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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS**

In the Matter of:	§	
	§	
Saddle Operating, LLC	§	EPA Docket No.
Dallas, Texas	§	CAA-06-2019-3326
	§	
Respondent	§	

CONSENT AGREEMENT AND FINAL ORDER

The Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency ("EPA"), Region 6 ("Complainant") and Saddle Operating, LLC, now known as UPP Operating, LLC, ("Respondent") in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order ("CAFO").

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to sections 113(a)(3) and 113(d)(1)(B) of the Clean Air Act, as amended ("Act" or "CAA"), 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b)(2) and (3), and 22.34.

2. For purposes of this proceeding, Respondent admits the jurisdictional allegations contained herein; however, Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

3. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth herein, and waives all defenses, which have been raised or could have been raised to the claims set forth in this CAFO.

4. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for federal civil monetary penalties for those violations and facts alleged in this CAFO.

5. Respondent consents to the issuance of this CAFO and to the assessment and payment of the stated civil penalty in the amount and by the method set forth in this CAFO.

II. ALLEGATIONS

6. Respondent is a limited liability corporation authorized to do business in the State of Texas.

7. Respondent owns and operates a well identified as Fannin Farms B Unit Well No. 5H, (American Petroleum Institute Number 42-439-34807) which is part of the Fannin Farms Pad, consisting of 10 active natural gas (methane) wells and associated production equipment to include two phase separators and water storage tanks located in Arlington, Tarrant County, Texas ("Facility").

8. At the Facility, the Respondent conducts exploration and production of natural gas from wells, as defined by NAICS code 211130 (natural gas extraction).

9. Methane is an extremely hazardous substance and is identified at 40 C.F.R. Part 68.130 as a flammable regulated substance with a threshold quantity of 10,000 pounds. The Occupational Safety and Health Administration (OSHA) has no permissible exposure limit for methane, but the National Institute for Occupational Safety and Health's (NIOSH) maximum recommended safe methane concentration for workers

during an 8-hour period is 1,000 ppm (0.1 percent). Methane is considered an asphyxiant at extremely high concentrations and can displace oxygen in the blood. Methane can explode at concentrations of 50,000 ppm or more (a level of 5 percent).

10. On Monday, September 10, 2018, the Respondent recognized that sand erosion caused a one-eighth inch (1/8") hole in the nipple downstream of the ball valve assembly, which acted as a flow control device on the Fannin Farms B Unit Well No. 5H. Upon discovery, the well was shut in and the location was secured, and the necessary repairs were made. The ball valve assembly included a lip that disrupted the flow of material through the piping.

11. The Respondent reported the largest chemical released as being approximately 6,771 pounds of methane. EPA's RMP*Comp™, a program used to complete off-site consequence analyses for both worst-case scenarios and alternative scenarios, identified the worst-case scenario of this methane release from a vapor cloud explosion to an estimated distance of 1056 ft. The Facility is surrounded by a neighborhood with the closest residence within 450 ft.

12. On November 12, 2018, the Respondent notified EPA that it had changed the flow control design, by removing the ball valves, at the Fannin Farms B Unit No. 5H well to address the potential of further releases.

13. The hazards associated with improper flow control design at natural gas well sites and the release of hazardous and flammable substances during these types of energy extraction operations are well established within the natural gas processing sector. Specifically, the presence of sand and other particles in production fluids exposes well head components, flow control systems, and downstream equipment to the risk of erosion

damage. Severe material loss due to erosion can result in equipment failure and well blowout risk which can severely impact the safety of personnel and the environment.

14. Pursuant to section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), an owner/operator of a stationary source producing, processing, handling or storing substances listed pursuant to section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, has a general duty to: (1) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (2) design and maintain a safe facility, taking such steps as are necessary to prevent releases; and (3) minimize the consequences of accidental releases that do occur.

15. Respondent is a “person” as that term is defined by section 302(e) of the CAA, 42 U.S.C. § 7602(e).

16. The Facility is a “stationary source” as that term is defined by section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

17. Respondent is the “owner or operator” as those terms are defined by section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), of a stationary source.

18. At the Facility, Respondent produces, processes, handles, or stores substances listed in, or pursuant to, CAA § 112(r)(3) or other extremely hazardous substances identified as such due to toxicity, reactivity, flammability, volatility, or corrosivity.

19. The release of methane at the Facility on September 10, 2018, constituted an “accidental release” as that term is defined by section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

20. Respondent failed to use appropriate hazard assessment techniques, design and maintain a safe facility, and did not take such necessary steps to prevent an accidental

release by not ensuring safety at the Facility by designing a proper and safe flow control system on September 10, 2018. The Respondent failed to follow recognized industry standards relating to flow control systems by using a ball valve for flow control on the wellhead piping. Specifically, Respondent failed to use the proper choke valve for wellhead flow and pressure control, and to detect sand erosion in flowlines caused by abrasive sand particles.

