

New Mexico Administrative Code (“NMAC”), arising from natural gas well completion activities in Rio Arriba, San Juan, and Sandoval Counties, New Mexico during the period 2017, 2018, and 2019.

3. The Plaintiffs allege, subject to a reasonable opportunity for further investigation and discovery, that Defendant violated one or more of the following federal and state statutory and/or regulatory provisions in its well completion activities, as alleged herein:

- a. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), and its implementing regulations;
- b. The New Source Performance Standards (“NSPS”) for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced After September 18, 2015, 40 C.F.R. Part 60, Subpart OOOOa; and
- c. The AQCA and its implementing regulations at Title 20, Chapter 2 NMAC.

4. Defendant’s failure to comply with the requirements of the CAA and its implementing regulations, the AQCA and its implementing regulations, resulted in unlawful excess emissions of volatile organic compounds (“VOCs”) and greenhouse gases (“GHG”).

JURISDICTION AND VENUE

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

6. This Court has supplemental jurisdiction over NMED’s state law claims under the AQCA pursuant to 28 U.S.C. § 1367 because the NMED claims are so related to the claims in the United States’ action that they form part of the same case or controversy.

7. Venue is proper within this district pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b), 1391(c), and 1395(a) because Defendant conducts business, and the violations that constitute the basis for this Complaint occurred, in this judicial district.

AUTHORITY AND NOTICE

8. The United States has authority to bring this action on behalf of the Administrator of the EPA under 28 U.S.C. §§ 516, 519 and Section 305 of the CAA, 42 U.S.C. § 7605.

9. NMED has authority to bring this action on behalf of the Secretary of NMED under Sections 74-2-12 and -12.1 of the AQCA.

10. The United States gave notice of the commencement of this action to the appropriate air pollution control agency for the state of New Mexico as required by Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

DEFENDANT

11. Defendant is an exploration and production company registered as a corporation in the State of New Mexico.

12. Defendant's business includes the extraction and production of natural gas and hydrocarbon liquids (*e.g.*, natural gas condensate and oil), and completion operations at oil and natural gas wells located in the San Juan Basin in Rio Arriba, San Juan, and Sandoval Counties, New Mexico.

13. Defendant's corporate headquarters are located at 1111 Travis Street, Houston, TX 77002.

14. Defendant is a "person" as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

STATUTORY AND REGULATORY BACKGROUND

15. As set forth in Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1), the purpose of the Act is “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.”

16. Section 111(b) of the CAA authorizes the Administrator of the EPA to promulgate standards of performance applicable to “new sources” within categories of sources that cause “air pollution which may reasonably be anticipated to endanger public health or welfare.” 42 U.S.C. § 7411(b).

17. A “new source” under Section 111 is any stationary source, the construction or modification of which is commenced after the promulgation of the standards of performance which will be applicable to such source. 42 U.S.C. § 7411(a)(2).

18. A “stationary source” is a building, structure, facility, or installation which emits or may emit any air pollutant. 42 U.S.C. § 7411(a)(3).

19. In 1979, the EPA listed “Crude Oil and Natural Gas Production” as a source category that contributes significantly to air pollution and for which standards of performance would be established. 44 Fed. Reg. 49,222 (Aug. 21, 1979).

20. Section 111(e) makes it unlawful for owners and operators of any new source to operate in violation of applicable standards of performance after they have gone into effect. 42 U.S.C. § 7411(e).

CAA New Source Performance Standards Subpart OOOOa

21. In 2012, pursuant to its authority under Section 111(b)(1)(B) of the CAA to review and, if appropriate, revise the New Source Performance Standards (“NSPS”), the EPA published the final rule, “Standards of Performance for Crude Oil and Natural Gas Production,

Transmission and Distribution,” found at 40 C.F.R. Part 60, Subpart OOOO. This subpart will be referred to hereinafter as “NSPS Subpart OOOO.” That rule established VOC standards for several categories of oil and natural gas-related operations that were not previously covered by the NSPS, including gas well completions. *See* 40 C.F.R. §§ 60.5360-5499. 77 Fed. Reg. 49490 (August 16, 2012). Among other provisions, the rule established standards that regulate VOC and GHG emissions from hydraulically fractured natural gas well completions.

22. In 2013 and 2014, pursuant to its authority under Section 111(b)(1)(B) of the CAA to review and, if appropriate, revise the NSPS, EPA amended the 2012 NSPS with respect to standards for gas well completions and other changes, which are found at 40 C.F.R. Part 60, Subpart OOOOa.

