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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF: (

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ETC Texas Pipeline Ltd. (

Dubach, Lincoln Parish, Louisiana (

(DOCKET NO. CAA-06-2023-3354

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RESPONDENT (

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CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act (the “CAA” or the “Act”), 42 U.S.C. § 7413(d), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permit (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 (“EPA”). On EPA’s behalf, the Director of the Enforcement and Compliance Assurance Division, EPA Region 6, has been delegated the authority to settle civil administrative penalty and compliance proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

3. ETC Texas Pipeline Ltd. (“ETC” or “Respondent”) is a limited company doing business in the State of Louisiana. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(1)(B) of the Act, 42 U.S.C. § 7413(a)(1)(B).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than a year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. In satisfaction of the notice requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), on December 2, 2022, EPA issued to Respondent a Notice of Violation and Opportunity to Confer (the “NOVOC”) and provided a copy of the NOVOC to the State of Louisiana. In the NOVOC, EPA provided notice to both Respondent and the State of Louisiana that EPA found Respondent committed the alleged violation of Louisiana State Implementation Plan (“SIP”) described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA. Representatives of Respondent and EPA initially discussed the violations alleged in the NOVOC on December 19, 2022, and at various other subsequent times.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

10. The Act is designed “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

11. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in SIPs.

Louisiana State Implementation Plan Requirements

12. Section 109(a) of the CAA, 42 U.S.C. § 7409(a), requires the Administrator of EPA to publish national ambient air quality standards (“NAAQS”) for certain pollutants. The NAAQS establish primary air quality standards to protect public health and secondary standards to protect public welfare.

13. To achieve the objectives of the NAAQS and the CAA, Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each State to adopt a state implementation plan (“SIP”) that provides for the implementation, maintenance, and enforcement of the NAAQS, and submit it to the Administrator of the EPA for approval.

14. The State of Louisiana has adopted a SIP that has been approved by EPA. See 40 C.F.R. Part 52, Subpart T. The provisions of LAC 33:III.501 of the federally-approved

Louisiana SIP govern permit procedures for owners and operators of any source which emits or has the potential to emit any air contaminant in the state of Louisiana.

15. Specifically, LAC 33: III.501.A.1.a of the Louisiana SIP, approved at 81 Fed. Reg. 51341 (August 4, 2016), requires that the owner or operator of any major source which emits or has potential to emit any air contaminant in the State of Louisiana obtain an air quality permit in accordance with LAC 33: III.501.

16. A “major source” is defined as “any stationary source that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant (except for GHGs) excluding any air pollutant regulated solely under section 112(r) of the Clean Air Act.” See LAC 33: III.502.A

17. Relevant to this CAFO, LAC 33: III.501.C.2 requires that “no construction, modification, or operation of a facility which ultimately may result in an initiation of, or an increase in, emission of air contaminants as defined in LAC 33:III.111 shall commence until the appropriate permit fee has been paid (in accordance with LAC 33:III.Chapter 2) and a permit (certificate of approval) has been issued by the permitting authority.”

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. Respondent owns and/or operates the Dubach Cryogenic Plant, located at 201 Oak Street, Dubach, Lincoln Parish, Louisiana 71235 (the “Facility”).

19. At all times relevant to this proceeding, Respondent has owned and/or operated the Facility.

20. Respondent is the owner and/or operator of the Facility within the meaning of 40 C.F.R. § 51.100(f).

21. At all times relevant to this proceeding, Respondent owned and/or operated units that emit Volatile Organic Compounds (“VOCs”) at the Facility.

22. The Facility is a cryogenic natural gas processing plant that receives natural gas via an underground pipeline.

23. The Facility is a “stationary source” within the meaning of Section 112(a)(3) of the Act, 42 U.S.C. § 7412(a)(3), and LAC 33:III.502 of the Louisiana SIP, 81 Fed. Reg. 51341 (August 4, 2016).

24. The Facility is a “major source” within the meaning of Section 112(a)(1) of the Act, 42 U.S.C. § 7412(a)(1); the Act’s Title V program, Section 501(2) of the Act, 42 U.S.C. § 7661(2); 40 C.F.R. § 70.2; and LAC 33:III.502 of the Louisiana SIP, 81 Fed. Reg. 51,341 (August 4, 2016).

25. The Facility is subject to the CAA Title V Federal Operating Permit program.

26. On or about November 1, 2018, Respondent was issued Permit No. 1720-00005-V12 (the “Permit”), an air permit issued under the Louisiana Permit Program. Any unit that emits an air contaminant must be identified in the Permit as an emission unit.

27. The Facility is a cryogenic natural gas processing plant that is a major source as defined LAC 33:III.502.

28. The Facility is subject to LAC 33:III.501.C.2. The safety vent stacks 2 (VS-2) and 4 (VS-4) (the “Safety Vents”) can only release emissions under the activities identified in General Condition XVII of the Permit.

29. EPA contracted helicopter flyovers in Louisiana between August 24 and September 24, 2021, to assess emissions sources using Optical Gas Imaging (“OGI”) technology.

