

**STATE OF NEW MEXICO  
BEFORE THE SECRETARY OF ENVIRONMENT**

**NEW MEXICO ENVIRONMENT DEPARTMENT**

**Complainant,**

**v.**

**No. AQCA 2023\_\_\_\_(CO)**

**AMEREDEV II, LLC,**

**Respondent.**

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**ADMINISTRATIVE COMPLIANCE ORDER**

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Pursuant to Section 74-2-12 of the New Mexico Air Quality Control Act (“Act”), NMSA Sections 74-2-1 through -17 (as amended through 2021), the Environmental Protection Division (“Division”) of the New Mexico Environment Department (“Department” or “NMED”) issues this Administrative Compliance Order (“Order”) to Ameredev II, LLC (“Ameredev”) to require compliance and assess a civil penalty for violations of the Act, violations of the Air Quality Regulations at Title 20, Part 2 (“Regulations”) of the New Mexico Administrative Code (“NMAC”), and violations of air quality permits at the following central tank battery (“CTB”) facilities: Amen Corner CTB, Azalea CTB, Firethorn CTB, Nandina CTB, and Red Bud CTB (collectively, the “Facilities”).

As set forth in the detailed allegations below, during 2019 and 2020 Ameredev violated multiple air quality permit regulations and conditions of their permits. A summary of these violations is set forth in Table 1 below and described in further detail in Sections I through VIII of this Order.

**Table 1: Summary of Ameredev Violations**

<b>Violation Number</b>	<b>Permit Conditions Violated</b>	<b>Violation Description</b>	<b>Facilities in Violation</b>
1	General Construction Permit-6 (“GCP-6”) General Condition B101.A or  General Construction Permit-Oil & Gas (“GCP-O&G”), Specific Condition A100	Failure to construct or modify and operate as represented in Application or Registrations, modifying five facilities without approval	Amen Corner CTB Azalea CTB Firethorn CTB Nandina CTB Red Bud CTB
2	GCP-6 General Condition C101.D(1) or  GCP-O&G General Condition C101.C(1)	Failure to obtain a regular, individual construction permit from the Department before modifying five Facilities	Amen Corner CTB Azalea CTB Firethorn CTB Nandina CTB Red Bud CTB
3	GCP-O&G Specific Condition A209.A	Failure to operate and control tank emissions with the Vapor Recovery Unit (“VRU”) as represented in the GCP-O&G #8189 Registration	Nandina CTB
4	GCP-O&G Specific Condition A209.A	Failure to complete and/or record monthly inspections of the VRUs used to control tank emissions	Azalea CTB
5	GCP-6 Specific Condition A107.A	Failure to complete and/or record monthly inspections of the VRUs used to control tank emissions	Amen Corner CTB
6	GCP-6 Specific Condition A106.D or  GCP-O&G Specific Condition A106.C	Failure to limit pound per hour emission rates from each Facility’s flare, unit FL-1, to the limits required by each permit	Amen Corner CTB Azalea CTB Firethorn CTB Nandina CTB Red Bud CTB
7	GCP-6 Specific Condition A108.A or  GCP-O&G, Specific Condition A207.B	Failure to comply with operational requirements for each Facility flare, Unit FL1	Amen Corner CTB Azalea CTB Firethorn CTB Nandina CTB Red Bud CTB
8	GCP-6 General	Failure to submit	Amen Corner CTB

**Table 1: Summary of Ameredev Violations**

<b>Violation Number</b>	<b>Permit Conditions Violated</b>	<b>Violation Description</b>	<b>Facilities in Violation</b>
	Condition B110.B(1) or GCP-O&G General Condition B110.B(1)	notifications of the anticipated date of initial startup no less than 30 days prior to the date	Azalea CTB Firethorn CTB Nandina CTB Red Bud CTB

This Order addresses the seriousness of these violations and the necessary corrective actions required to address them.

**FACTUAL BACKGROUND**

1. Ameredev owns and operates the Amen Corner CTB, Azalea CTB, Firethorn CTB, Nandina CTB, and Red Bud CTB which are located approximately four (4) to eight (8) miles west and southwest of Bennett and Jal in Lea County, New Mexico.

2. Ameredev's operations may occur on New Mexico State Trust Land under the jurisdiction and authority of the New Mexico State Land Office.

3. At the time the violations described in this Order occurred, Ameredev was authorized to operate the Amen Corner CTB under air quality permit GCP-6, Registration #7835, issued May 31, 2018. **[NMED Exhibit 1]**

4. At the time the violations described in this Order occurred, Ameredev was authorized to operate the Azalea CTB, GCP-O&G, Registration #7601M1, issued October 3, 2019. **[NMED Exhibit 2]**

5. At the time the violations described in this Order occurred, Ameredev was authorized to operate the Firethorn CTB, GCP-O&G, Registration #7836M1, issued October 2, 2019. **[NMED Exhibit 3]**

6. At the time the violations described in this Order occurred, Ameredev was

authorized to operate the Nandina CTB, GCP-O&G, Registration #8189, issued February 28, 2019.

**[NMED Exhibit 4]**

7. At the time the violations described in this Order occurred, Ameredev was authorized to operate the Red Bud CTB, GCP-O&G, Registration #7839M1 issued October 3, 2019. **[NMED Exhibit 5]**

8. Each of the five (5) Facilities is an oil and gas CTB that operates in the oil and gas production industry.

9. Each of the Facilities receives mixed streams of natural gas, water, and crude oil from surrounding oil and gas wells.

10. The Facilities separate the mixed streams into natural gas and crude oil for sale and produced water for disposal. The separated crude oil and produced water are temporarily stored at each of the Facilities in storage tanks.

11. According to General Construction Permit registration records at the time the violations occurred, natural gas emissions from storage tanks and separating tanks were to be either re-routed back to a facility inlet or routed to a facility flare, unit FL-1. **[NMED Exhibit 6].**

12. The natural gas separated at each facility inlet was to be sent downstream to a third-party gas processor via a sales gas pipeline. **[NMED Exhibit 6].**

13. The mixed natural gas and crude oil streams would pass through heater treaters and vapor recovery towers (“VRT”) separating the gas and oil, and the separated gas was to be captured via Vapor Recovery Units (“VRU”) and routed downstream via the sales gas pipeline. **[NMED Exhibit 6].**

14. Ameredev started operating each of the Facilities and immediately began to exceed permitted pollution limits on the following dates: Amen Corner CTB November 28, 2019; Azalea

CTB December 27, 2018; Firethorn CTB March 14, 2019; Nandina CTB July 29, 2019; and Red Bud CTB March 7, 2019. **[NMED Exhibit 7; NMED Exhibit 8].**

15. On August 12, 2019, the Air Quality Bureau (“AQB”) received a citizen complaint about increased flaring at a facility meeting the location information for Azalea CTB. **[NMED Exhibit 9].**

16. On September 9, 2019, an AQB inspector received another complaint about large amounts of flaring being done by Ameredev. **[NMED Exhibit 9].**

17. On September 9, 2019, the AQB inspector contacted Ameredev, notified Ameredev of the complaint, and informed Ameredev of the requirement to submit excess emissions reports pursuant to 20.2.7 NMAC.

18. On November 7, 2019, AQB personnel and Ameredev representatives met in Santa Fe, New Mexico to discuss the ongoing concerns. At the meeting, Ameredev explained the cause of their excessive flaring and presented a long-term plan to stop it.

19. On December 20, 2019, the Department’s Office of General Counsel received a further complaint about high quantities of very sour gas being flared from different facilities owned by Ameredev.

20. On December 30-31, 2019, AQB personnel conducted an on-site investigation of the Facilities and produced an inspection report resulting in three Post-Inspection Notifications. **[NMED Exhibit 10; NMED Exhibit 27].**

21. On January 2, 7, and 16, 2020 and February 21, 2020, AQB requested from Ameredev permit records and other information for the five Facilities. **[NMED Exhibit 11].**

22. On January 2, 7, and 17, 2020 and on February 24, 2020, Ameredev responded to AQB’s records requests. Ameredev’s responses relative to each violation are described in Sections

I through VIII below.

23. On January 20 and 28, 2020, Ameredev submitted “Voluntary Disclosures of Violations” to AQB. **[NMED Exhibit 12]**.

24. AQB determined that Ameredev’s disclosures failed to meet multiple conditions of the NMED-AQB Civil Penalty Policy (“Policy”), Appendix D, including Condition D.2 - *Voluntary Discovery* of violations, Condition D.3 - *Prompt Disclosure* of violations, and Condition D.4 - *Prompt Correction and Remediation* of violations. **[NMED Exhibit 13]**.

25. According to Ameredev’s excess emissions reports, it took the following number of days from the reported discovery date before ending the excess emissions events:

- 129 days at Amen Corner CTB
- 158 days at Azalea CTB
- 166 days at Red Bud CTB
- 198 days at Nandina and Firethorn CTBs **[NMED Exhibit 7]**

26. Based on on-site inspections of the Facilities and review of Ameredev’s records submittals, AQB identified violations of multiple air quality regulations and conditions of the Facilities’ permits.

27. On January 10, March 16, and April 8, 2020, AQB issued to Ameredev post-inspection notifications (“PIN”) listing potential air quality violations occurring at the five Facilities. **[NMED Exhibit 10]**.

28. On August 17, 2022, AQB issued Notice of Violation (“NOV”) No. AMDV-Multi-2001 alleging eight (8) violations described further in Sections I through VIII of this Order. **[NMED Exhibit 14]**.

29. On September 2 and 15, 2022, Ameredev responded to the NOV, providing requested information, arguing the regulatory basis or number of claims of some alleged violations,

and requesting penalty reductions based on facility environmental audits or past emissions related projects. **[NMED Exhibit 15]**.

30. On May 18, 2023, AQB requested additional records from Ameredev to evaluate current compliance status. **[NMED Exhibit 16]**.

31. On May 31, 2023, Ameredev provided records in response to the May 18, 2023, request. AQB's review of Ameredev's records submittal identified current potential compliance issues at some of the Ameredev Facilities.

## **VIOLATIONS**

### **Violation 1:**

**Failure of Ameredev to construct or modify and operate five Facilities in accordance with representations in and as specified in the current application or registration forms pursuant to GCP-6, General Condition B101-A – *Legal*, and to GCP-O&G Specific Condition A100 – *Introduction and Applicability***

### **Violation 1 Background**

32. GCP-6, General Condition B101.A, *Legal*, states in part:

Unless modified by conditions of this permit, the permittee shall construct or modify and operate the Facility in accordance with all representations of the current application and supplemental submittals that the Department relied upon to determine compliance with applicable regulations and ambient air quality standards.

**[NMED Exhibit 20 at 16-17]**.

33. GCP-O&G, Specific Condition A100, *Introduction and Applicability*, states in part: "F. The Facility shall operate as specified in the Registration Form. The emission limits and equipment specified in the Registration Form are federally enforceable and shall become the terms and conditions of this Permit." **[NMED Exhibit 21 at 4]**.

34. During the December 30-31, 2019, on-site investigations, AQB inspectors

observed multiple pieces of equipment at each of the Facilities that were not included in Ameredev's certified and approved General Construction Permit ("GCP") Application or Registration Forms.

35. On January 7, 2020, Ameredev provided to AQB a list of all equipment located at each of the Facilities. The list verified the unregistered equipment identified by AQB and identified additional unregistered equipment at all five Facilities. Table 2 lists the unauthorized equipment located at each facility. [NMED Exhibit 17].

**Table 2: Unauthorized Equipment**

<b>Facility</b>	<b>Unreported and Unauthorized Equipment</b>
Amen Corner CTB	6 crude oil tanks, 1 gun barrel tank, 1 3-phase separator, 2 2-phase separators, 3 combustors, 1 generator engine
Azalea CTB	1 3-phase inlet separator, 1 2-phase inlet separator, 1 combustor, 1 generator
Firethorn CTB	3-phase inlet separator, 2-phase inlet separator, combustor, generator
Nandina CTB	6 crude oil tanks, 1 gun barrel tank, 6 3-phase inlet separators, 2 2-phase inlet separators, 3 combustors, 1 flare
Red Bud CTB	1 3-phase inlet separator, 2 2-phase inlet separators, 1 combustor, 1 flare

36. Ameredev delayed submitting Registrations for the unauthorized modifications for three (3) to five (5) months after AQB's January 1, 2020 PIN notifying Ameredev of the unauthorized equipment. Table 3 lists the GCP numbers and issue dates authorizing the existing, unpermitted equipment.

**Table 3: Summary of GCPs Correcting Regulated Equipment**

<b>Facility</b>	<b>GCP #</b>	<b>Registration Received</b>	<b>GCP issued</b>
Amen Corner CTB	GCP-O&G #7835M1	May 8, 2020	June 5, 2020
Azalea CTB	GCP-O&G #7601M2	May 15, 2020	June 12, 2020
Firethorn CTB	GCP-O&G #7836M2	April 24, 2020	May 22, 2020
Nandina CTB	GCP-O&G #8189M1	March 25, 2020	April 24, 2020
Red Bud CTB	GCP-O&G #7839M2	April 15, 2020	May 15, 2020



### **Violation 1 Summary**

37. Ameredev violated GCP-6 General Condition B101.A and GCP-O&G Specific Condition A100 when it unlawfully constructed and operated at the Facilities, multiple unreported and unauthorized pieces of equipment that were sources of regulated air pollutants.