23. On June 3, 2016, pursuant to its authority under Section 111(b)(1)(B) of the CAA to review and, if appropriate, revise the NSPS, EPA revised the NSPS, and published the final rule, “Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015,” found at 40 C.F.R. Part 60, Subpart OOOOa. This final rule established NSPS for GHG and VOC emissions from the oil and natural gas sector. 81 Fed. Reg. 35824 (June 3, 2016). Affected facilities that commence construction, modification or reconstruction after September 18, 2015 are subject to standards under 40 C.F.R. Part 60, Subpart OOOOa. 40 C.F.R. § 60.5360a. This subpart will be referred to hereinafter as “NSPS Subpart OOOOa.” Among other provisions, the rule revised the standards that regulate VOC emissions to include hydraulically fractured *oil* well completions that were previously unregulated under NSPS Subpart OOOO (which regulated *gas* well completions).

24. 40 C.F.R. § 60.5360a states the purpose of NSPS Subpart OOOOa, which is to establish emission standards and compliance schedules for the control of GHG, VOC and sulfur dioxide (SO₂) emissions from affected facilities in the crude oil and natural gas production source category that commence construction, modification or reconstruction after September 15, 2015. The NSPS Subpart OOOOa regulations in effect at the time the violations alleged in this Complaint occurred included emission standards for GHG as well as VOC and SO₂.

25. NMED was delegated authority for NSPS Subpart OOOO effective April 3, 2015, and for NSPS Subpart OOOOa effective October 12, 2018, for the state of New Mexico. 40 C.F.R. § 60.4(e)(1). *See* 80 Fed. Reg. 5475 (Feb. 2, 2015) and 83 Fed. Reg. 46107 (Sept. 12, 2018).

26. The State of New Mexico has adopted 40 C.F.R. Part 60 in the New Mexico Administrative Code (“NMAC”) (except as otherwise noted in the NMAC), including NSPS Subpart OOOOa. *See* 20.2.77 NMAC.

NSPS Subpart OOOOa Selected Definitions

27. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a defines “Well” as a “hole drilled for the purpose of producing oil or natural gas, or a well into which fluids are injected.”

28. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Low pressure well” as a well that satisfies at least one of the following conditions:

- a. The static pressure at the wellhead following fracturing but prior to the onset of flowback is less than the flow line pressure at the sales meter;
- b. The pressure of flowback fluid immediately before it enters the flow line, as determined under § 60.5432a, is less than the flow line pressure at the sales meter; or,

- c. Flowback of the fracture fluids will not occur without the use of Artificial Lift Equipment.

29. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Artificial lift equipment” as “mechanical pumps including, but not limited to, rod pumps and electric submersible pumps used to flowback fluids from a well.”

30. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Flowback” as “the process of allowing fluids and entrained solids to flow from a well following a treatment, either in preparation for a subsequent phase of treatment or in preparation for cleanup and returning the well to production. The term flowback also means the fluids and entrained solids that emerge from a well during the flowback process. The flowback period begins when material introduced into the well during the treatment returns to the surface following hydraulic fracturing or refracturing. The flowback period ends when either the well is shut in and permanently disconnected from the flowback equipment or at the startup of production. The flowback period includes the initial flowback stage and the separation flowback stage.”

31. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Separation flowback stage” as “the period during a well completion operation when it is technically feasible for a separator to function. The separation flowback stage ends either at the startup of production, or when the well is shut in and permanently disconnected from the flowback equipment.”

32. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Initial flowback stage” as “the period during a well completion operation which begins at the onset of flowback and ends at the separation flowback stage.”

33. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Hydraulic fracturing” as “the process of directing pressurized fluids containing any combination of water, proppant,

and any added chemicals to penetrate tight formations, such as shale or coal formations, that subsequently require high rate, extended flowback to expel fracture fluids and solids during completions.”

34. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Well completion” as “the process that allows for the flowback of petroleum or natural gas from newly drilled wells to expel drilling and reservoir fluids and tests the reservoir flow characteristics, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.”

35. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Well completion operation” as “any well completion with hydraulic fracturing or refracturing occurring at a well affected facility.”

36. Additional terms used in NSPS Subpart OOOOa are defined at 40 C.F.R. § 60.5430a.

NSPS Subpart OOOOa Reduced Emissions Completions Requirements

37. 40 C.F.R. § 60.5375a(a) sets standards for reduced emissions completions (“REC”) that apply to well completion operations. As described in 40 C.F.R. § 60.5375a(a)(1)(ii), during the separation flowback stage of a well completion, the owner or operator must “route the recovered gas from a separator into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an onsite fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve.” If it is technically infeasible to route recovered gas as required, the owner or operator must direct the gas to a completion combustion device. *See* 40 C.F.R. § 60.5375a(a)(1)(ii).

38. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5375a(a)(1)(i), requires that, for each well completion operation with hydraulic fracturing, the owner or operator of the well must, during the initial flowback stage, commence operation of a separator unless it is technically infeasible for a separator to function.

39. NSPS Subpart OOOOa, at 40 C.F.R. §§ 60.5375a(a) and (f), provide an exception from the requirements of 40 C.F.R. § 60.5375a(a)(1), for wells that meet one of the three conditions described in the “low pressure well” definition. *See* 40 C.F.R. § 60.5430a.

40. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5375a(a)(3), provides that, if it is infeasible to route the recovered gas during the separation flowback stage as required in 40 C.F.R. § 60.5375a(a)(1)(ii), recovered gas must be captured and directed to a completion combustion device equipped with a reliable continuous pilot flame, except in conditions that may result in fire, hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways. *See* 40 C.F.R. § 60.5375a(a)(3).

41. For each well completion subject to 40 C.F.R. § 60.5375a(a), the owner or operator has a general duty to safely maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery. *See* 40 C.F.R. § 60.5375a(a)(4).

42. 40 C.F.R. § 60.5375a(f) sets standards that require combustion of VOC emissions where well completions occur at “low pressure wells,” as defined in 40 C.F.R. § 60.5430a. During the flowback stage, per 40 C.F.R. § 60.5375a(f)(3), the owner or operator of a “low pressure well” must “route flowback to a completion combustion device except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways” or, alternatively,

“[r]oute all flowback into one or more well completion vessels and commence operation of a separator unless it is technically infeasible for a separator to function [and]...[c]apture and direct recovered gas to a completion combustion device.”

NSPS Subpart OOOOa Reporting Requirements

43. 40 C.F.R. §§ 60.5375a(c) and 60.5410a require demonstration of initial compliance with standards that apply to well completion operations, including requirements for notification and annual reporting for well completions.

44. 40 C.F.R. § 60.5375a(b) requires a log for each well completion operation at each well. The log must be completed on a daily basis for the duration of well completion and must contain the records specified in § 60.5420a(c)(1)(iii).

45. NSPS Subpart OOOOa establishes notification, reporting, and recordkeeping requirements for affected facilities in 40 C.F.R. § 60.5420a. The provisions relevant to this Complaint are specified below; however, other requirements may apply as listed in NSPS Subpart OOOOa.

46. NSPS Subpart OOOOa establishes that initial annual reports are due no later than 90 days after the end of the initial compliance period. Subsequent reports are due no later than the same date each year as the initial annual report. 40 C.F.R. § 60.5420a(b). The annual reporting year runs from August 2 through August 1 of the following year based on the effective date of the rule (August 2, 2016). *See* 40 C.F.R. § 60.5370a(a).

47. NSPS Subpart OOOOa specifies that the reports for affected facilities must contain certain information including the company name, the US Well ID, the address or location, identification, beginning and ending dates of the reporting period, and certification of truth, accuracy, and completeness. 40 C.F.R. § 60.5420a(b)(1).

48. NSPS Subpart OOOOa requires annual reports for well completion operations to include records of each well completion operation as specified in 40 C.F.R. § 60.5420a(c)(1)(i) - (iv) and (vi), if applicable, for each well completion operation conducted during the reporting period. In lieu of submitting the records specified in 40 C.F.R. § 60.5420a(c)(1)(i) - (iv), the owner or operator may submit (i) a list of the well completions with hydraulic fracturing completed during the reporting period and the records required by 40 C.F.R. § 60.5420a(c)(1)(v) for each well completion; (ii) records of deviations specified in 40 C.F.R. § 60.5420a(c)(1)(ii) that occurred during the reporting period; and, (iii) records specified in 40 C.F.R. § 60.5420a(c)(1)(vii), if applicable, that support a determination under 40 C.F.R. § 60.5432a that the well is a “low pressure well” as defined in § 60.5430a. 40 C.F.R. § 60.5420a(b)(2).

49. NSPS Subpart OOOOa requires all reports to be submitted to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The reports must be in the appropriate electronic form and appropriate format in CEDRI. If the reporting form is not available in CEDRI at the time the report is due, the report must be submitted to the Administrator at the appropriate address listed in 40 C.F.R. § 60.4. Once the form has been available for at least 90 calendar days, all subsequent reports must be submitted via CEDRI. The reports must be submitted by the deadlines, regardless of the method in which they are submitted. 40 C.F.R. § 60.5420a(b)(11).

