



STATE OF CONNECTICUT

)

Order No. 2499

Vs.

)

NAVAL SUBMARINE BASE NEW LONDON

)

)

CONSENT ORDER

A. With the agreement of Naval Submarine Base New London (Respondent), the Commissioner of Energy and Environmental Protection (Commissioner) finds the following:

1. The Respondent owns and operates a facility located at Route 12 - Crystal Lake Road in Groton, Connecticut (premises).
2. The Respondent operates the premises under Title V Permit #070-0194-TV and is a major stationary source for Nitrogen Oxide (NOx), Volatile Organic Compounds (VOCs), Sulfur Dioxide (SO₂), Carbon Monoxide (CO), and Hazardous Air Pollutants (HAPs).
3. The Respondent owns and operates a natural gas-fired cogeneration facility consisting of a five Megawatt Solar Taurus gas turbine and duct burner heat recovery steam generator to supply electrical power and steam to the base. NOx emissions of the turbine are controlled by water injection.
4. The Respondent operates the cogeneration facility under New Source Review (NSR) Permit # 070-0096. The operation of the turbine is subject to the requirements of 40 CFR Part 60 Subpart GG - Standards of Performance for Stationary Gas Turbines.
5. Pursuant to 40 CFR 60.334(a), the owner or operator of any stationary gas turbine subject to the provisions of the subpart using water or steam injection to control NOx emissions is required to install, calibrate, maintain and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water or steam to fuel being fired in the turbine.
6. Pursuant to 40 CFR 60.331(t)(3), a recorded value of a monitored parameter that is outside the acceptable range specified in the parameter monitoring plan constitutes excess emissions.
7. Pursuant to Section III.C.4 of Title V Permit #070-0194-TV and Section IV.A of NSR Permit #070-0096, the Respondent is required to use water injection at a rate between the range of 0.80 and 1.60 pounds water per pound fuel to maintain compliance with the applicable NOx emission limit.

8. In the Continuous Emissions Monitoring Quarterly Summary Report for the monitoring period of April 1, 2017 through June 30, 2017, the Respondent reported that the water-to-fuel ratio for the Solar Taurus turbine was not maintained within the operating range of 0.80 to 1.60 pounds water per pound fuel for 434 one-hour block averages during the calendar quarter. Between May 25, 2017 and June 12, 2017 the water-to-fuel ratio averaged 0.77 pound water per pound fuel.
9. The Respondent made adjustments to the water injection program on June 12, 2017 to bring the injection rate within the operating range of 0.80 to 1.60 pounds water per pound fuel.
10. The Commissioner issued NOV #17854 on October 10, 2017 for violation of Section III.C.4 of Title V Permit #070-0194-TV and Section IV.A of NSR Permit #070-0096.
11. The Respondent owns two Caterpillar diesel generators and operates the generators under NSR Permit #070-0285 and Permit #070-0286 (West Generator #1 and East Generator #2, respectively).
12. In accordance with Section V of NSR Permit #070-0285 and Permit #070-0286 and 40 CFR §60.8(a), the Respondent is required to conduct initial stack testing of each engine within 60 days of achieving the maximum production rate following the date of startup as a non-emergency engine, but not later than 180 days after initial startup as a non-emergency engine.
13. The Respondent reported in the intent to test application form (DEEP-Air-ITT-002) received on May 11, 2017 that the engines reached their maximum production rate following startup as non-emergency engines on December 20, 2016. Initial testing was, therefore, due by February 18, 2017.
14. The Respondent completed emissions testing of East Generator #2 on June 1, 2017. The Respondent completed emissions testing of West Generator #1 on October 5, 2017. The Respondent completed emissions testing of West Generator #1 and East Generator #2 after the due date of February 18, 2017 in violation of Section V of NSR Permit #070-0285 and Permit #070-0286 and 40 CFR §60.8(a).
15. In accordance with Section V of NSR Permit #070-0285 and Permit #070-0286, the Respondent is required to submit test results within 60 days after completion of testing. The test results for East Generator #2 were due on August 1, 2017. The test results for West Generator #1 were due on December 5, 2017.
16. The Commissioner received the test results for both generators on December 4, 2017. The test results for East Generator# 2 were submitted after the due date in violation of Permit #070-0285.
17. The Commissioner issued NOV #17877 alleging that the Respondent conducted testing of West Generator #1 after the due date in violation of NSR Permit #070-0285 and 40 CFR §60.8(a) and that the test report for testing conducted on June 1, 2017 was submitted late in violation of NSR Permit #070-0286 and 40 CFR §60.8(a).
18. The Respondent reported in the Title V semi-annual monitoring report for the reporting period of July 1, 2017 through December 31, 2017 submitted on March 2, 2018 that they failed perform

the maintenance required by Section III.I.1.a.i through iv of Title V Permit #070-0194-TV for Emergency Engines EU-168 and EU-456 and that they failed to make and maintain records for the total annual hours of operation as required by Section III.H.2.b.ii and iii of Title V Permit #070-0194-TV for Emergency Engine EU-456.