38. Ameredev had, among other unlawful changes to the Facilities, doubled the crude oil storage capacity at the Amen Corner and Nandina CTBs, installed combustors and/or a second flare at each of the five Facilities, and installed generator engines at Amen Corner, Azalea, and Firethorn CTBs.

39. NMED observed five (5) occurrences at the Amen Corner CTB, Azalea CTB, Firethorn CTB, Nandina, CTB, and Red Bud CTB of this violation for which Ameredev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

### **Violation 2:**

**Failure of Ameredev to obtain a regular, individual construction permit for each Facility from the Department before modifying and operating five Facilities above GCP thresholds pursuant to GCP-6, General Condition C101.D(1) and GCP-O&G, General Condition C101.C(1)**

### **Violation 2 Background**

40. GCP-6, General Condition C101 – *Revision Process, D(1) Changes that Prevent Meeting General Permit Limits*, states:

“Changes or equipment additions that prevent the Facility from meeting the requirements of GCP-6 shall not occur before the owner or operator applies for and is issued an individual construction permit under 20.2.72.200 NMAC.”

**[NMED Exhibit 20 at 27].**

41. GCP-6, Specific Condition A100 – *Description*, Paragraph E states, in relevant parts:

“The potential emission rate (PER) of the permitted Facility . . . shall not exceed the total potential emission rates in Table 100.A and Table 100.B. . . . Any Facility with a PER greater than the amounts in Table 100.A or Table 100.B does not qualify for GCP-6.”

[NMED Exhibit 20 at 3].

42. GCP-6, Table 100.A provides GCP-6 PER limits as follows:

*Table 100.A: Potential Emission Rate (PER) of the Facility*

Pollutant*	Emissions (pounds per hour)	Emissions (tons per year)
Nitrogen Oxides (NO <sub>x</sub> )	less than 10	less than 25
Carbon Monoxide (CO)	less than 10	less than 25
Volatile Organic Compounds (VOCs) from Storage Vessels or Truck Loading	**	No PER Limit
Sulfur Dioxide (SO <sub>2</sub> )	less than 10	less than 25
Total Suspended Particulates (TSP)	less than 2.5	less than 25
Particulate Matter less than 10 microns (PM <sub>10</sub> )	less than 2.5	less than 25
Particulate Matter less than 2.5 microns (PM <sub>2.5</sub> )	less than 2.5	less than 25
Hydrogen Sulfide (H <sub>2</sub> S)	less than 0.5	less than 5
Lead	less than 10	less than 5

[Id.].

43. GCP-O&G, General Condition C101 – *Revision Process*, C(1) *Changes that Prevent Meeting General Permit Limits* states:

“Changes or equipment additions that prevent the Facility from meeting the requirements of GCP-Oil and Gas shall not occur before the owner or operator applies for and is issued an individual construction permit under 20.2.72.200 NMAC.”

[NMED Exhibit 21 at 47-48].

44. GCP-O&G, Specific Condition A106.A – *Facility: Allowable Emissions* states, in relevant part: “In order to qualify for this permit, the Facility’s annual emissions may not exceed those amounts in Table 106.” [NMED Exhibit 21 at 7].

45. GCP-O&G, Table 106 provides the maximum emission rates as follows:

**Table 106: Maximum Eligible Emission Rates to Register Under this Permit**

Pollutant	Tons per Year (tpy)
Nitrogen Oxides (Nox)	95 tpy
Carbon Monoxide (CO)	95 tpy
Volatile Organic Compounds (VOC)* (non-fugitive)	95 tpy
Sulfur Dioxide	95 tpy
Hydrogen Sulfide	25 tpy
Total Suspended Particulates (TSP)	25 tpy
Particulate Matter less than 10 Microns (PM10)	25 tpy
Particulate Matter less than 2.5 Microns (PM2.5)	25 tpy
Any Individual Hazardous Air Pollutant (HAP)	< 10 tpy
Total HAP	< 25 tpy

**[Id.]**

46. New Mexico’s Regulations state:

“For those modifications for which the source will not continue to meet the conditions of the general construction permit after such modification, obtain a construction permit from the department under this part prior to the modification.”

20.2.72.220.D(2) NMAC.

47. Between October 25, 2019, and April 27, 2020, Ameredev submitted ten (10) final excess emissions reports (“EER”) pertaining to the five Facilities through the AQB Compliance Reporting (“AQBCR”) system. Each EER reported emission rates of regulated air pollutants from each facility flare exceeding one to five of the ton per year (“tpy”) permit thresholds allowed by the GCP-6 and the GCP-O&G. **[NMED Exhibit 22].**

48. In the Final EERs, Ameredev described the cause of each excess emission event as an emergency, lasting from 66 to 6300 hours, because their downstream third-party gas processor was not accepting their produced gas. None of Ameredev’s GCP Applications or Registrations requested nor authorized flaring of any produced gas at the Facilities. Produced gas was to be routed offsite through a sales gas pipeline. **[NMED Exhibit 6].**

49. EERs and other Ameredev records indicate that on the day of or day after starting

operations at each of the Facilities, Ameredev was unlawfully routing all produced gas to each facility flare, unit FL-1, for combustion, which resulted in exceeding the GCP thresholds. Table 4 lists each facility startup date and the earliest excess emissions start date.

**Table 4: Dates of Facility Startup and Earliest Excess Emission Event Per Ameredev**

Facility	Facility Startup	Earliest reported excess emission start dates
Amen Corner CTB	11-28-2019	11-28-2019
Azalea CTB	12-26-2018	12-27-2018
Firethorn CTB	3-14-2019	3-14-2019
Nandina CTB	7-29-2019	7-29-2019
Red Bud CTB	3-7-2019	3-7-2019

50. Pursuant to 20.2.7.113 NMAC, *Affirmative Defense for an Emergency*, Ameredev submitted Affirmative Defense Demonstrations (“ADD”) for six of the excess emissions events.

[NMED Exhibit 28]. In relevant part, NMAC 20.2.7.113.B states:

An emergency constitutes an affirmative defense to an action brought for noncompliance with the technology-based emission limitation if the owner or operator of the source demonstrates through properly signed, contemporaneous operating logs, or other relevant evidence that: ... (2) the source was at the time being properly operated; (3) during the period of the emergency the owner or operator took all reasonable steps to minimize levels of emissions that exceeded the technology-based emission limitation . . .

51. Pursuant to 20.2.7.115 NMAC, AQB evaluated and denied five (5) of Ameredev’s ADD claims. AQB determined that the excess emissions were not caused by emergencies since Ameredev continued to flare for several months after becoming aware of the excess emissions and failed to take all reasonable steps to minimize excess emissions. [NMED Exhibit 18].

52. On September 2, 2022, in response to the NOV, Ameredev stated:

“[w]here actual emissions exceed what was reasonably expected, a permittee must only ‘re-evaluate permit applicability’ – not immediately apply for an individual construction permit. Put differently, actual emissions need not be directly relevant to the CTBs’ potential

to emit for permitting purposes.”

[NMED Exhibit 15].

53. However, both permit conditions and 20.2.72 NMAC state that the requirement is to apply for an individual construction permit before making modifications to a facility, not after.

### **Violation 2 Summary**

54. Ameredev violated 20.2.72.220.D(2) NMAC, GCP-6 General Condition C101.D(1) at Amen Corner CTB and GCP-O&G General Condition C101.C(1) at Azalea CTB, Firethorn CTB, Nandina CTB, and Red Bud CTB when it unlawfully operated the Facilities over GCP thresholds before obtaining pre-approval through a regular construction permit.

55. NMED observed five (5) occurrences at the Amen Corner CTB, Azalea CTB, Firethorn CTB, Nandina, CTB, and Red Bud CTB, of this violation for which Ameredev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

### **Violation 3:**

**Failure of Ameredev to operate and control tank emissions with the Vapor Recovery Unit (VRU) as represented in the GCP-O&G #8189 for the Nandina CTB pursuant to GCP-O&G, Specific Condition A209.A *Vapor Recovery Unit or Department Approved Equivalent***

### **Violation 3 Background**

56. GCP-O&G, Specific Condition A209A, *Vapor Recovery Unit or Department-approved Equivalent*, states in relevant part:

“The permittee shall at all times operate the VRU as a closed vent system that captures and routes all VOC and HAP emissions ...back to the process stream or to a sales pipeline and does not vent to the atmosphere.”

[NMED Exhibit 21 at 28].

57. Ameredev’s GCP-O&G Registration #8189 emissions calculation form for the Nandina CTB (Air Emissions Calculation Tool, dated Jan 21, 2019) states: “Emissions will be

captured by the VRU at 95% efficiency with 100% control.” [NMED Exhibit 4 at PDF 32].

58. In the response to “Tanks VOC Control Method, Represent VRU/ULPC Downtime Emissions at the Tank,” Ameredev indicated “NA” (i.e. “not applicable”). [NMED Exhibit 4 at PDF 32].

59. During the onsite inspection of the Nandina CTB on December 31, 2019, AQB personnel observed that the VRUs required to control emissions at the Nandina CTB were not operating. [NMED Exhibit 10 at 2; NMED Exhibit 27].

60. Ameredev personnel stated that all gas from the tanks was being sent to an unregistered flare located at Nandina CTB. In addition, according to the VRU maintenance records from Ameredev, between September 19, 2019, and December 16, 2019, the VRUs were shut down for maintenance at least one day per month. [NMED Exhibit 23].

61. The GCP-O&G emissions calculations for the Nandina CTB represented tank emissions 100% controlled with capture by the VRU. Ameredev did not report a flare nor request emission limits for a flare in the Nandina GCP Registration. [NMED Exhibit 4 at PDF 7-8].

62. The Nandina CTB was modified when Ameredev routed tank emissions to an unregistered flare for combustion instead of through a closed vent system that captures and routes 100% of tank emissions back to the process stream or to a sales pipeline.

### **Violation 3 Summary**

63. New Mexico’s Regulations state:

“For those modifications for which the source will not continue to meet the conditions of the general construction permit after such modification, obtain a construction permit from the department under this part prior to the modification.”

20.2.72.220.D(2) NMAC.

64. Ameredev violated GCP-O&G, Specific Condition A209.A at the Nandina CTB,

when it failed to control tank emissions with VRUs and a closed vent system, as represented in the GCP Registration, and instead routed tank emissions to an unauthorized flare for combustion.

65. NMED observed one (1) occurrence of this violation for which Ameredev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

#### **Violation 4:**

**Failure of Ameredev to complete and/or record inspections of the Azalea CTB vapor recovery units (or “VRUs”) and associated piping from the controlled units pursuant to GCP-O&G, Specific Condition A209.A *Vapor Recovery Unit or Department-approved Equivalent***

#### **Violation 4 Background**

66. GCP-O&G, A209.A, *Vapor Recovery Unit or Department-approved Equivalent* states, in pertinent part:

“Monitoring: At least once per month, the permittee shall inspect the VRU and associated piping from the controlled units, and blowback vessels, for defects that could result in air emissions. . . . Recordkeeping: The permittee shall record the results of the VRU inspections. . . . Reporting: The permittee shall report in accordance with Section B110.”

**[NMED Exhibit 21 at 28].**

67. On January 2, 2020, AQB personnel requested that Ameredev provide VRU inspection records for the Azalea CTB during operations from December 30, 2017 to December 30, 2019. **[NMED Exhibit 11].**

68. On January 7, 2020, Ameredev responded via email with a table of responses. For the Azalea CTB, the response to this request states, “No responsive records.” **[NMED Exhibit 19, row 22].**

#### **Violation 4 Summary**

69. Ameredev violated GCP-O&G, Specific Condition A209.A, when it failed to complete and/or record any monthly inspections of the VRUs used to control air emissions from

the Azalea CTB vapor recovery towers (VRTs) that recover emissions from Facility storage tanks.

70. NMED observed one (1) occurrence of this violation at Nandina CTB, for which Ameredev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

#### **Violation 5:**

**Failure of Ameredev to perform monthly VRU inspections as of January 7, 2020, used to control air emissions from the Amen Corner CTB VRTs pursuant to GCP-6, Specific Condition A107.A Vapor Recovery Unit (VRU) or Ultra Low-Pressure Separators (ULPS) and Compressor Operation**

#### **Violation 5 Background**

71. GCP-6, Specific Condition A107–A - *Vapor Recovery Unit (VRU) or Ultra Low-Pressure Separators (ULPS) and Compressor* states in relevant part:

“Monitoring: The permittee shall conduct the following monitoring monthly: 1) inspect for proper routing to the VRU . . . 2) inspect each Storage Vessel, VRU ... and associated piping for defects that could result in emissions... , and 3) monitor for proper operation per manufacturer's specifications . . . Recordkeeping: The permittee shall record the results of the VRU inspections...”