50. All information required to be submitted to the EPA for NSPS Subpart OOOOa must also be submitted to the appropriate state agency to which authority has been delegated. 40 C.F.R. § 60.4(b).

51. Owners and operators must maintain the records identified in 40 C.F.R. § 60.7(f) and NSPS Subpart OOOOa at 40 C.F.R. § 60.5420a(c)(1)-(17). Records must be maintained either onsite or at the nearest local field office for at least five years. 40 C.F.R. § 60.5420a(c).

52. NSPS Subpart OOOOa requires records identifying each well completion operation for each well. 40 C.F.R. § 60.5420a(c)(1)(i).

53. NSPS Subpart OOOOa requires records of deviations in cases where well completion operations with hydraulic fracturing were not performed in compliance with the requirements specified in 40 C.F.R. § 60.5375a. 40 C.F.R. § 60.5420a(c)(1)(ii).

54. NSPS Subpart OOOOa, specifically 40 C.F.R. § 60.5420a(c)(1)(iii)(A), requires daily log records as specified in 40 C.F.R. § 60.5375a(b) or (f)(3) for each well completion operation for the duration of the well completion operation at each well. The daily log records must contain the following information:

- The location of the well;
- The United States Well Number;
- The date and time of the onset of flowback following hydraulic fracturing or refracturing;
- The date and time of each attempt to direct flowback to a separator as required in 40 C.F.R. § 60.5375a(a)(1)(ii);
- The date and time of each occurrence of returning to the initial flowback stage under 40 C.F.R. § 60.5375a(a)(1)(i);
- The date and time that the well was shut in and the flowback equipment was permanently disconnected, or the startup of production;
- The duration of flowback in hours;
- The duration of recovery in hours and disposition of recovery (*i.e.*, routed to the gas flow line or collection system, re-injected into the well or another well, used as an onsite fuel source, or used for another useful purpose that a purchased fuel or raw material would serve);
- The duration of combustion in hours;
- The duration of venting in hours;
- Specific reasons for venting in lieu of capture or combustion; and,
- For wells where it is technically infeasible to route the recovered gas to any of the four options specified in 40 C.F.R. § 60.5375a(a)(1)(ii), the reasons for the claim of technical infeasibility with respect to all four options provided in that subparagraph, including but not limited to; name and location of the nearest

gathering line and technical considerations preventing routing to this line; capture, reinjection, and reuse technologies considered and aspects of gas or equipment preventing use of recovered gas as a fuel onsite; and technical considerations preventing use of recovered gas for other useful purpose that a purchased fuel or raw material would serve.

55. NSPS Subpart OOOOa requires records specified in 40 C.F.R.

§ 60.5420a(c)(1)(iii)(A) for each well completion operation required to comply with the requirements of 40 C.F.R. § 60.5375a(f), except that the record for the duration of recovery to the flow line is not required. 40 C.F.R. § 60.5420a(c)(1)(iii)(B).

56. NSPS Subpart OOOOa requires certain records specified in 40 C.F.R.

§ 60.5420a(c)(1)(iii)(A) for each well completion operation where an owner or operator claims that the well was not hydraulically fractured or refractured with liquids, or that the well did not generate condensate, intermediate hydrocarbon liquids, or produced water such that there is no liquid collection system at the well site under 40 C.F.R. § 60.5375a(a)(1)(iii)(A). If there were periods during the well completion operation when the conditions of 40 C.F.R. § 60.5375a(1)(iii)(A) were not met, the record must indicate that the well completion operation was stopped and that a separator was installed, and include the date and time the well completion operation was stopped and the date and time the separator was installed. The record of the claim must be signed by the certifying official, indicate that no liquids collection occurred at the well site, and must include a certification by the certifying official of truth, accuracy and completeness. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. 40 C.F.R. § 60.5420a(c)(1)(iii)(C).

57. NSPS Subpart OOOOa requires records for each well completion operation for which an exception from the requirement to capture and direct recovered gas to a completion

combustion device under 40 C.F.R. § 60.5375a(a)(3) is claimed, when technically infeasible to route the recovered gas as required in 40 C.F.R. § 60.5375a(a)(1)(ii), including: the location of the well; the United States Well Number; the specific exception claimed; the starting date and ending date for the period the well operated under the exception; and an explanation of why the well meets the claimed exception. 40 C.F.R. § 60.5420a(c)(1)(iv).

