

IN THE MATTER OF:)	
)	
Tennessee Gas Pipeline Co., LLC)	CONSENT ORDER NO. _____
Hamilton, Marion County, Alabama)	
)	
<u>Air Facility ID No. 710-0019</u>)	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“Department” or “ADEM”) and Tennessee Gas Pipeline Co., LLC (“Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§22-22A-1 to 22-22A-17, *as amended*, the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 to 22-28-23, *as amended*, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee owns and operates a compressor station for the transmission of pipeline natural gas, ADEM Air Facility ID No. 710-0019 (hereinafter, the “Facility”) located at 465 County Road 56, Hamilton, Marion County, Alabama.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§22-22A-1 to 22-22A-17, *as amended*.

3. Pursuant to Ala. Code § 22-22A-4(n), *as amended*, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, *as amended*. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 to 22-28-23, *as amended*.

4. On November 29, 2019, ADEM issued Major Source Operating Permit No. 710-0019 (hereinafter, the “Permit”), to the Permittee, which authorizes the operation of the Emission Unit No. 002, a 5,500 hp Clark 2-stroke, lean-burn, natural gas-fired reciprocating engine

(hereinafter, "Emission Unit No. 002").

5. Unit Specific Proviso Nos. 1(a) and 1(b) for Emission Unit No. 002 of the Permit, outline the applicable requirements of ADEM Admin. Code r. 335-3-8-.04, Standards for Stationary Reciprocating Internal Combustion Engines, and 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, respectively.

6. Unit Specific Proviso No. 2(a) for Emission Unit No. 002 of the Permit, limits nitrogen oxide (NO_x) emissions to 66.69 lb/hr from the emission unit.

7. The Compliance and Performance Test Methods and Procedures section of the Unit Specific Provisos of the Permit states:

- (a) Compliance with the NO_x emission rate of Emission Unit No. 002 must be determined by Reference Methods 1, 2, 3 and 4 or 19, and Reference Method 7E in Appendix A of 40 CFR 60. Conditional Test Method (CTM) 034 (portable analyzer) may be utilized in accordance with protocol/method approved in advance by the Air Division. Alternate test methods may be used provided prior approval by the Air Division is granted.

DEPARTMENT'S CONTENTIONS

8. On September 15, 2023, the Permittee submitted the results of a stack test performed in accordance with ADEM Admin. Code r. 335-3-8-.04 on August 22, 2023. Emission Unit No. 002 test results indicated a NO_x average of 75.68 lb/hr, which exceeded the applicable emission limit for this unit.

9. During the emissions stack test performed on August 22, 2023, the Permittee stopped the test after the first run was completed, and Permittee personnel began troubleshooting

the unit. It was determined there was an engine timing issue and adjustments were made to the unit. A subsequent test was conducted on the same day after the adjustments were made, and the Engine 2A test results indicated a NO_x average of 60.26 lb/hr. The test results following the adjustments of the first test were in compliance with the applicable NO_x emission limit for the unit.

10. On October 25, 2023, the Department issued a Notice of Violation (“NOV”) to the Permittee for failure to comply with the applicable NO_x emissions limit established in the Permit. The Department requested a response to the NOV by no later than November 27, 2023.

11. On November 14, 2023, the Permittee requested a deadline extension until December 8, 2023, for the NOV response. The Department subsequently granted the deadline on November 14, 2023.

12. The Permittee submitted a response to the NOV on December 5, 2023, acknowledging the failure to comply with the applicable NO_x emissions limit set forth in the Permit.

13. As stated in the Permittee’s response to the NOV, with which the Department concurs, the Permittee is unable to determine how many days since the last compliance test (conducted on August 23, 2022) the unit was out of compliance with the NO_x emission limit.

14. Pursuant to Ala. Code §22-22A-5(18)c., *as amended*, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of

previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Department considers the Permittee's exceedance of operating limitations for the nitrogen oxides emission standards under the Permit to be serious.

B. THE STANDARD OF CARE: The Permittee did not exhibit a standard of care commensurate with applicable regulatory requirements and the Permit by exceeding the operating limitations of the Permit.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: There are no known significant economic benefits gained by the Permittee as a result of the violations or delayed compliance referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Permittee's efforts to minimize emissions from Engine 2A were not adequate. There are no known environmental effects to mitigate as a result of the alleged violations.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee does not have any previous history of violations with the Department.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a

negotiated settlement and, therefore, the Department has compromised the amount of the penalty warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

15. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty herein is appropriate (*See* "Attachment A", which is hereby made a part of Department's Contentions).

16. The Department neither admits nor denies the Permittee's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE'S CONTENTIONS

17. The Permittee neither admits nor denies the Department's contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code §22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement, and has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and

the Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$25,000.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

C. The Permittee agrees to meet all conditions of the following compliance schedule:
This section or any other terms and conditions of this Consent Order shall not preclude the Permittee from requesting and obtaining an update or modification of the Permit in the future to incorporate applicable regulatory changes and/ or more current operating conditions including, but not limited to, updates or modifications to the Permit.

(1) The Permittee shall complete all necessary modifications to ensure that it operates Engine 2A in such a manner as to comply with all applicable emission standards no later than 120 days from the effective date of this Consent Order. The Permittee shall notify the Department when all necessary modifications are completed and Engine 2A is in compliance with all emission standards set forth in the Air Permit.

(2) The Permittee agrees to implement a Maintenance Verification Program that includes conducting periodic emissions checks on the engine after maintenance is performed. The

periodic emission checks shall be performed using an emissions analyzer. The Permittee shall complete a periodic unit performance checklist on each engine to ensure compliance with emission limits set forth in the Permit. The first emissions check shall be conducted no later than 120 days from the effective date of this Consent Order and each subsequent emissions check shall be conducted no later than 120 days from the previous emissions check. Quarterly emissions checks shall be conducted until such time as four sequential quarterly emissions checks demonstrate compliance with the NO_x limitation.

D. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. The parties agree that this Consent Order, subject to the terms of these presents and subject to provisions otherwise provided by statute, is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable

and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

H. The Department and the Permittee agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

I. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

J. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

K. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

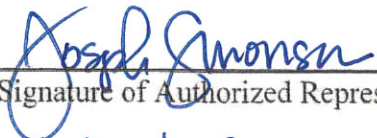
L. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

N. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

TENNESSEE GAS PIPELINE CO., LLC


(Signature of Authorized Representative)

Joseph Simonsen
(Printed Name)

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

Lance R. LeFleur
Director

Director Operations
(Printed Title)

Date Signed: 2/29/2024

Date Executed: _____

Attachment A
Tennessee Gas Pipeline Co., LLC
Hamilton, Marion County
Facility ID No. 710-0019

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Emission Unit No. 002 - Failed Stack Test - NO _x	1+**	\$20,000	\$5,000	\$0	
					Total of Three Factors
TOTAL PER FACTOR		\$20,000	\$5,000	\$0	\$25,000

Adjustments to Amount of Initial Penalty		Economic Benefit (+)	
Mitigating Factors (-)		Amount of Initial Penalty	\$25,000
Ability to Pay (-)		Total Adjustments (+/-)	\$0
Other Factors (+/-)		FINAL PENALTY	\$25,000
Total Adjustments (+/-) <i>Enter at Right</i>	\$0		

Footnotes

* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.

** See Contention No. 13 regarding the inability to determine the exact number of days the unit operated out of compliance with the applicable NO_x emission limit.