

State of New Mexico
Energy, Minerals and Natural Resources Department

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**BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED
AND ELECTRONIC MAIL**

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NOTICE OF VIOLATION

Big Eddy Unit #156 Tank Battery (Facility# fAPP2126343561)

The Director of the Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC.

(1) Alleged Violators: XTO Permian Operating LLC, OGRID 373075 (“Operator”).

(2) Citation, Nature, and Factual and Legal Basis for Alleged Violation(s):

19.15.27.8.G. Reporting of vented or flared natural gas.

(1) Venting or flaring caused by an emergency, a malfunction or of long duration.

(a) The operator shall notify the division of venting or flaring that exceeds 50 MCF in volume and either results from an emergency or malfunction, or lasts eight hours or more cumulatively within any 24-hour period from a single event by filing a form C-129 in lieu of a C-141, except as provided by Subparagraph (d) of Paragraph (1) of Subsection G of 19.15.27.8 NMAC, with the division as follows:

(i) for venting or flaring that equals or exceeds 50 MCF but less than 500 MCF from a single event, notify the division in writing by filing a form C-129 no later than 15 days following discovery or commencement of venting or flaring;

(ii) for venting or flaring that equals or exceeds 500 MCF or otherwise qualifies as a major release as defined in 19.15.29.7 NMAC from a single event, notify the division verbally or by e-mail

as soon as possible and no later than 24 hours following discovery or commencement of venting or flaring and provide the information required in form C-129. No later than 15 days following the discovery or commencement of venting or flaring, the operator shall file a form C-129 that verifies, updates, or corrects the verbal or e-mail notification; and

Big Eddy Unit #156 Tank Battery (Facility# fAPP2126343561)

1. On 2/5/2023, Operator discovered a Natural gas release on location.
2. On 2/24/2023, Operator filed a C-129 for a release of 448 mcf. The report was received by the OCD 19 days after the discovery.
3. On 2/27/23, Operator filed two C-129 amendments both increasing the volume of the release. The final amendment increased the release amount to 528 mcf.
4. Operator failed to notify the Division within 24 hours as required by 19.15.27.8.G(1)(a)(ii) NMAC.
5. Operator failed to file a C-129 within 15 days as required by 19.15.27.8.G(1)(a)(ii) NMAC.

(3) *Compliance:* No later than five (5) business days after issuance of this NOV, Operator shall:

- 1) Submit to OCD all records of information used in the calculation for the release.
- 2) Submit to OCD a summary of actions taken by Operator to ensure timely reporting in the future.

(4) *Sanction(s):* OCD may impose one or more of the following sanctions:

- civil penalty
- modification, suspension, cancellation, or termination of a permit or authorization
- shutting in a well or wells
- plugging and abandonment of a well
- remediation and restoration of a well location and associated facilities, including the removal of surface and subsurface equipment and other materials
- remediation and restoration of a location affected by a spill or release
- forfeiture of financial assurance
- any other remedy authorized by law

For the alleged violations of 19.15.27.8.G(1)(a)(ii) NMAC described above and consistent with applicable law, OCD proposes the following sanctions (one or more of which may ultimately be selected):

- (a) Civil Penalty:

Big Eddy Unit #156 Tank Battery (Facility# fAPP2126343561)

Failure to notify within 24hours	\$45,000
Failure to Submit C-129 timely	\$10,000

The civil penalty calculations are attached. OCD may recalculate the civil penalties for additional violations occurring on or after the date of issuance of this NOV and will take into consideration Operator's good faith effort to comply with the applicable requirements.

(5) Informal Review and Resolution: A process is available for the informal review and resolution of the alleged violations in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) Hearing: If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on May 18, 2022. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Jesse Tremaine, Assistant General Counsel, (505) 231-9312 or JesseK.Tremaine@emnrd.nm.gov.

Regards,



Dylan Fuge
Division Director (Acting)

3/8/2023

Date

cc: EMNRD-OGC