58. For each well completion operation required to comply with both § 60.5375a(a)(1) and (3), if a digital photograph is used in lieu of the records required in 40 C.F.R. § 60.5420a(c)(1)(i) - (iv), records of the digital photograph as specified in 40 C.F.R. § 60.5410a(a)(4) are required. *See* 40 C.F.R. § 60.5420a(c)(1)(v).

59. NSPS Subpart OOOOa requires records for each well affected facility for which a claim is made that the well affected facility is not subject to the well completion standards of 40 C.F.R. § 60.5375a(a) or (f), for well affected facilities with less than 300 standard cubic foot of gas per stock tank barrel of oil produced, according to 40 C.F.R. § 60.5375a(g), including a record of the analysis that was performed in order to make that claim, including but not limited to, [gas-to-oil ratio] values for established leases and data from wells in the same basin and field; the location of the well; the United States Well Number; and record of the claim signed by the certifying official. The claim must include a certification by a certifying official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. 40 C.F.R. § 60.5420a(c)(1)(vi).

60. NSPS Subpart OOOOa requires records for each well affected facility for which it was determined that the low pressure well criteria under 40 C.F.R. § 60.5432 were satisfied,

including a record of the determination and supporting inputs and calculations. 40 C.F.R. § 60.5420a(c)(1)(vii).

61. NSPS Subpart OOOOa provides instructions on how to determine whether a well is a low pressure well using the low pressure well equation of 40 C.F.R. § 60.5432a. The determination whether a well is a low pressure well as to subject it to 40 C.F.R. § 60.5375a(f) includes a determination as to whether the characteristics of the well meet the definition of low pressure well in 40 C.F.R. § 60.5430a. The low pressure well equation must be used to determine if the well meets the low pressure well definition in 40 C.F.R. § 60.5430a, when the narrative criteria of the definition are not satisfied.

Clean Air Act Enforcement

62. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes the EPA to bring a civil action if the Administrator of the EPA finds that any person is in violation of any regulation promulgated under Section 111 of the CAA, 42 U.S.C. § 7411, including the regulations contained in NSPS Subpart OOOOa.

63. Section 113(b) of the CAA, 42 U.S.C. § 7413(b), authorizes the Court to enjoin a violation of the CAA, to require compliance, to assess a civil penalty, and to award any other appropriate relief for each violation.

64. Any person, including an individual, corporation, or partnership, a defined in CAA Section 302(e), 42 U.S.C. § 7602(e), who violates any requirement or prohibition in CAA Subchapter I, Part A, including NSPS regulations promulgated thereunder, is subject to, among other things, a civil penalty of up to \$121,275 per day for violations that occurred after November 2, 2015, where penalties are assessed on or after December 27, 2023. *See* CAA

Section 113(b), 42 U.S.C. § 7413(b), as modified by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and most recently by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114–74 § 701, 129 Stat. 584, 599–60; *see* 40 C.F.R. § 19.4, and 88 Fed. Reg. 89309, 89312 (Dec. 27, 2023). A person who violates a provision of the New Mexico AQCA or a regulation, permit condition or emergency order adopted or issued pursuant to that act may be assessed a civil penalty not to exceed \$15,000 for each day during any portion of which a violation occurs. NMSA § 74-12.1.

GENERAL ALLEGATIONS

65. During the period August 2, 2017, through August 1, 2021, Defendant owned and/or operated wells in Rio Arriba County and San Juan County, New Mexico and conducted well completion operations on at least 192 wells (the “Hilcorp Wells”).

66. Defendant conducted well completion operations on the Hilcorp Wells.

67. Defendant conducted flowback on the Hilcorp Wells.

68. Defendant’s well completions and flowbacks were subject to the requirements of NSPS Subpart OOOOa.

69. For at least 145 of the Hilcorp Wells, Defendant vented all of the flowback gas emissions, including methane and VOC, directly to the atmosphere during flowback and, for at least three Hilcorp Well completions, Defendant vented some of the flowback gas emissions directly to the atmosphere (“Vented Well Completions”). The Hilcorp Wells are listed and identified by their U.S. Well Numbers in Attachment 1 to the Complaint, with the Vented Well Completions designated as such.

70. The United States estimates that Defendant's Vented Well Completions resulted in excess emissions of more than 500 tons of VOC and more than 1,200 tons of methane.

71. On October 30, 2018, Defendant submitted to NMED an annual report required by 40 C.F.R. § 60.5420a ("2018 Annual Report").

72. On October 30, 2019, Defendant submitted to NMED an annual report required by 40 C.F.R. § 60.5420a ("2019 Annual Report").

73. On October 29, 2018, EPA issued to Defendant an information request pursuant to CAA § 114, 42 U.S.C. § 7414(a) ("Section 114 Information Request").