[NMED Exhibit 20 at 11].

72. On January 2, 2020, AQB personnel requested VRU inspection records from Ameredev personnel for the Amen Corner CTB for operations from December 30, 2017 to December 30, 2019. [NMED Exhibit 11].

73. On January 7, 2020, Ameredev stated in their response to the request that there were no records of VRU inspections at Amen Corner CTB as of December 30, 2019. [NMED Exhibit 26].

#### **Violation 5 Summary**

74. Ameredev violated GCP-O&G, Specific Condition A209.A, when it failed to complete and/or record monthly inspections, as of December 30, 2019, of the VRUs used to control



air emissions from the Amen Corner CTB vapor recovery towers (VRTs) that recover emissions from that facility's storage tanks.

75. NMED observed one (1) occurrence of this violation at Amen Corner CTB for which Ameredev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

#### **Violation 6:**

**Failure of Ameredev to limit each of the Facilities pph and tpy emission rates to the facility-specific emission limits listed in each certified and approved Application and Registration form pursuant to GCP-6, Specific Condition A100.D, *Part A Facility Specific Requirements* and GCP-O&G, Specific Condition A106.C *Allowable Hourly and Annual Emissions***

#### **Violation 6 Background**

76. GCP-6, Specific Condition A100.D – *Description* states:

“The allowable VOC emissions from each Storage Vessel, including fugitive, startup, shutdown, and maintenance emissions, shall not exceed the total requested allowable emissions in the current Application Form (registration form).”

[NMED Exhibit 20 at 1].

77. GCP-O&G, Specific Condition A106.C. – *Facility: Allowable Emissions – Allowable Hourly and Annual Emission Limits* states in relevant part:

“Requirement: For each regulated emission unit in the Registration Form, the emissions specified in the Registration Form shall be the allowable emission limits in this Permit.”

[NMED Exhibit 21 at 7].

78. At the time the violations occurred, there were no requested or authorized emission limits for produced gas flaring at any of the Facilities; emission limits for combustion of produced gas were zero.

79. Between October 25, 2019, and April 27, 2020, AQB received ten (10) final EERs from Ameredev pertaining to the Facilities, through the AQBCR system. Each EER reported emission rates for Facility flare, unit FL-1, exceeding its zero pound per hour (“pph”) and tons per

year (“tpy”) emission limits required by their GCPs from produced gas flaring. Ameredev reported each excess emission event as an emergency that lasted from 66 to 6300 hours. Overall, Ameredev emitted through its operations at the Facilities 7,648,210 total pounds of excess emissions of the regulated air pollutants nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOCs), sulfur dioxide (SO<sub>2</sub>), and hydrogen sulfide (H<sub>2</sub>S). [NMED Exhibits 8]. AQB denied all Affirmative Defense Demonstration (“ADD”) claims submitted by Ameredev for these excess emissions. [NMED Exhibit 18].

80. On September 2, 2022 in response to the NOV, Ameredev provided (confidential) records documenting that Ameredev started drilling and routing produced oil and gas to all of the Facilities, before the contractual In-Service Date, or deadline for Ameredev’s third-party gas processor to start accepting and processing Ameredev’s produced gas, containing up to 20,000 parts per million by volume (“ppmv”) of H<sub>2</sub>S.

81. To start drilling and production, Ameredev combusted 100% of its produced sour gas through facility flares and continued to drill knowing they would need to illegally flare the produced gas. [NMED Exhibit 15].

#### **Violation 6 Summary**

82. Ameredev violated its pph and tpy permitted emissions limits pursuant to GCP-6, Specific Condition 100.D and GCP-O&G, Specific Condition A106 when it unlawfully routed all produced sour gas to Facility flares for combustion.

83. NMED alleges the total quantity of excess emissions, 7,648,210 total pounds of nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOCs), sulfur dioxide (SO<sub>2</sub>), and hydrogen sulfide (H<sub>2</sub>S) combined from these violations for which Ameredev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

### **Violation 7:**

**Failure of Ameredev to comply with operational requirements and representations made in permit Application and Registrations for each Facility flare, unit FL-1, pursuant to GCP-6, Specific Condition A108.A - *Flare Operation*; and GCP-O&G, Specific Condition A207.B – *Pilot Flame, Visible Emissions, and Operational Requirements* and General Condition B101.A – *Legal***

### **Violation 7 Background**

84. GCP-6, Part A – *Facility Specific Requirements*, Specific Condition A108.A – *Flare Operation* states in relevant part:

Requirement: . . . 4) The flare shall be equipped with a system to ensure that it is operated with a flame present at all times . . . Monitoring: The permittee shall continuously monitor the presence of the flare pilot flame using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame.

**[NMED Exhibit 20 at 12]**

85. GCP-O&G, Specific Condition A207.B – *Pilot Flame, Visible Emissions, and Operational Requirements*, states in pertinent part:

Requirement: Compliance with the allowable emission limits for flare(s) in the Registration Form shall be demonstrated by the following: . . . 2) The flare shall combust only gas streams represented in the Registration Form . . . 4) For flares with a continuous pilot flame or an auto-igniter, the flare shall be equipped with a system to ensure that the flare is operated with a flame present at all times that gas is sent the flare . . . 8) The flare shall be operated with no visible emissions except for periods not to exceed a total of sixty (60) seconds during any fifteen (15) consecutive minutes . . . Monitoring: 1) For flares with a continuous pilot or an auto igniter, the permittee shall continuously monitor the presence of a flare pilot flame using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame . . . 3) When any visible emissions are observed, the permittee shall perform a Method 22 observation while the flare pilot flame is present to certify compliance with the visible emission requirements.”

**[NMED Exhibit 21 at 24-25].**

86. GCP-6, General Condition B101.A – *Legal* states in relevant part:

Unless modified by conditions of this permit, the permittee shall construct or modify and operate the Facility in accordance with all representations of the current

application and supplemental submittals that the Department relied upon to determine compliance with applicable regulations and ambient air quality standards.

**[NMED Exhibit 20 at 16].**

87. Ameredev's audit disclosure letter received by the AQB on January 28, 2020, stated in part:

The alarm systems are not set up to continuously record alarms, which is a monitoring and recordkeeping requirement. Also, with respect to each of the tank batteries, the flares did not only combust gas streams represented in the registration forms. As previously disclosed, the flares have been used to combust associated gas shut-in by Salt Creek Midstream. With respect to Nandina tank battery, Ameredev is aware of instances during which the flare operated with visible emissions, but Ameredev did not conduct Method 22 inspections.

**[NMED Exhibit 12 at PDF 9].**

#### **Violation 7 Summary**

88. Ameredev violated GCP-6, Specific Condition A108.A at the Amen Corner CTB by failing to equip the flare pilot monitoring equipment with an alarm system and violated GCP-6, General Condition B101.A by failing to combust only gas streams that were represented in the Application / Registration Form.

89. Ameredev violated GCP-O&G, Specific Condition A207.B(2) at the Azalea, Firethorn, Nandina and Red Bud CTBs when it combusted gas streams in the flare that were not represented in the Application / Registration Forms for each facility.

90. Ameredev violated GCP-O&G, Specific Condition A207.B(4) at the Azalea, Firethorn, Nandina and Red Bud CTBs when it failed to equip the flare pilot monitoring equipment with an alarm system.

91. Ameredev violated GCP-O&G, Specific Condition A207.B(8) at the Nandina CTB by operating a flare with visible emissions without keeping records of any Method 22 observations.

92. NMED observed eleven (11) occurrences of this violation: two (2) for Amen Corner CTB, two (2) for Azalea, two for Firethorn, two for Red Bud, and three (3) for Nandina for which Ameredev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

### **Violation 8:**

**Failure of Ameredev to submit notifications of the anticipated date of initial startup not less than 30 days prior to the date pursuant to GCP-6 and GCP-O&G, General Condition B110.B(1) General Reporting Requirements**

### **Violation 8 Background**

93. GCP-6 and GCP-O&G General Condition B110.B - *General Reporting Requirements* states:

The permittee shall notify the Air Quality Bureau's Compliance and Enforcement Section using the current Submittal Form posted to NMED's Air Quality web site under Compliance and Enforcement/Submittal Forms in writing of, or provide the Department with (20.2.72.212.A and B): (1) the anticipated date of initial startup of each new or modified source not less than thirty (30) days prior to the date. Notification may occur prior to issuance of the permit, but actual startup shall not occur earlier than the permit issuance date.

**[NMED Exhibit 20 at 22-23; NMED Exhibit 21 at 38].**

94. Based on a review of records provided by Ameredev on January 17, 2020, AQB determined that Ameredev did not notify the Department of the initial startup of any of the Facilities. Notifications submitted by Ameredev on March 6, 2020, reported the following start-up dates: Amen Corner CTB –November 28, 2019; Azalea CTB – December 26, 2018; Firethorn CTB – March 14, 2019; Nandina CTB – July 29, 2019; and Red Bud CTB – March 7, 2019.

**[NMED Exhibit 24].**

### **Violation 8 Summary**

95. Ameredev violated GCP-6 and GCP-O&G, General Condition B110.B(1) when it

failed to notify the Department of the anticipated startup dates of five Facilities, information for which the Department relies on to meet its enforcement obligations.

96. NMED observed five (5) occurrences at the Amen Corner CTB, Azalea CTB, Firethorn CTB, Nandina CTB, and Red Bud CTB, of this violation for which Amererev is subject to penalties pursuant to the NMED-AQB Civil Penalty Policy.

#### **EFFECTIVE DATE**

97. The Effective Date of this Order shall be the date upon which this Order is signed by the NMED Secretary or designee.

#### **COMPLIANCE ORDERS**

98. NMSA 1978, § 74-2-12(A) authorizes the New Mexico Secretary of Environment (“Secretary”) to issue a compliance order requiring compliance with a regulation or permit.

99. Pursuant to the NMED Delegation Order dated March 24, 2023, the Environmental Protection Division Director may approve the commencement of a civil enforcement action with concurrence by the Secretary.

100. The Secretary has concurred with this enforcement action.

101. Amererev is ordered to take the following corrective actions for the violations specified in Sections I through VIII above.

#### **Order 1:**

##### **Cease and Desist Excess Emissions at All Amererev Facilities Located in New Mexico**

102. Amererev shall cease and desist from excess emissions that do not qualify for an affirmative defense pursuant to 20.2.7.111 NMAC; 20.2.7.112. NMAC; and 20.2.7.113 NMAC.

103. Beginning no later than 30 days from the Effective Date, Amererev shall calculate and submit by the 15<sup>th</sup> of each month, reports of actual pph and tpy emission rates from each

emissions unit at each Ameredev facility operating in New Mexico. Calculations shall be submitted in sortable and editable Excel spreadsheets and in PDF. Reports shall be submitted for two years from the Effective Date.

104. For flares, tpy emission rates shall be reported as daily rolling 365-day totals. For all other equipment, tpy emission rates shall be reported as monthly rolling 12-month totals.

105. Ameredev shall initiate prompt corrective action for any exceedances and report according to 20.2.7 NMAC.

### **Order 2: Submit Construction Permit Applications**

106. Within 60 days of the Effective Date, Ameredev shall apply for non-GCP construction permits pursuant to 20.2.72, 20.2.74, or 20.2.79 NMAC as applicable to replace GCP-O&G permits for Amen Corner, Azalea, Firethorn, Nandina, and Red Bud CTBs.

107. Upon issuance or denial of each construction permit, the Department will cancel each existing GCP-O&G.

108. For any canceled permits, Ameredev shall remove or decommission equipment from the facility not permitted by a new construction permit. “Decommission” and “Decommissioning” applies to units left on site (not removed) and is defined as the complete disconnecting of equipment, emission sources or activities from the process by disconnecting all connections necessary for operation (i.e., piping, electrical, controls, ductwork, etc.).

109. Each permit application shall include the following:

- a. Facility-wide tpy emission limit caps of NO<sub>x</sub>, CO, SO<sub>2</sub>, VOC, PM<sub>2.5</sub>, and H<sub>2</sub>S, including emissions from exempt standby generators (20.2.72.202.B(3) NMAC); fire pump engines (20.2.72.202.A(4) NMAC); emissions units or activities with a potential emission rate of no more than ½ tpy (20.2.72.202.B(5)

NMAC); and from routine or predictable startup, shutdown, and maintenance activities (20.2.7 NMAC);

- b. Permit requirements for standby or emergency generators and fire pump engines;
- c. Production limits corresponding to assumptions used in emissions calculations and limits;
- d. Compliance with 40 CFR § 60, Subpart OOOOa of all existing and future tanks, including the assessment of covers and closed vent systems used to control tank emissions pursuant to 40 CFR § 60.5411a(d)(a)(i) and (ii);
- e. Compliance with 40 CFR § 60.18 of all existing and future flares and submittal of manufacturer specifications for each flare and the applicable evaluation pursuant to 40 CFR § 60.18(c) through (f); and
- f. Daily rolling 365-day total tpy emissions calculations and records for flares.