21. Respondent's failure constitutes a violation of the general duty clause in section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

22. Respondent is therefore subject to the assessment of penalties pursuant to sections 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), for at least one day of violation of the general duty clause of section 112(r)(1) of the CAA, 42 U.S.C. §7412(r)(1).

III. TERMS OF SETTLEMENT

A. CIVIL PENALTY

23. Pursuant to the authority granted in sections 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), and taking into consideration the size of the Respondent's business, the economic impact of the penalty on the Respondent's business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by Respondent of penalties previously assessed for the same violation (if any), the economic benefit of noncompliance, and the seriousness of the violation, as well as other factors which justice may require, EPA and Respondent agree that an appropriate penalty to settle this matter is \$32,500.

24. Respondent shall pay the assessed penalty within thirty (30) days of the effective date of this CAFO. Respondent shall pay the assessed civil penalty by certified

check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of three ways: regular U.S. Postal mail (including certified mail), or U.S. Postal Service express mail - the check should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

PLEASE NOTE: Docket number CAA-06-2019-3326 shall be clearly typed on the check to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and the docket number of this CAFO. If payment is made by wire service, the wire transfer instructions shall reference the Respondent's name and address, the case name, and the docket number of this CAFO. The Respondent shall also

send a simultaneous notice of such payment, including a copy of the check and transmittal letter or wire transfer instructions via electronic mail to the following:

Samuel Tates
Chief, Chemical Accident Enforcement Section (ECDAC)
Enforcement and Compliance Assurance Division
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
Tates.samuel@epa.gov

Lorena Vaughn
Regional Hearing Clerk (ORC)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
Vaughn.lorena@epa.gov

Respondent's adherence to these instructions will ensure that proper credit is given when penalties are received in the Region.

25. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

26. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

27. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. PARTIES BOUND

28. This CAFO becoming effective as prescribed below and Respondent's tender of the penalty per the above guidelines shall constitute a complete and full resolution of the Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

29. The provisions of this CAFO shall apply to and be binding upon the parties to this action, their officers, directors, agents, employees, successors, and assigns. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

C. RETENTION OF ENFORCEMENT RIGHTS

30. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or state laws, regulations, or permitting conditions which relate to facts or incidents not alleged in this CAFO.

31. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and

40 C.F.R. Part 68.

32. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants at or from the Facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, state, or local agencies or departments to obtain penalties or injunctive relief under other Federal, state, or local laws or regulations, provided however that this CAFO shall be a full and final resolution of federal civil monetary claims as between the EPA and the Respondent as to the incident described and allegations contained herein.

33. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other appropriate relief relating to the Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to the claims that have been specifically resolved pursuant to this CAFO.

D. COSTS

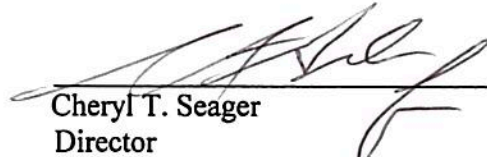
34. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

E. EFFECTIVE DATE

35. This CAFO becomes effective upon filing with the Regional Hearing Clerk.

FOR THE COMPLAINANT:

Date

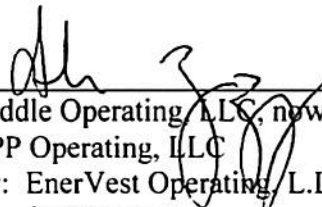


Cheryl T. Seager
Director
Enforcement and Compliance Assurance
Division
U.S. EPA Region 6

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS
CONSENT AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

9-5-19
Date



Saddle Operating, LLC, now known as
UPP Operating, LLC
By: EnerVest Operating, L.L.C.,
its Manager

FINAL ORDER

Pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 9-11-19



Thomas Rucki
Regional Judicial Officer

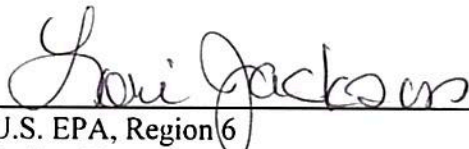
CERTIFICATE OF SERVICE

I hereby certify that the original and a copy of the foregoing Consent Agreement and Final Order (CAFO) was hand-delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy of the CAFO was placed in the United States Mail, to the following by the method indicated:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # 70092820000182842740

Mr. Charles C. Ross
VP – Regulatory Affairs & EHS
Saddle Operating, LLC
5949 Sherry Lane
Suite 1700
Dallas, Texas 75225

Date: 9-11-2019



U.S. EPA, Region 6
Dallas, Texas