74. On January 15, 2019, Defendant provided a response to EPA's October 29, 2018 Section 114 Information Request.

75. On March 14, 2019, EPA issued to Defendant a second Section 114 Information Request and a Finding of Violation ("FOV") under CAA § 113(a)(3), 42 U.S.C. § 7413(a)(3).

76. On May 1, 2019, Defendant responded to EPA's March 14, 2019 Section 114 Information Request.

77. On May 18, 2020, EPA issued to Defendant a third Section 114 Information Request and a second FOV.

78. On July 17, 2020, Defendant responded to EPA's May 18, 2020 Section 114 Information Request.

79. On October 30, 2020, Defendant submitted to NMED an annual report required by 40 C.F.R. § 60.5420a ("2020 Annual Report"). Hilcorp reported no well completions in its 2020 Annual Report.

80. On October 29, 2021, Defendant submitted to NMED an annual report required by 40 C.F.R. § 60.5420a ("2021 Annual Report").

CLAIMS FOR RELIEF

81. The allegations of Paragraphs 1 through 78 are re-alleged and incorporated herein.

FIRST CLAIM FOR RELIEF

Failure to Comply with OOOOa Well Completion Requirements **(Violation of 40 C.F.R. § 60.5375a)**

82. Defendant violated 40 C.F.R. § 60.5375a(a) for each Hilcorp Well completion operation, because Defendant failed to:

- a. During the initial flowback stage, route the flowback into one or more well completion vessels or storage vessels and commence operation of a separator; or, alternatively, demonstrate that it was technically infeasible for a separator to function. *See* 40 C.F.R. § 60.5375a(a)(1)(i).
- b. During the separation flowback stage, route the recovered gas from the separator into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an onsite fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. *See* 40 C.F.R. § 60.5375a(a)(1)(ii).
- c. Alternatively, demonstrate that it was technically infeasible to route the recovered gas as described in ¶ 82.b. *See* 40 C.F.R. § 60.5375a(a)(1)(ii).
- d. Capture and direct the recovered gas to a completion combustion device if it was technically infeasible to route the recovered gas as described in ¶ 82.b. *See* 40 C.F.R. § 60.5375a(a)(1)(ii) and (a)(3).
- e. Fulfill its general duty to safely maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery. *See* 40 C.F.R. § 60.5375a(4).

83. Alternatively, for the Hilcorp Well completion operations where the well met the definition of “low pressure well” under 40 C.F.R. § 60.5430a, if any, Defendant violated 40 C.F.R. § 60.5375a(f)(3) because Defendant failed to:

- a. Route all flowback to a completion combustion device with a reliable continuous pilot flame. *See* 40 C.F.R. § 60.5375a(f)(3)(i); or

- b. Route all flowback into one or more well completion vessels, commence operation of a separator, and capture and direct recovered gas to a completion combustion device or, alternatively, demonstrate that it was technically infeasible for a separator to function. *See* 40 C.F.R. § 60.5375a(f)(3)(ii).

84. Upon information and belief, Defendant has continued to conduct well completions and flowbacks in violation of the requirements of NSPS Subpart OOOOa, and will continue to do so in the future.

SECOND CLAIM FOR RELIEF

Failure to Comply with Subpart OOOOa Reporting Requirements **(40 C.F.R. § 60.5420a(b)(1) and (2))**

85. In its 2018, 2019, and 2021 Annual Reports, Defendant reported every well completed as a “Low pressure well” as defined in 40 C.F.R. § 60.5430a. For each well Defendant identified in its 2018, 2019, and 2021 Annual Reports as a “Low pressure well” that did not, as a matter of fact, meet the definition of “Low pressure well,” Defendant incorrectly reported the well type in violation of 40 C.F.R. § 60.5420a(b)(2)(iii).

86. Defendant conducted well completion operations subject to 40 C.F.R. § 60.5375a on wells San Juan 29-5 Unit #7A (US Well Number 3003921340), San Juan 29-5 Unit #60F (US Well Number 3003929275), San Juan 29-5 Unit #65F (US Well Number 3003929554) and Grenier 17E (US Well Number 3004523643) between July 14, 2018, and October 25, 2018, but Defendant failed to include these well completion operations in the 2018 and 2019 Annual Reports, respectively, in violation of 40 C.F.R. § 60.5420a(b). Defendant subsequently filed corrected reports adding these well completion operations.

