November 9, 2017

The Honorable Scott Pruitt, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Petition for Rulemaking to Streamline Air Permitting for Oil and Gas Infrastructure Projects in Indian Country

Dear Administrator Pruitt:

The GPA Midstream Association (GPA Midstream) hereby petitions the U.S. Environmental Protection Agency (EPA) to commence rulemaking to streamline air permitting for oil and gas infrastructure projects in Indian Country that will advance the policy set forth in the Presidential Executive Order "Promoting Energy Independence and Economic Growth" issued March 28, 2017.

GPA Midstream has served the U.S. energy industry since 1921. GPA Midstream is composed of nearly 100 corporate members of all sizes that are engaged in the gathering and processing of natural gas into merchantable pipeline gas, commonly referred to in the industry as "midstream activities." Such processing includes the removal of impurities from the raw gas stream produced at the wellhead, as well as the extraction for sale of natural gas liquid products (NGLs) such as ethane, propane, butane and natural gasoline. GPA Midstream members account for more than 90 percent of the NGLs produced in the United States from natural gas processing. Our members also operate hundreds of thousands of miles of domestic gas gathering lines and are involved with storing, transporting, and marketing natural gas and NGLs.

GPA Midstream has worked collaboratively with EPA throughout its process to develop a minor source permitting program for Indian Country, including public comments submitted on August 20, 2014 and December 4, 2015, and several in-person meetings with EPA staff.[1] We greatly appreciate EPA developing a streamlined permitting mechanism in the form of a Federal Implementation Plan (FIP) registration program. However, we believe an opportunity still

[1] *See* GPA Comments on Managing Emissions from Oil and Natural Gas Production in Indian Country; Docket ID Number EPA-HQ-OAR-2011-0151) (Aug. 20, 2014) *and* GPA Midstream Comments on Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Gas Production in Indian Country, Proposed Rule (Docket EPA-HQ-OAR-2014-0606) (Dec. 4, 2015).

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remains to streamline the approval process for oil and gas infrastructure projects and improve other aspects of the program while ensuring that air quality is protected. We support and incorporate by reference the Petition to Revise the FIP filed by the American Petroleum Institute (API) on August 2, 2016, but would like to point out some unique considerations for the midstream sector of the industry in this letter.[2]

1. **EPA Should Develop a Streamlined Synthetic Minor Oil and Gas Permitting Mechanism Under the Tribal Lands New Source Review (NSR) Program, as Many State Agencies Have Done.**

   On July 1, 2011, EPA promulgated a NSR permitting program for minor sources located on Tribal Lands.[3] EPA subsequently identified a need for a streamlined permitting mechanism for the significant number of oil and gas sites located on Tribal Lands, and accordingly promulgated the aforementioned FIP registration program on June 3, 2016.[4] Unfortunately, the FIP registration is restricted to true minor sources, leaving many proposed projects, especially in the midstream sector, with only the option of acquiring a site-specific synthetic minor permit. EPA's regulations provide the agency with an *entire year* to issue a synthetic minor permit.[5] This timeframe delays and even kills some infrastructure projects or causes companies to relocate projects to surrounding areas outside of Indian Country, which creates an uneven playing field for the tribes. Furthermore, the delay in constructing pipeline infrastructure can increase well pad flaring of natural gas thereby causing significant, unnecessary air emissions from the production sector.

   GPA Midstream included these concerns in its comment letter on the FIP rule proposal and also conveyed them in meetings with EPA staff. We noted that many state agencies have for years successfully used streamlined permitting programs for the oil and gas industry to authorize and establish synthetic minor sources. Attached to its comment letter dated December 4, 2015, GPA Midstream provided a table showing the permit types commonly used by oil and gas sites in 10 different states.[6] All of the state permit types listed allow for federally-enforceable limits thereunder. The median construction approval timeline under these state permit options was shown as 30 days, which is in stark contrast to the one year afforded to EPA. These programs provide consistency, predictability, and efficiency, and also create an incentive for operators to reduce emissions below major source thresholds.

[2] Letter from Mr. Howard Feldman (API) to EPA Administrator Gina McCarthy, "Petition to Revise the Federal Implementation Plan for True Minor Oil and Gas Sources on Tribal Lands" (Aug. 2, 2016).
[3] 76 Fed. Reg. 38748 (July 1, 2011).
[4] 81 Fed. Reg. 35944 (June 3, 2016).
[5] 40 C.F.R. § 49.158(b)(7).
[6] GPA Midstream Comments on Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Gas Production in Indian Country, Proposed Rule (Docket EPA-HQ-OAR-2014-0606) (Dec. 4, 2015).