**Order 3: Conduct Third-Party Audit of all other Ameredev New Mexico Facilities**

110. Ameredev shall hire an independent, third-party contractor to complete an audit of all New Mexico facilities not subject to this enforcement action owned and/or operated by Ameredev.

111. AQB shall approve the contractor selected by Ameredev for this purpose.

112. The contractor shall have experience in the oil and gas industry, have not completed any work for Ameredev in the past five (5) years and shall certify that no other work will be performed for Ameredev facilities in the three (3) years following the audit.

113. The audit shall start within 60 days of the Effective Date, shall be completed within nine (9) months of the Effective Date, and a final, certified report submitted to AQB within ten



(10) months of the Effective date.

114. Ameredev facilities subject to the third-party audit shall minimally include all tank batteries, all gas processing facilities, all compressor stations, all power generating stations, all water treatment facilities, all well sites, and all associated gathering lines and piping.

115. The third-party audit shall include the following for each of the Ameredev facilities audited:

- a. Facility name, location, and any current AQB notices of intent (NOI) or permit numbers.
- b. A current list of and status of all wells sending produced oil, associated gas, and other hydrocarbons to each facility.
- c. A list of all stationary equipment, regardless of exemption status, that are sources of regulated air pollutants including unit number, description, make, model, serial number, capacity, construction and manufacture dates, and dates of initial startup.
- d. For all equipment, the regulatory citations of all applicable emissions standards, notifications, records, and reporting required in 40 CFR § 60 and 40 CFR § 63.
- e. A list and information of all control equipment, including capture efficiency, control efficiency, make, model, maintenance requirements and other processes to which emissions from regulated sources are routed to or controlled by.
- f. The calculations of the potential to emit (PTE), as defined at 20.2.74.7.AO NMAC, of each emissions source and of each facility.

**Order 4: Propose Mitigation Projects for NMED Approval**

116. Within 30 days of the Effective Date, Ameredev shall propose, subject to NMED

approval, projects to mitigate excess emissions that occurred between 2019-2020. Costs of such projects shall not be creditable toward the assessed civil penalties and shall be borne solely by Ameredev. “Mitigation project” shall mean a project or projects to remedy, reduce, or offset past excess emissions resulting from Ameredev’s alleged violations of the Act, Regulations, and/or permits in this matter.

### **CIVIL PENALTIES**

117. Section 74-2-12(A) of the Act authorizes the Secretary to issue a compliance order assessing a civil penalty for a violation of the Act, the Regulations, or a condition of a permit issued under the Act.

118. Section 74-2-12(B) of the Act authorizes the Secretary to assess a civil penalty of up to fifteen thousand dollars (\$15,000.00) per day of non-compliance for each violation under Section 74-2-12(A).

119. Pursuant to the NMED Delegation Order dated March 24, 2023, the Environmental Protection Division Director may approve the commencement of a civil enforcement action with concurrence by the Secretary.

120. The Secretary has concurred with this enforcement action.

121. For the violations described in Sections I through VIII, the Department has calculated, and hereby assesses, a civil penalty of \$40,336,818.00 consistent with the NMED-AQB Civil Penalty Policy. **[NMED Exhibit 13]**. Table 5 lists the violations, subject Facilities, and penalty per violation.

<b>Violation</b>	<b>Facilities</b>	<b>Penalty Amount</b>
Failure to construct or modify and operate as represented in Applications or Registrations, modifying five facilities	Amen Corner CTB Azalea CTB Firethorn CTB	\$75,370.00

<b>Violation</b>	<b>Facilities</b>	<b>Penalty Amount</b>
without approval pursuant to GCP-6 General Condition B101.A or GCP-O&G, Specific Condition A100	Nandina CTB Red Bud CTB	
Failure to obtain a regular, individual construction permit from the Department before modifying five Facilities pursuant to GCP-6 General Condition C101.D(1) or GCP-O&G General Condition C101.C(1)	Amen Corner CTB  Azalea CTB  Firethorn CTB  Nandina CTB  Red Bud CTB	\$207,069.00
Failure to operate and control tank emissions with the Vapor Recovery Unit (VRU) as represented in the GCP-O&G #8189 Registration pursuant to Specific Condition A209.A	Nandina CTB	\$153,720.00
Failure to complete and/or record monthly inspections of the VRUs used to control tank emissions pursuant to GCP-O&G, Specific Condition A209.A	Azalea CTB	\$75,600.00
Failure to complete and/or record monthly inspections of the VRUs used to control tank emissions pursuant to GCP-6, Specific Condition A107.A	Amen Corner CTB	\$25,200.00
Failure to limit pound per hour emission rates from each Facility's flare, unit FL-1, to the limits required by each permit pursuant to GCP-6, Specific Condition A106.D or GCP-O&G, Specific Condition A106.C	Amen Corner CTB  Azalea CTB  Firethorn CTB  Nandina CTB  Red Bud CTB	\$38,913,811.00
Failure to comply with operational requirements for each Facility flare, Unit FL1,	Amen Corner CTB	\$848,548.00

<b>Violation</b>	<b>Facilities</b>	<b>Penalty Amount</b>
pursuant to GCP-6, Specific Condition A108.A or GCP-O&G, Specific Condition A207.B	Azalea CTB Firethorn CTB Nandina CTB Red Bud CTB	
Failure to submit notifications of the anticipated date of initial startup no less than 30 days prior to the date pursuant to GCP-6, General Condition B110.B(1) or GCP-O&G General Condition B110.B(1)	Amen Corner CTB Azalea CTB Firethorn CTB Nandina CTB Red Bud CTB	\$37,500.00

122. Within thirty (30) days of the Effective Date, Ameredev shall pay a civil penalty of \$40,336,818.00.

123. Payment shall be made to the *State of New Mexico General Fund, NMED-Air Quality Bureau, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505* by certified or corporate check, or by wire transfer (ACH deposit). On the date that delivery of funds is initiated, notify the Air Quality Bureau Enforcement Manager by email at [ENV-AQB.Settlement.Notification@state.nm.us](mailto:ENV-AQB.Settlement.Notification@state.nm.us) and notify the Enforcement Specialist at [cember.hardison@env.nm.gov](mailto:cember.hardison@env.nm.gov)

Certified or corporate checks must be sent to the following address:

New Mexico Environment Department  
Air Quality Bureau  
c/o Compliance and Enforcement Manager  
525 Camino de los Marquez, Suite 1  
Santa Fe, New Mexico 87505

Wire transfers must be made to Wells Fargo Bank as follows:

Wells Fargo Bank, N.A.  
100 W Washington Street, Floor 20  
Phoenix, AZ 85003  
Routing Transit Number: 121000248  
Deposit Account Number: 4123107799  
Descriptor: NMED-AQB-C&E

124. If Ameredev fails to make timely and complete payment of the civil penalty pursuant to Paragraphs 101 and 102, and unless the Department and Ameredev agree to extend the time for payment of the civil penalty, Ameredev shall pay a stipulated penalty of \$1,500.00 per day for each day the payment is not timely or complete.

125. If Ameredev fails to complete the corrective actions pursuant to Paragraph 122, and unless the Department and Ameredev agree to extend the time for completion of the requirements, Ameredev shall pay a stipulated penalty of \$1,500.00 per day for each day each requirement is not timely or complete.

#### **ADMINISTRATIVE COMPLIANCE COSTS**

126. The Department will invoice Ameredev in the amount of \$412,960 for administrative compliance costs incurred to date that are associated with this matter. To the extent that Ameredev does not resolve this matter within thirty (30) days, including the payment of the civil penalty of \$40,336,818.00, Ameredev will continue to accrue additional administrative compliance costs of up to \$2,400 per day.

#### **NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING**

127. Pursuant to Section 74-2-12(C) of the Act and the Department's adjudicatory procedures at 20.1.5.200 NMAC, Ameredev may request a hearing by filing a written request for a public hearing with the hearing clerk no later than 30 days after receipt of this Order. The request

for hearing shall include an Answer:

- a. Admitting or denying each allegation. Any allegation which is not specifically denied shall be deemed to be admitted. Ameredev may assert that it has insufficient knowledge of any alleged finding of fact, and such finding shall be deemed to be denied;
- b. Asserting any affirmative defense upon which Ameredev intends to rely. Any affirmative defense not asserted in the Answer, except an affirmative defense asserting lack of subject matter jurisdiction, shall be deemed waived.
- c. Signed under oath or affirmation that the information contained therein is true and correct to the best of the signatory's knowledge; and
- d. Attaching a copy of this Order.

128. This Order shall become final upon Ameredev's receipt of the Order, unless Ameredev files a Request for Hearing and Answer as set forth above. Ameredev may file a Request for Hearing and Answer at the following address:

Madai Corral, Paralegal/Hearing Clerk  
Office of Public Facilitation  
New Mexico Environment Department  
1190 St. Francis Drive  
Santa Fe, New Mexico 87505  
Phone: 505-490-5803  
Email: [Madai.corral@env.nm.gov](mailto:Madai.corral@env.nm.gov)

129. The public hearing shall be governed by the Department's adjudicatory procedures at 20.1.5 NMAC, a copy of which is attached to this Order as NMED Exhibit 25.

#### **SETTLEMENT CONFERENCE**

130. Ameredev may confer with the Department regarding settlement at any time, but a settlement conference or request for a settlement shall not extend or waive the deadline for filing

a Request for Hearing or Answer. Ameredev may appear at a settlement conference either pro se or through legal counsel. The Secretary or an appropriate designee shall execute any settlement as part of a Stipulated Final Order. Any Stipulated Final Order shall resolve all issues raised in this Order, shall bind all parties to this Order, and shall not be appealable. To confer regarding settlement, contact:

Chris Vigil, Assistant General Counsel  
New Mexico Environment Department  
121 Tijeras Ave. NE, Ste. 1000  
Albuquerque, New Mexico 87102  
Phone: (505) 469-4696  
Email: [christopherj.vigil@env.nm.gov](mailto:christopherj.vigil@env.nm.gov)

### **TERMINATION**

131. This Order shall terminate upon approval of the Secretary or an appropriate designee of a Stipulated Final Order.

### **NEW MEXICO ENVIRONMENT DEPARTMENT**

**BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
Michelle Miano, Director  
Environmental Protection Division  
New Mexico Environment Department

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of June 2023, a copy of the foregoing Administrative Compliance Order was mailed via certified mail-return receipt requested and by email to:

Anthony Seach, General Counsel  
Ameredev II, LLC  
2901 Via Fortuna, Suite 600  
Austin, TX 78746  
[aseach@ameredev.com](mailto:aseach@ameredev.com)

/s/ Chris Vigil  
Chris Vigil, Assistant General Counsel  
New Mexico Environment Department



State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Cabinet Secretary

**Dylan M. Fuge, Division Director**  
Oil Conservation Division



**BY CERTIFIED ELECTRONIC MAIL**

Christie Hanna  
Regulatory Coordinator  
Ameredev Operating, LLC  
2901 Via Fortuna,  
Suite 600  
Austin, TX 78746  
[channa@ameredev.com](mailto:channa@ameredev.com)

**NOTICE OF VIOLATION**

**S BIG OAK TREE 26 36 31 FEDERAL COM #128H (30-025-49256)**

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

(1) *Alleged Violators:* Ameredev Operating, LLC, OGRID 372224 (“Operator”).