87. During reporting year 2019, Defendant conducted completion operations subject to 40 C.F.R. § 60.5375a on wells Zella Calloway #1 (US Well Number 3004509977), Lester #1A (US Well Number 3004524155), Riddle B 10E (US Well Number 3004526401), Davis 13E

(US Well Number 3004524018), Moore #1E (US Well Number 3004525695), San Juan 32-7 Unit 55 (US Well Number 3004523834), San Juan 32-7 Unit 60 (US Well Number 3004523688), but Defendant failed to include these well completion operations in the 2019 Annual Report in violation of 40 C.F.R. § 60.5420a(b).

88. During reporting year 2020, Defendant conducted well completion operations subject to 40 C.F.R. § 60.5375a on wells San Juan 29-6 Unit 75 (US Well Number 3003907579), San Juan 28-6 Unit 119 (US Well Number 3003908063), San Juan 28-6 Unit #208 (US Well Number 3003920838), San Juan 27-5 Unit 90 (US Well Number 3003982362), San Juan 29-5 Unit #55F (US Well Number 3003929335), San Juan 28-6 Unit #115 (US Well Number 3003907169), San Juan 29-6 Unit #33F (US Well Number 3003927552), San Juan 29-5 Unit #52G (US Well Number 3003929333), San Juan 29-5 Unit 51F (US Well Number 3003929712), but Defendant failed to include these well completion operations in the 2020 Annual Report in violation of 40 C.F.R. § 60.5420a(b).

89. Defendant incorrectly reported the dates and times for the onset of flowback following hydraulic fracturing or refracturing for 16 well completion operations in its 2018 Annual Report, and two well completion operations in its 2019 Annual Report, in violation of 40 C.F.R. § 60.5420a(b)(2)(i). *Compare* 2018 Annual Report *with* January 15, 2019 CAA 114 Response, Exhibit B.

90. In its 2018 Annual Report, for the well completion operations at Roelofs 2E (US Well Number 3004533894) and San Juan 29-7 Unit 80B (US Well Number 3003927021), Defendant incorrectly reported the date and time that the well was shut in and the flowback equipment was permanently disconnected, or the startup of production, in violation of 40 C.F.R.

§ 60.5420a(b)(2)(i). *Compare* 2018 Annual Report with January 15, 2019 CAA 114 Response, Exhibit B.

91. In its 2018 Annual Report, Defendant incorrectly reported the flowback durations for 43 well completion operations during the reporting period (August 2, 2017 to August 1, 2018) in violation of 40 C.F.R. § 60.5420a(b)(2)(i). *Compare* 2018 Annual Report with January 15, 2019 CAA 114 Response, Exhibit B.

92. In its 2018 Annual Report, Defendant failed to include records of the durations for combustion and venting for any of the well completion operations Defendant performed during the reporting period (August 2, 2017 to August 1, 2018) in violation of 40 C.F.R. § 60.5420a(b)(2)(i). *See* 2018 Annual Report.

93. In its 2018 Annual Report, Defendant failed to include records of its specific reasons for venting in lieu of capture or combustion for any of the well completion operations Defendant performed during the reporting period (August 2, 2017 to August 1, 2018) in violation of 40 C.F.R. § 60.5420a(b)(2)(i). *See* 2018 Annual Report.

94. In its 2018 Annual Report, Defendant incorrectly reported that it attempted to route flowback to a separator for 65 reported well completion operations during the reporting period (August 2, 2017 to August 1, 2018) in violation of 40 C.F.R. § 60.5420a(b)(2)(i). Defendant's January 15, 2019 CAA Section 114 Response indicates that Defendant did not attempt to direct flowback to a separator for any of the well completion operations that occurred in San Juan County or Rio Arriba County, NM during the reporting period for 64 of the 65 wells. *Compare* 2018 Annual Report with January 15, 2019 CAA 114 Response at pp. 5-6.

95. In its 2018 Annual Report, Defendant incorrectly reported that 35 of the reported well completion operations had occurrences of returning to the "initial flowback stage" after

starting or attempting to start the separation flowback stage during the annual reporting period (August 2, 2017 to August 1, 2018) in violation of 40 C.F.R. § 60.5420a(b)(2)(i) (incorporating 40 C.F.R. § 60.5420(c)(1)(iii)(A)). For these 35 well completion operations, Defendant reported the dates and times during flowback that the completion operation returned to the initial flowback stage. Defendant's January 15, 2019 CAA Section 114 Response, however, indicates that no well completion operations that occurred in San Juan County or Rio Arriba County, New Mexico during the August 2, 2017, through August 1, 2018, reporting period had any occurrences of returning to the initial flowback stage. *Compare* 2018 Annual Report with January 15, 2019 CAA 114 Response at pp. 5-6.