In the response to comments included with the final FIP rule, EPA stated that, "Reviewing Authorities in our Regional Offices have seen no evidence of a high volume of requests for synthetic minor permits from oil and natural gas sources." GPA Midstream believes that this is because many companies relocate projects outside of Indian Country, downsize projects to remain a true minor source, or choose not to pursue projects due to the delay and uncertainty in obtaining a permit. Many GPA Midstream member companies have project examples that substantiate one or more of these reasons. Further, many state agencies process hundreds of synthetic minor permits under streamlined options each year.

In contrast to the upstream sector which must generally place wells based on underlying geology, the midstream sector often has more flexibility in siting a project. For example, a gathering pipeline system may span hundreds of miles both inside and outside of Indian Country. If a compressor station or gas plant needs to be added along the pipeline system, the operator may have a several mile stretch available to choose a location. If a predictable air permit can be obtained from a state agency in a shorter timeframe, the operator is much more likely to choose a location outside of Indian Country.

Moreover, the one year timeframe afforded to EPA to issue permits can significantly alter and even kill some projects. The midstream sector must respond quickly to the needs of its customers, upstream producers, and for many projects it is not possible to allow 12-15 months of lead time to prepare a permit application and wait for EPA approval before even beginning construction. If engineering design and construction are factored in, the timeframe to get a project in-service is extended even further.

However, many midstream projects cannot be known this far in advance. For example, a producer may achieve favorable well results in one area, and quickly adjust a drilling schedule to move rigs to that area. This change can create a need for more gas pipeline takeaway capacity, which can trigger compression and/or natural gas liquids recovery projects. Compressor stations and smaller gas plants can be designed, constructed, and placed into service in several months, which is shorter than the timeframe to get a synthetic minor permit from EPA. Further, modular equipment, such as trailer mounted mechanical refrigeration units for NGL recovery, has become more common in the industry due to the quickness (2-4 months) with which it can be installed and placed into service. The actual emissions from many of these examples are well-below major source thresholds, but a federally enforceable emission limit is necessary to establish synthetic minor status. If midstream infrastructure is not available in time, an unfortunate result can be flaring at the upstream well sites, adding unnecessary air emissions to the basin.

Expediting the time for issuing synthetic minor source permits accords with EPA's FY 2018-2019 priority goal of accelerating permitting decisions. EPA acknowledged that

"[d]elays in the approval of permits … can postpone or prevent manufacturers from building, expanding, or beginning operations, even if the affected operations ultimately may be deemed suitable as proposed." EPA, Draft FY 2018-2022 Strategic Plan (Oct. 2, 2017) at 34. The Agency asserted its commitment "to speeding up approvals of permits and modifications to create certainty for the business community, leading to increased jobs and economic prosperity." *Id.* Although EPA stated that it would collect permitting data for each of its permitting programs in order to "improve efficiencies in all permitting processes and meet our commitments," *id.*, GPA Midstream believes that EPA can streamline the synthetic minor source permitting process for oil and gas infrastructure projects in Indian Country now. As discussed above, the one year limit under 40 C.F.R. § 49.158(b)(7) to issue permits is unnecessarily lengthy, taking a year to do what ten other States can manage within 30 days. Further, EPA's response to this data, asserting that it receives few synthetic minor source applications, provides no coherent support for maintaining the unnecessary one year deadline. Using the available data, EPA should act now to put federal synthetic minor source permitting timelines more in line with those of State agencies.

For these reasons, GPA Midstream petitions EPA to develop a streamlined synthetic minor oil and gas permitting mechanism. GPA Midstream has listed three options below for consideration:

- Amend the FIP to allow it to be used for synthetic minor sources. Note that EPA has previously used a FIP on the Fort Berthold Indian Reservation to create federally enforceable synthetic minor source restrictions.[7]
- Significantly reduce the one year timeframe in 40 CFR §49.158(b)(7) afforded to EPA to issue a synthetic minor permit.
- Create a general permit for the oil and gas industry, as EPA has done for other industries located in Indian Country.

GPA Midstream recognizes other options may also exist, and would welcome the opportunity to work with EPA and other stakeholders to develop the best solution.

2. **<u>Nonattainment</u>.**

In addition to the items above, GPA Midstream strongly suggests that EPA provide a streamlined permitting mechanism for Indian lands that are located in a non-attainment area, for example the Uintah and Ouray Reservation in Utah. The current FIP is only an option in attainment areas leaving a large permitting gap in nonattainment areas. Putting a FIP in place for these areas would allow for continued development of the oil and gas resources on the land. This development provides economic benefits to the Tribes through employment and

[7] See 78 Fed. Reg. 17,839 (Mar. 22, 2013).

royalties. Without this streamlined permitting mechanism, many midstream companies may opt to place their site on land outside of the reservation boundary, disadvantaging the tribes.

Thank you for your consideration of this Petition. Please feel free to contact me at (202) 279-1664 if you need additional information or would like to discuss further.

Sincerely,

Matthew Hite
Vice President of Government Affairs
GPA Midstream Association

cc: Mr. Chris Stoneman, U.S. EPA Office of Air Quality Planning and Standards