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

**19.15.5.11 ENFORCEABILITY OF PERMITS AND ADMINISTRATIVE ORDERS:** *A person who conducts an activity pursuant to a permit, administrative order or other written authorization or approval from the division shall comply with every term, condition and provision of the permit, administrative order, authorization or approval.*

**19.15.7.14 SUNDRY NOTICES AND REPORTS ON WELLS (Form C-103):**

**C. Report of commencement of drilling operations.** *Within 10 days following the commencement of drilling operations, the operator shall file a report of commencement on form C-103. The report shall indicate the hour and the date the operator spudded the well.*

**D. Report of results of test of casing and cement job; report of casing alteration.** *The operator shall file a report of casing and cement test within 10 days following the setting of each string of casing or liner. The operator shall file the report on form C-103 and include a detailed description of the test method employed and the results obtained by the test and any other pertinent information 19.15.16.10 NMAC requires. The report shall also indicate the top of the cement and the means by which the operator determined the top. It shall also indicate any changes from the casing program previously authorized by the well.*

**19.15.7.15 REQUEST FOR ALLOWABLE AND AUTHORIZATION TO TRANSPORT OIL AND GAS (Form C-104):** *An operator shall file with the division a complete form C-104 to request the division assign an allowable to a newly completed or re-completed well or a well completed in an additional pool or issue an operator authorization to transport oil or gas from the well.*

**19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):**

*A. Within 45 days following the completion or recompletion of a well, the operator shall file form C-105 with the division accompanied by a summary of special tests conducted on the well, including drill stem tests. In addition, the operator shall file a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached logs and summaries within the specified 45-day period, the division shall withhold the allowable for the well or suspend injection authority, as appropriate, until the operator has complied with 19.15.7.16 NMAC.*

**19.15.7.24 OPERATOR'S MONTHLY REPORT (Form C-115):**

*B. An operator shall file form C-115 using the division's web-based online application on or before the 15th day of the second month following the month of production. An operator may apply to the division for exemption from the electronic filing requirement based upon a demonstration that such requirement would be an economic or other hardship.*

*C. If an operator fails to file a form C-115 that the division accepts, the division shall, within 30 days of the appropriate filing date, notify the operator by electronic mail or letter of its intent to cancel the operator's authorization to transport or inject if the operator does not file an acceptable and complete form C-115. The notice shall inform the operator of the right to request a hearing pursuant to 19.15.4.8 NMAC. If the operator does not either file an acceptable and complete form C-115 or request a hearing on the proposed cancellation within 60 days of the original due date of the form C-115, the division may cancel the operator's authority to transport from or inject into all wells it operates.*

**19.15.16.14.B (3) Directional surveys required.**

*An operator shall run a directional survey on each well drilled pursuant to Subsection B of 19.15.16.14 NMAC. The operator shall file a directional survey, in division-approved format, with the division upon the well's completion. The division shall not approve a form C-104 for the well until the operator files the directional survey. [...]*

**19.15.16.21 WATER USE REPORT:**

*A. For a hydraulically fractured well, an operator shall report, on form C-103 or C-105, the amount of water reported on the disclosure required by Subsection B of 19.15.16.19 NMAC and the breakdown of that amount by (1) produced water; (2) water other than produced water that has 10,000 or more mg/l TDS; (3) water other than produced water that has more than 1,000 mg/l TDS but less than 10,000 mg/l TDS; (4) and water other than produced water that has 1,000 mg/l TDS or less.*

*B. All such reports shall be compiled and reported monthly on the division section of the department website.*

**19.15.27.8 VENTING AND FLARING OF NATURAL GAS:**

**G (2).** *Monthly reporting of vented and flared natural gas. For each well or facility at which venting or flaring occurred, the operator shall separately report the volume of vented natural gas and volume of flared natural gas for each month in each category listed below. Beginning October 1, 2021, the operator shall gather data for quarterly reports in a format specified by the division and submit by February 15, 2022 for the fourth quarter and May 15, 2022 for the first quarter. Beginning April 2022, the operator shall submit a form C-115B monthly on or before the 15th day of the second month following the month*

*in which it vented or flared natural gas. The operator shall specify whether it estimated or measured each reported volume. In filing the initial report, the operator shall provide the methodology (measured or estimated using calculations and industry standard factors) used to report the volumes and shall report changes in the methodology on future forms. The operator shall make and keep records of the measurements and estimates, including records showing how it calculated the estimates, for no less than five years and make such records available for inspection by the division upon request. [...]*

### **S BIG OAK TREE 26 36 31 FEDERAL COM #128H (30-025-49256)**

1. On July 27, 2021, Operator submitted an Application for Permit to Drill (“APD”), which OCD approved July 29, 2021.
2. On February 06, 2022, Operator submitted drilling sundries for surface, intermediate, and production strings, which also reflected a Spud date of August 20, 2021. OCD approved all sundries on March 02, 2022.
3. On February 28, 2022, Operator resubmitted drilling sundries for surface, intermediate and production strings. OCD approved on March 02, 2022.
4. On March 05, 2022, Operator submitted an application for recompletion, which states November 16, 2021, as first production date.
5. On March 10, 2022, Operator submitted a second identical application for recompletion.
6. On March 10, 2022, Operator submitted a C-104 completion packet reflecting first oil date of November 16, 2021.
7. On March 10, 2022, Operator submitted the C-105 with the above C-104. The C-105 reflected that Operator ran a Gamma Ray log. Operator has not submitted this log, or the Water Use report.
8. On March 21, 2023, an interest owner contacted the OCD, claiming they have been receiving royalty checks for the last 14 months but cannot verify the amount is correct as there is no reported production data on the OCD website.
9. On April 18, 2023, OCD conducted a site inspection and confirmed the well was producing.
10. OCD’s database shows no reports of C-115, C-115B, or C-129s for this well.
11. Operator submitted the items in Table 1 late:

Item	Due On	Submitted on	Rule
Spud Notice	8/30/2021	2/6/2022	19.15.7.14.C
Surface Casing Sundry	12/17/2021	2/6/2022	19.15.7.14.D
Surface Casing Cement Top Job	12/18/2021	2/6/2022	19.15.7.14.D
Intermediate Casing Sundry	12/17/2021	2/6/2022	19.15.7.14.D
Production Casing Sundry	12/17/2021	2/6/2022	19.15.7.14.D
C-104	11/16/2021	3/10/2022	19.15.7.15
C-105	12/17/2021	3/10/2022	19.15.7.16

*Table 1, Late Submissions*

12. Operator failed to submit the items in Table 2:

Item	Due On	Submitted on	Rule
C-102 As Drilled	11/16/2021	NA	19.15.5.11
Directional Survey	11/16/2021	NA	19.15.16.14.B
Log Submission of Gamma Ray	12/17/2021	NA	19.15.7.16

Water Use Reports	12/17/2021	NA	19.15.16.21
C-115s for the following months			
Nov-21	Jan-22	NA	19.15.7.24
Dec-21	Feb-22	NA	19.15.7.24
Jan-22	Mar-22	NA	19.15.7.24
Feb-22	Apr-22	NA	19.15.7.24
Mar-22	May-22	NA	19.15.7.24
Apr-22	Jun-22	NA	19.15.7.24
May-22	Jul-22	NA	19.15.7.24
Jun-22	Aug-22	NA	19.15.7.24
Jul-22	Sep-22	NA	19.15.7.24
Aug-22	Oct-22	NA	19.15.7.24
Sep-22	Nov-22	NA	19.15.7.24
Oct-22	Dec-22	NA	19.15.7.24
Nov-22	Jan-23	NA	19.15.7.24
Dec-22	Feb-23	NA	19.15.7.24
Jan-23	Mar-23	NA	19.15.7.24
Feb-23	Apr-23	NA	19.15.7.24
Mar-23	May-23	NA	19.15.7.24
C-115Bs for the following reporting periods			
Quarter 4 2021	Feb-22	NA	19.15.27.8
Quarter 1 2022	May-22	NA	19.15.27.8
Apr-22	Jun-22	NA	19.15.27.8
May-22	Jul-22	NA	19.15.27.8
Jun-22	Aug-22	NA	19.15.27.8
Jul-22	Sep-22	NA	19.15.27.8
Aug-22	Oct-22	NA	19.15.27.8
Sep-22	Nov-22	NA	19.15.27.8
Oct-22	Dec-22	NA	19.15.27.8
Nov-22	Jan-23	NA	19.15.27.8
Dec-22	Feb-23	NA	19.15.27.8
Jan-23	Mar-23	NA	19.15.27.8
Feb-23	Apr-23	NA	19.15.27.8
Mar-23	May-23	NA	19.15.27.8

*Table 2, Missing Submissions*

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

- 1) Submit all C-115 Production Reports.
- 2) Submit all C-115B Venting and Flaring Reports.
- 3) Submit the Water Use Report.
- 4) Submit the Gamma Ray Log and Directional Survey.
- 5) Continue to submit all monthly reports.

(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 described above and consistent with applicable law, OCD proposes the following sanctions (one or more of which may ultimately be selected):

**Civil Penalties:** OCD proposes a cumulative total of **\$2,412,000** for forty-two separate violations related to the **S BIG OAK TREE 26 36 31 FEDERAL COM #128H (30-025-49256)** as detailed in the civil penalty calculations, attached and incorporated as **Exhibit A**. The civil penalties were calculated as of June 14, 2023. OCD may recalculate the civil penalties for ongoing 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.

**Revocation of Authorization to Transport:** OCD also notifies Operator that if this NOV results in a Division or Commission order that it intend to review whether to revoke Operator's authorization to transport for this or any other well for which Operator has failed to submit production reports. Any such revocation will be subject to applicable requirements at 19.15.4.8 NMAC.

**Demand for Third-party Verification:** In the process of reviewing the compliance of the referenced well, OCD identified numerous deficiencies in reporting required pursuant to 19.15.27 NMAC. OCD notes that Operator appears to have submitted quarterly and monthly C-115B reports generally, however, information related to the **S BIG OAK TREE 26 36 31 FEDERAL COM #128H (30-025-49256)** and other specific wells or facilities appears to have been omitted from the C-115B reports. OCD further observes that no C-129 reports have been received for this well. As such, Operator's submitted waste data and natural gas capture percentage require third-party verification. Pursuant to 19.15.27.9.C NMAC, Operator is required to retain a third party approved by the Division to conduct an audit of its operations. The audit must "*verify any data or information collected,*" "*make recommendations to correct or improve the collection and reporting of data and information*" by the operator, and "*submit a report of the verification and recommendations to the division.*" Please be advised that you must submit your proposed third party to the OCD no later than July 14, 2023. Following approval, the audit report must be submitted to the OCD ***no later than August 18, 2023***, absent a demonstration of need acceptable to the OCD. Finally, the rule requires that an operator implement the recommendations coming out of any such third-party audit in the manner approved by the Division. Once your report is received, the Division will provide its review and approval of or make any recommendations about implementation of its natural gas waste rule, which may include making corrections to past reports.

*(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 September 7, 2023. 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.

(7) *Audit Request*: For approval of a third party to verify your reporting, and if you have any questions about the third-party verification requirements of the rule, contact Jesse Tremaine, at (505) 231-9312, or [jessek.tremaine@emnrd.nm.gov](mailto:jessek.tremaine@emnrd.nm.gov) and Justin Wrinkle at (505) 670-0802 or [justin.wrinkle@emnrd.nm.gov](mailto:justin.wrinkle@emnrd.nm.gov).

For more information regarding this NOV, please contact Jesse Tremaine, Assistant General Counsel, at (505) 231-9312 or [jessek.Tremaine@emnrd.nm.gov](mailto:jessek.Tremaine@emnrd.nm.gov) or Chris Moander, Assistant General Counsel, at (505) 709-5687 or [chris.moander@emnrd.nm.gov](mailto:chris.moander@emnrd.nm.gov).

Regards,

  
Dylan M. Euge  
Director

6/29/2023

Date

cc: EMNRD-OGC



**State of New Mexico**  
**Environment Department**  
**Energy, Minerals and Natural  
Resources Department**

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**Michelle Lujan Grisham**  
Governor

**James C. Kenney**  
Cabinet Secretary, Environment Department

**Sarah Cottrell Propst**  
Cabinet Secretary, Energy, Minerals  
and Natural Resources Department

June 29, 2023

**VIA UPS**

Jason M. DeLorenzo  
Douglas E. Swanson Jr.  
***Managing Partners***  
**ENCAP INVESTMENTS**  
9651 Katy Fwy  
Sixth Floor  
Houston, Texas 77024

**Re: Significant Regulatory Problems with Ameredev Upstream Operations in New Mexico**

Mr. DeLorenzo and Mr. Swanson,

We write on behalf of the State of New Mexico to express our alarm at the operational practices of one of EnCap Investments' portfolio companies – Ameredev II, LLC and Ameredev Operating, LLC (collectively "Ameredev").

Today, the New Mexico Environment Department ("NMED") and the New Mexico Energy, Minerals and Natural Resources Department ("EMNRD") announced significant enforcement actions against Ameredev. These actions are based on alleged violations that show, at a minimum, an ignorance of applicable state rules, or at worst, a flagrant and willful disregard for state rules. Such rules exist to keep New Mexicans healthy and safe, and Ameredev's alleged violations appear to put these values at risk. While our agencies will address these alleged violations directly with Ameredev management, it is our position that these concerns must be also brought to EnCap Investments' attention as they raise questions about the adequacy of the resources provided to Ameredev in support of their operations and necessary institutional controls.

Please note, both NMED and EMNRD continue to evaluate Ameridev's compliance with applicable state rules, which evaluation may result in additional violations in the future. The current actions taken by NMED and EMNRD are briefly summarized below.