19. The Commissioner issued NOV #17916 on June 6, 2018 alleging violations of Section III.I.1.a.i through iv and Section III.H.2.b.ii through iii of Title V Permit #070-0194-TV.
20. On July 13, 2018, the Respondent informed the Commissioner that they erred in reporting that Emergency Engine EU-456 was in non-compliance with Section III.I.1.a.i through iv of Title V Permit #070-0194-TV since the engine is not subject to those requirements and submitted an addendum to the Title V semi-annual monitoring report. The Respondent reported in the revised Title V semi-annual monitoring report a failure to make and maintain records of total annual operating hours for EU-456 as a deviation of permit conditions III.G.1.b.i and III.G.1.c.i. In addition, the Respondent reported a failure to change the oil and filter annually for EU-168 as a deviation of permit condition III.I.1.a.i.
21. By virtue of the facts set forth above, the Respondent has violated Sections III.C.4, III.I.1.a.i, III.G.1.b.i and III.G.1.c.i of Title V Permit #070-0194-TV, Section IV.A of NSR Permit #070-0096, Section V of NSR Permit #070-0285, Section V of NSR Permit #070-0286 and 40 CFR §60.8(a).
22. By agreeing to the issuance of this Consent Order, the Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs A.1 through A.4, inclusive of this Consent Order. Settlement of this matter shall not constitute or be considered a waiver of federal sovereign immunity, or an admission of such waiver, or an admission that the United States is liable to pay administrative or civil penalties or fines assessed by state or local regulatory authorities implementing programs for the control and abatement of air pollution. Further, the Respondent cannot be required to violate federal law in meeting the schedule for payment of the penalty consented to in paragraph B.2. of this Consent Order, such penalty being agreed to solely for the purposes of settling the violations described in paragraphs A.8, A.10, A.14, A.16, A.17, A.18, and A.19 of this Consent Order. The issue of federal sovereign immunity from state-levied penalties assessed under state Clean Air Act air pollution prevention and control programs is subject to conflicting decisions in the courts, with the most recent decision, by the Eleventh Circuit Court of Appeals, holding that sovereign immunity to such penalties has not been waived. See *City of Jacksonville v. Department of the Navy*, 348 F.3d 1307 (11th Cir. 2003). Nevertheless we believe it appropriate at this time and under the circumstances presented here to resolve this disputed matter by agreement.

B. With the agreement of Respondent, the Commissioner, acting under §22a-6 and §22a-174 of Connecticut General Statute, orders the Respondent as follows:

1. The Respondent shall fully comply with the requirements of Title V Permit #070-0194-TV, NSR Permit #070-0096, NSR Permit #070-0285 and Permit #070-0286.

2. Civil penalty. On or before sixty (60) days after issuance of this Consent Order, the Respondent shall pay a penalty of \$21,000 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Paragraphs A.8, A.10, A.14, A.16, A.17, A.18, and A.19 of this Consent Order.
3. Payment of penalties. Payment of penalties under this Consent Order shall be sent or personally delivered to Bureau of Financial and Support Services--Accounts Receivable Office ["F&SS"], Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127, and shall be check and/or electronic funds transfer (EFT) payable to the Connecticut Department of Energy and Environmental Protection. The check shall state on its face, "Air Consent Order #2499."
4. Full compliance. The Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction.
5. Approvals. The Respondent shall use best efforts to submit to the Commissioner all documents required by this Order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
6. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
7. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
8. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by the Respondent or, if the Respondent is not an individual, by the Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-174-2a of

the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and the Respondent or the Respondent's chief executive officer and each such individual shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under Section §53a-157b of the Connecticut General Statutes and any other applicable law."

9. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject the Respondent to an injunction and penalties.
10. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
11. Notice of transfer; liability of Respondent. Until the Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. The Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
12. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
13. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state and local law.
14. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Respondent pursuant to this Consent Order will result in compliance.
15. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.

16. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
17. Notice to Commissioner of changes. Within 15 days of the date the Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, the Respondent shall submit the correct or omitted information to the Commissioner.
18. Notification of noncompliance. In the event that the Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, the Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, the Respondent shall submit in writing the date, time and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
19. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order, unless otherwise specified in this Consent Order or in writing by the Commissioner, shall be directed to:

Robin Baena
Department of Energy and Environmental Protection
Air Engineering & Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127
(860) 424-4152

Respondent consents to the issuance of this Consent Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Consent Order and to legally bind Respondent to the terms and conditions of the Consent Order.

Naval Submarine Base New London

Signature:  MOORE,TODD,DOUGLAS,10
76258585
2020.05.26 14:43:34 -04'00'

Type Name: Todd D. Moore, Captain, U.S. Navy

Type Title: Commanding Officer, NSB New London

Date 5/22/2020

Issued as a final order of the Commissioner of Energy and Environmental Protection.

Betsey Wingfield for

Katherine S. Dykes
Commissioner
Department of Energy and Environmental Protection

June 10, 2020

Date

MAILED CERTIFIED MAIL,
RETURN RECEIPT REQUESTED