, determinations or conclusions contained in this Agreement or in the Notice of Violation.

11. Full compliance with this signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Huntington Energy based on the Notice of Violation and, solely in reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against Huntington Energy, its officers and managers for this alleged violation. By this Settlement Agreement, the Parties intend to resolve all

allegations asserted in the Notice of Violation resulting from the emissions alleged in the Notice of Violation.

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

13. This Agreement shall be admissible by either Huntington Energy or the DEQ/AQD (hereinafter Huntington Energy 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 violations alleged herein.

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 that 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 four (4) pages 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 and shall inure solely to the benefit of 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 a 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.

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:

HUNTINGTON ENERGY, L.L.C.:

By:  8/6/13
David Herritt, Manager Date
Huntington Energy, L.L.C.

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Steven A. Dietrich 8-23-13
Steven A. Dietrich, AQD Administrator Date

By: Todd Parfitt 8/23/13
Todd Parfitt, DEQ Director Date

APPROVAL AS TO FORM:

Mary A. Throne 8-12-13
Mary A. Throne Date
Attorney for Huntington Energy, L.L.C.

Matthias L. Sayer 8-19-13
Matthias L. Sayer, Assistant Attorney General Date
Attorney for DEQ/AQD