NMED's Air Quality Bureau issued an Administrative Compliance Order (the "Order") and proposed a civil penalty of \$40,336,818 to Ameridev for numerous alleged air quality violations at five of Ameridev's facilities. In sum, Ameridev actively extracted oil and natural gas without any means to transport it, resulting in excess emissions of over 7.5 million pounds of hydrogen sulfide, sulfur dioxide, nitrogen oxides, carbon monoxide and volatile organic compound emissions. These pollutants are known to cause serious health issues, including respiratory issues, disorientation, impaired cognition, convulsions, and even death. In addition, Ameridev's excess emissions contribute to rising ozone levels in the Permian Basin, an area which the U.S. Environmental Protection Agency has indicated may require stricter air quality permitting thresholds in both New Mexico and Texas. Alleged violations addressed in the Order include:

- **Violation 1.** General Construction Permit-6 ("GCP-6"), General Condition B101.A and General Construction Permit-Oil & Gas ("GCP-O&G"), Specific Condition A100: Failure to construct or modify and operate the Amen Corner, Azalea, Firethorn, Nandina, and Red Bud CTBs in accordance with representations in each facility's GCP-6 or GCP-O&G Registration Form;
- **Violation 2.** GCP-6, General Condition C101.D(1) and GCP-O&G, General Condition C101.C(1): Failure to obtain an individual construction permit before making changes to equipment and/or operations that prevented each facility from meeting its GCP-6 or GCP-O&G requirements;
- **Violation 3.** GCP-O&G, Specific Condition A209.A: Failure to operate and control tank emissions with the vapor recovery unit as represented in the GCP-O&G #8189 for the Nandina CTB;
- **Violation 4.** GCP-O&G, Specific Condition A209.A: Failure to complete and/or record vapor recovery unit inspections at the Azalea CTB;
- **Violation 5.** GCP-6, Specific Condition A107.A: Failure to complete and/or record monthly vapor recovery unit inspections of the vapor recovery units used to control air emissions from the Amen Corner CTB vapor recovery towers;
- **Violation 6.** GCP-6, Specific Condition A100.D and GCP-O&G, Specific Condition A106.C: Failure to limit the pound per hour and ton per year emissions from flare, unit FL-1, to its authorized GCP-6 emission limits at the Amen Corner, Azalea, Firethorn, Nandina, and Red Bud CTBs;
- **Violation 7.** GCP-6, Specific Condition A108.A and General Condition B101.A – Legal; and GCP-O&G, Specific Condition A207.B: Failure to comply with operational requirements and representations made in permit registrations for flare, unit FL-1, at the Amen Corner, Azalea, Firethorn, Nandina and Red Bud CTBs;
- **Violation 8.** GCP-6 and GCP-O&G, General Condition B110.B(1) – General Reporting Requirements: Failure to submit notifications of the anticipated date of initial start-up no less



than 30 days prior to the date is a violation at the Amen Corner, Azalea, Firethorn, Nandina, and Red Bud CTBs.

Ameredev has 30 days to respond to NMED's Order and pay the penalty or request a hearing.

In a separate action, EMNRD's Oil Conservation Division ("OCD") issued a Notice of Violation ("NOV") and proposed civil penalty of \$2,412,000 dollars to the S Big Oak Tree 26 36 31 Federal Com #128H (30-025-49256) well (the "Facility") for a host of violations of OCD's rules. Most notably, Ameredev failed to file required production (Form C-115) or natural gas waste (Form C-115B) reports; filings that are a critical component of Ameredev properly reporting its production and demonstrating compliance with OCD's waste rules, which themselves are a key component of New Mexico climate change policy. Other required reports were submitted but were unacceptably late. A preliminary review of Ameredev's other facilities suggests that there may be similar problems across the company's portfolio. OCD's NOV requires:

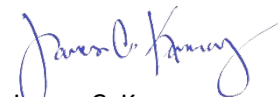
- 1) Immediate correction of the issues identified at the Facility;
- 2) Payment of a civil penalty; and
- 3) Ameredev to undertake an audit of its other facilities to identify any similar issues.

The NOV also signals that if a division or commission order is issued because of the NOV, OCD intends to then review whether it should revoke Ameredev's authority to transport given its significant compliance issues. Finally, OCD notes that its rules permit the denial of operatorship to another entity if "...an officer, director, partner in the applicant or person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC," 19.15.9.8(B)(2).

While Ameredev is directly responsible for responding to the allegations, it is critical for EnCap Investments, as its owner, to be apprised of the gravity of Ameredev's compliance issues. At this time, both NMED and EMNRD recommend EnCap Investments notify all oil and natural gas operators in its portfolio of Ameredev's compliance issues and that you encourage such operators to conduct regulatory self-audits and disclose any potential violations to our agencies.

If you have questions regarding this letter, please contact Michelle Miano, Environmental Protection Division Director, NMED, at [michelle.miano@env.nm.gov](mailto:michelle.miano@env.nm.gov) or (505) 479-2596 or Dylan Fuge, Oil Conservation Division Director, EMNRD, at [dylan.fuge@emnrd.nm.gov](mailto:dylan.fuge@emnrd.nm.gov) or (505) 490-2551.

Sincerely,



James C. Kenney  
Cabinet Secretary  
Environment Department



Sarah Cottrell Propst  
Cabinet Secretary  
Energy, Minerals and Natural Resources Department



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

**Air Quality Bureau**  
**NOTICE OF VIOLATION**

<b>TRACKING NUMBER:</b>	AMDV-Multi-2001	<b>ICIS CASE NUMBER:</b>	NM000A200188896
<b>COMPANY NAME:</b>	Ameredev II, LLC	<b>FACILITY NAME(S):</b>	Amen Corner, Azalea, Firethorn, Nandina, and Red Bud Central Tank Batteries
<b>PERMIT(S):</b>	GCP-6 #7835; and GCP-O&G #s 7601M1, 7836M1, 8189, and 7839M1	<b>SOURCE CLASS:</b>	TV (Amen Corner, Azalea, Nandina, and Red Bud) SM $\geq$ 80 (Firethorn)
<b>INSPECTION DATE:</b>	December 30, 31, 2019	<b>EARLIEST DISCOVERY:</b>	October 25, 2019
<b>SELF-REPORTED:</b>	No	<b>*NRV, FRV or HPV:</b>	HPV
<b>FACILITY LOCATION(S):</b>	Various locations in Lea County, New Mexico	<b>CONTACT PERSON:</b>	Dayeed Khan (737) 300-4700
<b>MAILING ADDRESS:</b>	2901 Via Fortuna Suite 600 Austin, TX 78746	<b>COUNTY:</b>	Lea
<b>AGENCY INTEREST ID(S):</b>	38439 38183 38441 38838 38438	<b>AQB AIRS NUMBER(S):</b>	35-0251423 35-0251328 35-0251424 35-0251603 35-0251427

This Notice of Violation (NOV) is a written record of the Air Quality Bureau's finding that a violation of Air Quality Control Regulations or Air Quality Permit Conditions has occurred. A NOV is issued each time a violation is observed or discovered. This NOV may subject you to monetary penalties through administrative, civil, or criminal prosecution.

Each violation set forth in this NOV has been evaluated in accordance with the U.S Environmental Protection Agency's (EPA) Guidance on Federally Reportable Violations for Clean Air Act Stationary Sources (September 2014) and Timely and Appropriate Enforcement Response to High Priority Violations (August 2014). The overall assessment of this enforcement case reflects the highest level determined.

**NRV:** Non-Reportable Violation  
**FRV:** Federally Reportable Violation  
**HPV:** High Priority Violation

If you have questions or believe any statement in this notice is erroneous, please contact Cember Hardison, Enforcement Specialist, at (505) 629-6688 or [Cember.Hardison@state.nm.us](mailto:Cember.Hardison@state.nm.us). If you are represented by counsel, please contact Lara Katz, Assistant General Counsel, at (505) 577-6178 or [lara.katz@state.nm.us](mailto:lara.katz@state.nm.us).

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**Air Quality Bureau Official**

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**Date**

<b>Company:</b>	Ameredev II, LLC	<b>Inspection By:</b>	Sherri Paul, Cindy Hollenberg
<b>Facility:</b>	Amen Corner Central Tank Battery Azalea Central Tank Battery Firethorn Central Tank Battery Nandina Central Tank Battery Red Bud Central Tank Battery	<b>NOV Prepared By:</b>	Cember Hardison
<b>NOV #:</b>	AMDV-Multi-2001	<b>NRV, FRV, or HPV:</b>	FRV
<b>Permit #:</b>	GCP-6 #7835 (Amen Corner CTB) GCP-O&G #7601M1 (Azalea CTB) GCP-O&G #7836M1 (Firethorn CTB) GCP-O&G #8189 (Nandina CTB) GCP-O&G #7839M1 (Red Bud CTB)	<b>Date of Discovery:</b>	December 30, 2019

**VIOLATION 1:** GCP-6, General Condition B101-A – *Legal*; GCP-O&G, Specific Condition A100 – *Introduction and Applicability*

**Number of Claims: 5**

**Requirements:**

GCP-6, General Condition B101.A – *Legal* states, in pertinent part: “Unless modified by conditions of this permit, the permittee shall construct or modify and operate the Facility in accordance with all representations of the current application and supplemental submittals that the Department relied upon to determine compliance with applicable regulations and ambient air quality standards.”

GCP-Oil and Gas (GCP-O&G), Specific Condition A100 – *Introduction and Applicability* states, in pertinent part: “The Facility shall operate as specified in the Registration Form. The emission limits and equipment specified in the Registration Form are federally enforceable and shall become the terms and conditions of this Permit.”

**Description:**

NMED issued the respective GCPs on the following dates:

Amen Corner CTB	GCP-6 #7835	May 31, 2018
Azalea CTB	GCP-O&G #7601M1	October 3, 2019
Firethorn CTB	GCP-O&G #7836M1	October 2, 2019
Nandina CTB	GCP-O&G #8189	February 28, 2019
Red Bud CTB	GCP-O&G #7839M1	October 3, 2019

On August 12, 2019, NMED received a citizen complaint about increased flaring at a facility meeting the location information for Azalea Central Tank Battery (CTB). On September 9, 2019, a Bureau inspector received another complaint about large amounts of flaring by Ameredev.

On December 30 and 31, 2019, the Bureau conducted inspections at Ameredev’s Amen Corner CTB, Azalea CTB, Firethorn CTB, Nandina CTB, and Red Bud CTB (collectively, the “Facilities”). During these inspections, Bureau inspectors observed multiple pieces of equipment at the Facilities that were not included in Ameredev’s GCP registration forms. On January 7, 2020, Ameredev provided to the Bureau a list of all equipment located at each of the Facilities, verifying the unregistered equipment identified by the Bureau, and identifying additional unregistered equipment at all five Facilities.

Based on the Bureau's inspections and the equipment records provided by Ameredev, Ameredev had, among other changes, doubled the crude oil storage capacity at the Amen Corner and Nandina CTBs, installed combustors and/or a second flare at each of the five Facilities, and installed generator engines at the Amen Corner, Azalea, and Firethorn CTBs. See Attachment 1 - Ameredev Equipment Permitted and Unpermitted which lists the equipment from registration forms, Bureau inspections, and equipment list provided by Ameredev.

Subsequent to the Bureau inspections, Ameredev submitted registrations to modify their GCPs. Table 1, below, lists the GCP modifications authorizing construction and operation of the existing, unpermitted equipment:

**Table 1: Summary of GCP Modifications to add equipment**

Facility	GCP #	Registration Received	GCP issued
Amen Corner CTB	GCP-O&G #7835M1	May 8, 2020	June 5, 2020
Azalea CTB	GCP-O&G #7601M2	May 15, 2020	June 12, 2020
Firethorn CTB	GCP-O&G #7836M2	April 24, 2020	May 22, 2020
Nandina CTB	GCP-O&G #8189M1	March 25, 2020	April 24, 2020
Red Bud CTB	GCP-O&G #7839M2	April 15, 2020	May 15, 2020

**Conclusion:**

The failure of Ameredev to construct or modify and operate the Amen Corner CTB in accordance with all representations of the current application (GCP-6 #7835) and supplemental submittals that the Department relied upon to determine compliance with applicable regulations and ambient air quality standards is a violation of GCP-6 General Condition B101.A.

The failure of Ameredev to operate the Azalea CTB as specified in the registration form for GCP-O&G #7601M1 is a violation of GCP-O&G Specific Condition A100.

The failure of Ameredev to operate the Firethorn CTB as specified in the registration form for GCP-O&G #7836M1 is a violation of GCP-O&G Specific Condition A100.

The failure of Ameredev to operate the Nandina CTB as specified in the registration form for GCP-O&G #8189 is a violation of GCP-O&G Specific Condition A100.

The failure of Ameredev to operate the Red Bud CTB as specified in the registration form for GCP-O&G #7839M1 is a violation of GCP-O&G Specific Condition A100.

**Additional Information Required:**

The following additional information shall be submitted within the specified timeframes:

1. Within 15 days of receipt of this NOV, Ameredev shall provide a list of all equipment at facilities in New Mexico, noting any differences with current permits or registrations. Facilities shall include all upstream facilities (including wells with documentation as to where all hydrocarbon-containing products are sent), midstream facilities and downstream facilities.
2. Within 15 days of receipt of this NOV, Ameredev shall submit a list of all New Mexico facilities and associated permits or NOI registrations. Included in the list will be the name of

the facility, the permit number and type or NOI registration number (as applicable), the legal location of the facility, and documentation, including actual and potential emissions calculations, to demonstrate whether a permit or NOI registration is required.

