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August 28, 2013

AIR PERMITS SECTION  
OPA-R

Jicarilla Compressor Station  
Jicarilla Apache Nation  
Rio Arriba County, NM

Via USPS Certified Mail: 7012 3460 0000 8027 4622

Bonnie Braganza  
US EPA Region 6  
Air Permits Section  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

RE: XTO Energy, Inc. – Jicarilla Compressor Station, Rio Arriba County, NM, (Tribe Lands)  
Title V Synthetic Minor Limit Application

Ms. Braganza:

The purpose of this letter is to provide information on the above-referenced facility and the associated air permitting proposed for this facility. XTO Energy, Inc. (XTO) appreciates the diligence that the EPA is placing on issuing a timely draft permit for the above referenced location, but for the reasons set forth below, we believe that it is prudent to delay any draft permit issuance or public notice of a draft permit to allow additional discussions in order to achieve a mutually agreeable permitting approach.

XTO has been in discussions with the EPA Region 6 regarding the Jicarilla Synthetic Minor Limit Application since the initial application was submitted to the EPA on February 15, 2013 and follow-up information submittal on March 12, 2013 (per the EPA's February 14, 2013 request).

Based on the August 8, 2013, email and phone discussions with EPA Region 6, it is our understanding that it is the intention of the EPA to propose the draft Synthetic Minor Jicarilla Compressor Station Permit with all of the XTO surrounding production sites aggregated into the compressor station permit.

XTO disagrees with this permitting approach as we believe it is inconsistent with current agency guidance as well as a significant recent decision on the subject. In the September 22, 2009 McCarthy memo, it was agreed that three regulatory criteria should be relied upon in establishing whether or not aggregation is warranted with those criteria being: 1) Facilities are under common control; 2) Of the same industrial classification; and 3) Contiguous or adjacent properties. The memo further states that the above criteria are to be the basis for making source determinations and that permitting determinations remain consistent with existing regulatory requirements and historical permitting practices.

The facilities in question are under the common control of XTO and are of the same industrial classification code (SIC 1311). However, most of the production sites are not contiguous and adjacent facilities and are far from one another ranging from one-quarter mile to several miles away from the Jicarilla station.

The memo further states that case-by-case determinations are required to address these issues, but we are unaware of any substantive reason to aggregate these production sources due to proximity and remoteness to other sources.





Further, we also do not believe that aggregating the additional production sites referenced above would be consistent with the decision reached in Summit Petroleum Corp. v. United States EPA, 690 F3d 733 (6<sup>th</sup> Cir. 2012). This decision, along with the Prevention of Significant Deterioration rulemaking preamble, makes it clear that geographic proximity is the key aspect in determining the application of the adjacency requirement, and sources that are far apart should not be included as part of a single facility.

Therefore, we determined that registrations for Existing (True Minor) Sources should be submitted to the EPA for the non-adjacent and non-contiguous production facilities which were required per the tribal true minor source regulations. To the extent the EPA believes that the off-site production facilities should be included in the draft permit for the Jicarilla Compressor Station permit, we would request that a meeting be scheduled to further discuss this matter prior to the issuance of any draft or proposed permit for the compressor station.

I can be reached at 817-885-1249 or via e-mail at [Rykki\\_Tepe@xtoenergy.com](mailto:Rykki_Tepe@xtoenergy.com) for any additional information or to discuss a further meeting.

Sincerely,

A handwritten signature in blue ink that reads 'Rykki Tepe'.

Rykki Tepe  
Environmental Engineer