96. In its 2019 Annual Report, Defendant failed to include records of its specific reasons for venting in lieu of capture or combustion for any of the well completion operations Defendant performed during the reporting period (August 2, 2018 to August 1, 2019) in violation of 40 C.F.R. § 60.5420a(b)(2)(i). *See* 2019 Annual Report.

97. In its 2019 Annual Report, Defendant incorrectly reported the flowback durations for at least 12 well completion operations during the reporting period (August 2, 2018 to August 1, 2019) in violation of 40 C.F.R. § 60.5420a(b)(2)(i). *Compare* 2019 Annual Report with January 15, 2019 CAA 114 Response, Exhibit B.

98. In its CAA 114 Responses submitted to EPA, Defendant maintained that all 102 wells for which it reported well completion operations met the definition of a "low pressure well" at 40 C.F.R. § 60.5430a. The Defendant's CAA 114 Responses indicate that 65 of those 102 well completion operations occurred during the 2018 Annual Report period (August 2, 2017 to August 1, 2018). *See* Defendant's January 15, 2019 CAA 114 Response, Exhibit B. However, Defendant's 2018 Annual Report did not include any records of the determinations and

supporting inputs and calculations for the low pressure well determinations, in violation of 40 C.F.R. § 60.5420a(b)(2)(xiii). *See* 2018 Annual Report.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

- A. Permanently enjoin Defendant from violating the Clean Air Act, the regulations implementing the CAA, the New Mexico AQCA, and the regulations implementing the AQCA.
- B. Order Defendant to take other appropriate actions to remedy, mitigate, and offset the harm to public health and the environment caused by the violations of the CAA and the AQCA and the regulations implementing those statutes;
- C. Assess for the Plaintiffs, a civil penalty against Defendant of up to \$121,275 per day for each violation of the CAA and up to \$15,000 per day for each violation of the AQCA;
- D. Award Plaintiffs their costs of this action; and
- E. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

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Complaint in
United States and New Mexico Environment Department v. Hilcorp Energy Company

Attachment 1

Vented Well Completions

3003907114	3003920668	3003927599	3003930020
3003907154	3003920838	3003927784	3003930047
3003907169	3003920842	3003927785	3003930063
3003907177	3003920845	3003929203	3003930071
3003907228	3003921340	3003929218	3003930120
3003907316	3003921735	3003929273	3003930495
3003907458	3003922411	3003929275	3003930518
3003907579	3003922625	3003929332	3003931145
3003907659	3003922995	3003929333	3003982242
3003908063	3003923479	3003929334	3003982362
3003920064	3003923601	3003929335	3003982375
3003920068	3003923814	3003929351	3004507090
3003920142	3003923834	3003929352	3004508610
3003920156	3003923910	3003929354	3004508759
3003920317	3003926528	3003929358	3004508766
3003920321	3003926625	3003929450	3004509520
3003920384	3003926693	3003929465	3004509991
3003920400	3003926699	3003929468	3004510676
3003920430	3003926700	3003929553	3004510957
3003920434	3003926736	3003929554	3004510998
3003920464	3003926910	3003929571	3004511042
3003920477	3003927001	3003929681	3004511605
3003920479	3003927005	3003929712	3004511699
3003920483	3003927021	3003929742	3004511797
3003920582	3003927037	3003929759	3004511820
3003920584	3003927047	3003929896	3004511827
3003920616	3003927552	3003929973	3004511892

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Attachment 1

3004511898	3004521787	3004524938	3004527247
3004512186	3004522711	3004525146	3004529466
3004513030	3004523562	3004525463	3004530351
3004520256	3004523568	3004525464	3004530855
3004520268	3004523643	3004525499	3004530892
3004520324	3004523647	3004525608	3004532859
3004520328	3004524022	3004525688	3004532860
3004520649	3004524057	3004525702	3004533880
3004520992	3004524842	3004526179	3004533894
3004521747	3004524887	3004526597	3004534389

Other Well Completions

3003920063	3003930154	3004524390	3004532883
3003920397	3003931138	3004524646	3004533144
3003920456	3003931369	3004524649	3004533367
3003920712	3004509619	3004525008	3004533446
3003920865	3004509977	3004525695	3004533533
3003922360	3004523688	3004526401	3004533773
3003923752	3004523729	3004526513	3004534049
3003926124	3004523834	3004530274	3004534450
3003929202	3004523959	3004530275	3004534742
3003929423	3004524018	3004530417	3004534803
3003929557	3004524155	3004532541	3004535152