<b>Company:</b>	Ameredev II, LLC	<b>Inspection By:</b>	Sherri Paul, Cindy Hollenberg
<b>Facility:</b>	Amen Corner Central Tank Battery Azalea Central Tank Battery Firethorn Central Tank Battery Nandina Central Tank Battery Red Bud Central Tank Battery	<b>NOV Prepared By:</b>	Cember Hardison
<b>NOV #:</b>	AMDV-Multi-2001	<b>NRV, FRV, or HPV:</b>	FRV
<b>Permit #:</b>	GCP-6 #7835 (Amen Corner CTB) GCP-O&G #7601M1 (Azalea CTB) GCP-O&G #7836M1 (Firethorn CTB) GCP-O&G #8189 (Nandina CTB) GCP-O&G #7839M1 (Red Bud CTB)	<b>Date of Discovery:</b>	October 25, 2019

**VIOLATION 2:** GCP-6, General Condition C101 – *Revision Process, D(1) Changes that Prevent Meeting General Permit Limits*

GCP-O&G, General Condition C101 – *Revision Process, C(1) Changes that Prevent Meeting General Permit Limits*

**Number of Claims: 5**

**Requirements:**

GCP-6, General Condition C101 – *Revision Process, D(1) Changes that Prevent Meeting General Permit Limits*, states: “Changes or equipment additions that prevent the Facility from meeting the requirements of GCP-6 shall not occur before the owner or operator applies for and is issued an individual construction permit under 20.2.72.200 NMAC.”

GCP-6, Specific Condition A100 – *Description*, Paragraph E states, in pertinent part: “The potential emission rate (PER) of the permitted Facility . . . shall not exceed the total potential emission rates in Table 100.A and Table 100.B. . . . Any Facility with a PER greater than the amounts in Table 100.A or Table 100.B does not qualify for GCP-6.”

GCP-6, Table 100.A provides GCP-6 PER limits as follows:

***Table 100.A: Potential Emission Rate (PER) of the Facility***

Pollutant*	Emissions (pounds per hour)	Emissions (tons per year)
Nitrogen Oxides (NOx)	less than 10	less than 25
Carbon Monoxide (CO)	less than 10	less than 25
Volatile Organic Compounds (VOCs) from Storage Vessels or Truck Loading	**	No PER Limit
Sulfur Dioxide (SO2)	less than 10	less than 25
Total Suspended Particulates (TSP)	less than 2.5	less than 25
Particulate Matter less than 10 microns (PM10)	less than 2.5	less than 25
Particulate Matter less than 2.5 microns (PM2.5)	less than 2.5	less than 25
Hydrogen Sulfide (H2S)	less than 0.5	less than 5
Lead	less than 10	less than 5

GCP-O&G, General Condition C101 – *Revision Process, C(1) Changes that Prevent Meeting General Permit Limits* states: “Changes or equipment additions that prevent the Facility from meeting the requirements of GCP-Oil and Gas shall not occur before the owner or operator applies for and is issued an individual construction permit under 20.2.72.200 NMAC.”

GCP-O&G, Specific Condition A106.A – *Facility: Allowable Emissions* states, in pertinent part: “In order to qualify for this permit, the Facility’s annual emissions may not exceed those amounts in Table 106.” GCP-O&G, Table 106 provides the maximum emission rates as follows:”

**Table 106: Maximum Eligible Emission Rates to Register Under this Permit**

Pollutant	Tons per Year (tpy)
Nitrogen Oxides (NOx)	95 tpy
Carbon Monoxide (CO)	95 tpy
Volatile Organic Compounds (VOC)* (non-fugitive)	95 tpy
Sulfur Dioxide	95 tpy
Hydrogen Sulfide	25 tpy
Total Suspended Particulates (TSP)	25 tpy
Particulate Matter less than 10 Microns (PM10)	25 tpy
Particulate Matter less than 2.5 Microns (PM2.5)	25 tpy
Any Individual Hazardous Air Pollutant (HAP)	< 10 tpy
Total HAP	< 25 tpy

**Description:**

On August 12, 2019, NMED received a citizen complaint about increased flaring at a facility meeting the location information for the Azalea CTB. On September 9, 2019, a Bureau inspector received another complaint about large amounts of flaring by Ameredev. The inspector contacted the company representative to discuss the complaints and asked whether Ameredev had submitted excess emissions reports.

On October 7, 2019, Ameredev requested an in-person meeting with NMED to discuss the ongoing flaring events at the Facilities. On November 7, 2019, Ameredev representatives and Bureau personnel met in Santa Fe, New Mexico. At the meeting, Ameredev explained the cause of their excessive flaring and presented a long-term plan for mitigation.

Between October 25, 2019 and April 27, 2020, Ameredev submitted ten (10) final excess emissions reports (EERs) pertaining to the Facilities, through the Air Quality Bureau Compliance Reporting system (AQBCR). See Attachment 2 – Final EERs submitted by Ameredev to AQBCR.

Each EER reported emission rates of one or more regulated air pollutants from each Facility flare, unit FL-1, exceeding the ton per year (tpy) thresholds allowed by the Permits. Ameredev reported each excess emission event as an emergency that lasted from 66 to 6300 hours. See Attachment 3 – Summary of EEs reported to AQBCR.

Ameredev submitted Affirmative Defense Demonstrations (ADDs) for five of the excess emissions events for which EERs were submitted, claiming the events were emergencies. Pursuant to 20.2.7.113 NMAC, the Bureau rejected all the affirmative defense claims because Ameredev failed to minimize excess emissions by continuing to flare for several months after becoming aware of the excess emissions. Because these were not emergency events, the affirmative defense claims



were denied. See Attachment 4 – Affirmative Defense Evaluation.

According to the EERs submitted by Ameredev, each Facility began flaring gas on the same date that the Facilities started operating, or shortly thereafter. Table 2 lists each Facility startup date and the earliest excess emissions start date.

**Table 2 Dates of Facility Startup and Earliest Excess Emission Event**

Facility	Facility Startup per Ameredev	Earliest reported excess emission start date
Amen Corner CTB	11-28-2019	11-28-2019
Azalea CTB	12-26-2018	12-27-2018
Firethorn CTB	3-14-2019	3-14-2019
Nandina CTB	7-29-2019	7-29-2019
Red Bud CTB	3-7-2019	3-7-2019

Attachment 3 shows that the excess emissions events caused each of the Facilities to exceed one or more of the tpy thresholds in GCP-6, Table 100.A, or in GCP-O&G, Table 106. Amen Corner CTB exceeded the GCP-6 threshold for CO, sulfur dioxide (“SO<sub>2</sub>”) and hydrogen sulfide (“H<sub>2</sub>S”); Azalea CTB exceeded the GCP-O&G threshold for CO and SO<sub>2</sub>; Firethorn CTB exceeded the GCP-O&G threshold for SO<sub>2</sub>; Nandina CTB exceeded the GCP-O&G threshold for CO and VOC; and Red Bud CTB exceeded the GCP-O&G threshold for CO, VOC and SO<sub>2</sub>.

Because the excess emissions events at each Facility caused the tpy emission rates to exceed GCP thresholds, none of the Facilities qualify for GCPs, and must therefore apply for individual construction permits pursuant to 20.2.72.200.A(2) NMAC or 20.2.74.200 NMAC.

**Conclusion:**

The failure of Ameredev to obtain an individual construction permit for the Amen Corner CTB prior to making changes to its equipment and/or operations that prevented the Facility from meeting the requirements of the GCP-6 is a violation of GCP-6, General Condition C101.D(1).

The failure of Ameredev to obtain an individual construction permit for the Azalea CTB, the Firethorn CTB, the Nandina CTB and the Red Bud CTB prior to making changes to its equipment and/or operations that prevented the Azalea CTB, Firethorn CTB, Nandina CTB and Red Bud CTB from meeting the requirements of the GCP-O&G is a violation of GCP-O&G General Condition C101.C(1).

**Additional Information Required:**

The following additional information shall be submitted within the timeframes specified:

1. Within 15 days of receipt of this NOV, Ameredev shall submit monthly rolling 12-month total tpy emissions, from December 1, 2018 to March 31, 2022, for each of the five (5) Facilities. Calculations shall be in Excel format and calculation formulas shall be visible.

**Company:** Ameredev II, LLC

**Inspection By:** Sherri Paul, Cindy Hollenberg

**Facility:** Nandina Central Tank Battery

**NOV Prepared By:** Cember Hardison

**NOV #:** AMDV-Multi-2001

**NRV, FRV, or HPV:** FRV

**Permit #:** GCP-O&G #8189

**Date of Discovery:** December 31, 2019

**VIOLATION 3:** GCP-O&G, Specific Condition A209.A – *Vapor Recovery Unit or Department-approved Equivalent*

**Number of Claims: 1**

**Requirement:**

GCP-O&G Specific Condition A209A – *Vapor Recovery Unit or Department-approved Equivalent* states, in pertinent part: "The permittee shall at all times operate the vapor recovery unit ("VRU") as a closed vent system that captures and routes all VOC and HAP emissions . . . back to the process stream or to a sales pipeline, and does not vent to the atmosphere."

**Description:**

On August 12, 2019, the NMED received a citizen complaint about increased flaring at a facility meeting the location information for Azalea CTB. On September 9, 2019, a Bureau inspector received another complaint about large amounts of flaring by Ameredev.

Ameredev's GCP-O&G #8189 emissions calculation form for the Nandina CTB (Air Emissions Calculation Tool, dated Jan 21, 2019) states, "Emissions will be captured by the VRU at 95% efficiency with 100% control." On page 29 of the emissions calculation form, in the response to "Tanks VOC Control Method, Represent VRU/ULPC Downtime Emissions at the Tank," Ameredev indicated "NA" (not applicable).

During the onsite inspection of the Nandina CTB on December 31, 2019, Bureau personnel observed that the VRUs required to control emissions at the Nandina CTB were not operating. Ameredev personnel stated that all gas from the tanks was being sent to an unregistered flare located at Nandina CTB. In addition, according to the maintenance records from Ameredev, between September 19, 2019, and December 16, 2019, the VRUs were shut down for maintenance at least one day per month.

The GCP-O&G emissions calculations for the Nandina CTB represented tank emissions 100% controlled with capture by the VRU. Ameredev did not report a flare nor request emission limits for a flare in the Nandina GCP Registration.

The Facility was modified when Ameredev routed tank emissions to an unregistered flare for combustion instead of through a closed vent system that captures and routes 100% of tank emissions back to the process stream or to a sales pipeline.

**Conclusion:**

The failure of Ameredev to operate and control tank emissions with the VRU as represented in the GCP-O&G #8189 for the Nandina CTB Facility is a violation of GCP-O&G, Specific Condition A209.A.

**Company:** Ameredev II, LLC

**Inspection By:** Sherri Paul, Cindy Hollenberg

**Facility:** Azalea Central Tank Battery

**NOV Prepared By:** Cember Hardison

**NOV #:** AMDV-Multi-2001

**NRV, FRV, or HPV:** FRV

**Permit #:** GCP-O&G #7601M1

**Date of Discovery:** January 7, 2020

**VIOLATION 4:** GCP-O&G, Specific Condition A209.A *Vapor Recovery Unit or Department-approved Equivalent*

**Number of Claims: 1**

**Requirement:**

GCP-O&G, A209.A, *Vapor Recovery Unit or Department-approved Equivalent* states, in pertinent part: "Monitoring: At least once per month, the permittee shall inspect the VRU and associated piping from the controlled units, and blowback vessels, for defects that could result in air emissions. . . . Recordkeeping: The permittee shall record the results of the VRU inspections. . . . Reporting: The permittee shall report in accordance with Section B110."

**Description:**

On August 12, 2019, NMED received a citizen complaint regarding increased flaring at a facility meeting the location information for Azalea CTB. On September 9, 2019, a Bureau inspector received another complaint regarding large amounts of flaring by Ameredev.

On January 2, 2020, Bureau personnel requested that Ameredev provide VRU inspection records for the Azalea CTB. On January 7, 2020, Ameredev responded via email with a table of responses. For the Azalea CTB, the response to this request states, "No responsive records."

**Conclusion:**

The failure of Ameredev to complete and/or record VRU inspections at the Azalea CTB is in violation of GCP-O&G, Specific Condition A209.A.

<b>Company:</b>	Ameredev II, LLC	<b>Inspection By:</b>	Sherri Paul, Cindy Hollenberg
<b>Facility:</b>	Amen Corner Central Tank Battery	<b>NOV Prepared By:</b>	Cember Hardison
<b>NOV #:</b>	AMDV-Multi-2001	<b>NRV, FRV, or HPV:</b>	FRV
<b>Permit #:</b>	GCP-6 #7835	<b>Date of Discovery:</b>	January 7, 2020

**VIOLATION 5:** GCP-6, Specific Condition A107.A *Vapor Recovery Unit (VRU) or Ultra Low-Pressure Separators (ULPS) and Compressor Operation*

**Number of Claims: 1**

**Requirement:**

GCP-6, Specific Condition A107.A – *Vapor Recovery Unit (VRU) or Ultra Low-Pressure Separators (ULPS) and Compressor – Operation*, states in pertinent part:

*Requirement: “If a VRU [] is installed as a method of reducing or capturing VOCs prior to or after the Storage Vessel, emissions shall be routed at all times to the VRU. The VOC emissions shall be captured and routed via a closed loop system back to the process stream such that no emissions are vented to the atmosphere.”*

*Monitoring: “The permittee shall conduct the following monitoring on a monthly basis: 1) inspect for proper routing to the VRU; 2) inspect each Storage Vessel, VRU and associated piping for defects that could result in emissions . . . ; and 3) monitor for proper operation per manufacturer's specifications.”*

*Recordkeeping: “The permittee shall record . . . the results of all monthly equipment inspections . . . .”*

**Description:**

On August 12, 2019, the NMED received a citizen complaint about increased flaring at a facility meeting the location information for Azalea CTB. On September 9, 2019, a Bureau inspector received another complaint about large amounts of flaring by Ameredev.

Bureau personnel requested VRU inspection records on January 2, 2020, from Ameredev personnel for the Amen Corner CTB. Records received by the Bureau on January 7, 2020, stated that there were no records of VRU inspections at Amen Corner CTB as of December 30, 2019. In the records response, line 5, a note was added: “See AC-5 files; please note that the "Magnolia" CTB as noted in some records is now called the "Amen Corner" CTB.”

**Conclusion:**

The failure of Ameredev to complete and/or record monthly vapor recovery unit inspections, as of January 7, 2020, of the VRUs used to control air emissions from the Amen Corner CTB vapor recovery towers (VRTs) is in violation of GCP-6, Specific Condition A107.

**Additional Information Required:**

The following additional information shall be submitted within the timeframes specified:

1. Within 15 days of issuance of this NOV, Ameredev shall confirm or deny that the Magnolia CTB is the same as the Amen Corner CTB (renamed only). Ameredev shall clearly state the effective date of any name change and explain the permit status for both named Facilities.
2. Within 15 days of issuance of this NOV, Ameredev shall submit documentation to the Bureau of VRU inspections conducted for the Amen Corner CTB and the Magnolia CTB for all of 2020 and 2021 and for the first seven months of 2022.

<b>Company:</b>	Ameredev II, LLC	<b>Inspection By:</b>	Sherri Paul, Cindy Hollenberg
<b>Facility:</b>	Amen Corner Central Tank Battery Azalea Central Tank Battery Firethorn Central Tank Battery Nandina Central Tank Battery Red Bud Central Tank Battery	<b>NOV Prepared By:</b>	Cember Hardison
<b>NOV #:</b>	AMDV-Multi-2001	<b>NRV, FRV, or HPV:</b>	HPV
<b>Permit #:</b>	GCP-6 #7835 (Amen Corner CTB) GCP-O&G #7601M1 (Azalea CTB) GCP-O&G #7836M1 (Firethorn CTB) GCP-O&G #8189 (Nandina CTB) GCP-O&G #7839M1 (Red Bud CTB)	<b>Date of Discovery:</b>	October 25, 2019

**VIOLATION 6:** GCP-6, Specific Condition A100.D – *Description*; and GCP-O&G Specific Condition A106.C *Allowable Hourly and Annual Emissions*

**Number of Claims: 167,683**

**Requirement:**

GCP-6, Specific Condition A100.D – *Description* states: “The allowable VOC emissions from each Storage Vessel, including fugitive, startup, shutdown, and maintenance emissions, shall not exceed the total requested allowable emissions in the current Application Form (registration form).”

GCP-O&G, Specific Condition A106.C. – *Facility: Allowable Emissions – Allowable Hourly and Annual Emission Limits* states in pertinent part: “Requirement: For each regulated emission unit in the Registration Form, the emissions specified in the Registration Form shall be the allowable emission limits in this Permit.”

**Description:**

Between October 25, 2019 and April 27, 2020, the Bureau received ten final EERs from Ameredev pertaining to the Facilities, through the AQBCR system. Each EER reported emission rates from each Facility flare, unit FL-1, exceeding its pound per hour (pph) and tpy emission limits authorized in their GCPs. Ameredev reported each excess emission event as an emergency that lasted from 66 to 6300 hours.

Attachment 3 includes a summary of information from each EER, including activity number, start date, duration, end date, unit number, the total pounds and total tons of emissions of each regulated air pollutant emitted, the identity of each regulated air pollutant and the Facility for which each limit was exceeded. See Attachment 5 – Ameredev Facility Registration Form Emissions Limits, for each of the Facilities.

Regulated air pollutants with excess emissions included NO<sub>x</sub>, CO, VOC, SO<sub>2</sub>, and H<sub>2</sub>S. There were a total of 167,683 exceedances (claims) with a total of 7,641,909.41 pounds of excess emissions.

All Affirmative Defense Demonstrations (“ADD”) for the excess emissions were denied by Bureau staff as documented in Attachment 4.

**Conclusion:**

The exceedance of the pph and tpy emission limits for each regulated air pollutant authorized in the GCPs for flare, unit FL-1 at each of the Facilities is in violation of GCP-6, Specific Condition A100.D (Amen Corner); and GCP-O&G, Specific Condition A106.C (Azalea, Firethorn, Nandina and Red Bud).

**Additional Information Required:**

The following additional information shall be submitted within the timeframes specified:

1. Within 30 days of issuance of this NOV, Ameredev shall provide copies of the contract(s) with Salt Creek Midstream that were in effect at the time the flaring events occurred. Ameredev may claim these documents as Confidential Business Information ("CBI"). Submit any CBI documents in separate electronic files from non-CBI documents and identify the documents as CBI. Ameredev shall additionally provide documentation of the reasons, if any, that the contract(s) were not honored as claimed by Ameredev.
2. Within 30 days of issuance of this NOV, Ameredev shall provide copies of the current contract(s) with any facility for accepting gas from Ameredev production operations. Ameredev may claim these documents as CBI.

<b>Company:</b>	Ameredev II, LLC	<b>Inspection By:</b>	Sherri Paul, Cindy Hollenberg
<b>Facility:</b>	Amen Corner Central Tank Battery Azalea Central Tank Battery Firethorn Central Tank Battery Nandina Central Tank Battery Red Bud Central Tank Battery	<b>NOV Prepared By:</b>	Cember Hardison
<b>NOV #:</b>	AMDV-Multi-2001	<b>NRV, FRV, or HPV:</b>	FRV
<b>Permit #:</b>	GCP-6 #7835 (Amen Corner CTB) GCP-O&G #7601M1 (Azalea CTB) GCP-O&G #7836M1 (Firethorn CTB) GCP-O&G #8189 (Nandina CTB) GCP-O&G #7839M1 (Red Bud CTB)	<b>Date of Discovery:</b>	January 28, 2020

**VIOLATION 7:** GCP-6, Specific Condition A108.A *Flare Operation* and General Condition B101.A – *Legal*; and GCP-O&G, Specific Condition A207.B – *Pilot Flame, Visible Emissions, and Operational Requirements*

**Number of Claims: 11**

**Requirement:**

GCP-6, Part A – *Facility Specific Requirements*, Specific Condition A108.A – *Flare Operation* states in pertinent part:

“Requirement: . . . 4) The flare shall be equipped with a system to ensure that it is operated with a flame present at all times.

\* \* \*

Monitoring: The permittee shall continuously monitor the presence of the flare pilot flame using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame.”

GCP-6, General Condition B101.A – *Legal* states in pertinent part:

“Unless modified by conditions of this permit, the permittee shall construct or modify and operate the Facility in accordance with all representations of the current application and supplemental submittals that the Department relied upon to determine compliance with applicable regulations and ambient air quality standards.”

GCP-O&G, Specific Condition A207.B – *Pilot Flame, Visible Emissions, and Operational Requirements*, states in pertinent part:

“Requirement: Compliance with the allowable emission limits for flare(s) in the Registration Form shall be demonstrated by the following: . . . 2) The flare shall combust only gas streams represented in the Registration Form . . . 4) For flares with a continuous pilot flame or an auto-igniter, the flare shall be equipped with a system to ensure that the flare is operated with a flame present at all times that gas is sent the flare . . . 8) The flare shall be operated with no visible emissions except for periods not to exceed a total of sixty (60) seconds during any fifteen (15) consecutive minutes.



\* \* \*

Monitoring: 1) For flares with a continuous pilot or an auto igniter, the permittee shall continuously monitor the presence of a flare pilot flame using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame . . . 3) When any visible emissions are observed, the permittee shall perform a Method 22 observation while the flare pilot flame is present to certify compliance with the visible emission requirements . . . .”

**Description:**

On August 12, 2019, NMED received a citizen complaint about increased flaring at a facility meeting the location information for Azalea CTB. On September 9, 2019, a Bureau inspector received another complaint about large amounts of flaring by Ameredev.

Ameredev’s letter received by the Bureau on January 28, 2020, stated in part, “The alarm systems are not set up to continuously record alarms, which is a monitoring and recordkeeping requirement. Also, with respect to each of the tank batteries, the flares did not only combust gas streams represented in the registration forms. As previously disclosed, the flares have been used to combust associated gas shut-in by Salt Creek Midstream. With respect to Nandina tank battery, Ameredev is aware of instances during which the flare operated with visible emissions, but Ameredev did not conduct Method 22 inspections.”

**Conclusion:**

Ameredev violated GCP-6, Specific Condition A108.A at the Amen Corner CTB by failing to equip the flare pilot monitoring equipment with an alarm system and violated GCP-6, General Condition B101.A by failing to combust only gas streams that were represented in the Registration (Application) Form.

Ameredev violated GCP-O&G, Specific Condition A207.B(2) at the Azalea, Firethorn, Nandina and Red Bud CTBs when it combusted gas streams in the flare that were not represented in the Registration Forms for each facility.

Ameredev violated GCP-O&G, Specific Condition A207.B(4) at the Azalea, Firethorn, Nandina and Red Bud CTBs when it failed to equip the flare pilot monitoring equipment with an alarm system.

Ameredev violated GCP-O&G, Specific Condition A207.B(8) at the Nandina CTB by operating a flare with visible emissions without keeping records of any Method 22 observations.

<b>Company:</b>	Ameredev II, LLC	<b>Inspection By:</b>	Sherri Paul, Cindy Hollenberg
<b>Facility:</b>	Amen Corner Central Tank Battery Azalea Central Tank Battery Firethorn Central Tank Battery Nandina Central Tank Battery Red Bud Central Tank Battery	<b>NOV Prepared By:</b>	Cember Hardison
<b>NOV #:</b>	AMDV-Multi-2001	<b>NRV, FRV, or HPV:</b>	FRV
<b>Permit #:</b>	GCP-6 #7835 (Amen Corner CTB) GCP-O&G #7601M1 (Azalea CTB) GCP-O&G #7836M1 (Firethorn CTB) GCP-O&G #8189 (Nandina CTB) GCP-O&G #7839M1 (Red Bud CTB)	<b>Date of Discovery:</b>	January 17, 2020

**VIOLATION 8:** GCP-6, General Condition B110(B)(1) – *General Reporting Requirements*; and GCP-O&G, General Condition B110.B(1) – *General Reporting Requirements*

**Number of Claims: 5**

**Requirement:**

GCP-6 and GCP-O&G General Condition B110.B - *General Reporting Requirements* states: “The permittee shall notify the Air Quality Bureau’s Compliance and Enforcement Section using the current Submittal Form posted to NMED’s Air Quality web site under Compliance and Enforcement/Submittal Forms in writing of, or provide the Department with (20.2.72.212.A and B): (1) the anticipated date of initial startup of each new or modified source not less than thirty (30) days prior to the date. Notification may occur prior to issuance of the permit, but actual startup shall not occur earlier than the permit issuance date.”

**Description:**

On August 12, 2019, NMED received a citizen complaint regarding increased flaring at a facility meeting the location information for Azalea CTB. On September 9, 2019, a Bureau inspector received another complaint regarding large amounts of flaring by Ameredev.

Based on a review of records provided by Ameredev on January 17, 2020, the Bureau determined that Ameredev did not notify the Department of the initial startup for any of the Facilities. Notifications submitted by Ameredev on March 6, 2020, reported the following start-up dates: Amen Corner CTB – November 28, 2019; Azalea CTB – December 26, 2018; Firethorn CTB – March 14, 2019; Nandina CTB – July 29, 2019; and Red Bud CTB – March 7, 2019.

**Conclusion:**

The failure of Ameredev to submit notifications of the anticipated date of initial start-up no less than 30 days prior to the date is a violation of GCP-6, General Condition B110.B(1) (Amen Corner facility); and GCP-O&G, General Condition B110.B(1) (Azalea, Firethorn, Nandina and Red Bud facilities).