30. The flyover of the Facility at issue in this CAFO was conducted on August 24, 2021. During the flyover, EPA observed unauthorized hydrocarbon emissions, during routine facility operations, from two safety vent stacks directly to the atmosphere.

31. On September 29, 2021, EPA sent Respondent OGI video captures of potentially unauthorized emissions from the Facility. EPA asked Respondent to verify ownership, provide current site-specific permit information, and take any necessary corrective action to address unauthorized hydrocarbon emissions at the Facility. EPA considered information provided by Respondent to determine whether violations occurred at the Facility.

32. On January 24 and March 8, 2022, Respondent provided information to EPA that it had taken the following corrective action measures at the Facility to address the compliance issues observed during the flyovers:

- a. Respondent completed an inspection of Safety Vent Stack 2 (VS-2) and identified a pressure control valve partially open below its set point as the cause of unauthorized emissions. On October 1, 2021, Respondent recalibrated the pressure control valve.
- b. Respondent completed an inspection of Safety Vent Stack 4 (VS-4) and identified a manual valve not fully seated in the closed position as the cause of unauthorized emissions. On October 11, 2021, Respondent fully sealed the manual valve.

33. More than thirty (30) days before the issuance of this CAFO, Respondent was notified of the violations alleged herein. On December 2, 2022, EPA sent Respondent the NOVOC and provided a copy to the State of Louisiana.

34. On December 19, 2022, and on various other occasions, EPA conferred with Respondent regarding the violation alleged herein and provided an opportunity for Respondent to submit additional information or materials.

35. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the OGI video capture, facility permitted operations, and information provided by Respondent. Based on this review, EPA identified alleged violations of the CAA at the Facility as described in Section E of this CAFO.

E. ALLEGED VIOLATIONS

36. The Facility is subject to LAC33:III.501.C.2 of the Louisiana SIP, under which Respondent was and is required not to construct, modify, or operate a facility which ultimately may result in an initiation of, or an increase in, emission of air contaminants until a permit has been issued by the permitting authority.

37. On information and belief, Respondent emitted uncontrolled VOC emissions to the atmosphere without a permit to emit such air contaminants from the Safety Vents.

38. Respondent violated LAC33:III.501.C.2 by emitting hydrocarbons directly to the atmosphere from two safety vent stacks through operations that are not permitted to emit such air contaminants.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

39. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;

- b. neither admits nor denies the specific factual allegations contained in the CAFO;
 - c. consents to the assessment of a civil penalty, as stated below;
 - d. consents to the issuance of any specified compliance or corrective action order¹;
 - e. consents to the conditions specified in this CAFO;
 - f. consents to any stated Permit Action²;
 - g. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
 - h. waives its rights to appeal the Final Order included in this CAFO.
40. For the purpose of this proceeding, Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
 - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;
 - c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);

¹ Although 40 C.F.R. § 22.18(b)(2) requires each subbullet, d. and f. are not applicable to this particular case.

² *See id.*

- d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Western District of Louisiana;
- e. waives any right it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and
- f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other 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 preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

41. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA

has assessed a civil penalty in the amount of \$110,000.00 (the "EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

42. Respondent agrees to:
- a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO; and
 - b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

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

For overnight mail (non-U.S. Postal Service, *e.g.* FedEx), payment should be remitted to:

U.S. Bank
Government Lockbox 979078
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

For Automated Clearinghouse (also known as "remittance express" or "REX"):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White
(301) 887-6548

For Online Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2023-3354 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number CAA-06-2023-3354. Respondent's adherence to this request will ensure proper credit is given when penalties are received for Region 6. Respondent shall also email a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following email addresses:

Colleen McCarthy
U.S. EPA Region 6
mccarthy.colleen01@epa.gov

And

Region 6 Hearing Clerk
U.S. EPA Region 6
Vaughn.Lorena@epa.gov

43. Respondent agrees to pay the following on any overdue EPA Penalty:
- a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).
 - b. Nonpayment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph a. of this Paragraph.

44. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including, but not limited to, attorney's fees incurred by the United States for collection proceedings.

45. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

- a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original

- penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- b. collect the above-referenced debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
 - c. suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

- 46. Within thirty (30) days of the Effective Date of this CAFO, Respondent shall install car seals on all manual valves along safety vent line piping.
- 47. By July 29, 2024, Respondent shall use manufacturer's recommendation to install, calibrate, operate, and maintain instrumentation capable of continuously monitoring flow to the outlet of safety vent stacks ("Flow Indicator") at each safety vent.
- 48. Respondent shall retain Flow Indicator records in 15-minute periods for each monitoring location for a minimum of two (2) years. For each 15-minute period during which flow was indicated, retain Flow Indicator records for a minimum of five (5) years.
- 49. Within thirty (30) days of completing the installation of the devices pursuant to Paragraph 47, Respondent shall complete the following requirements:
 - a. Develop operation and maintenance procedures that, at a minimum, meet the

requirements described in Section IV of Appendix A.

- b. Submit to EPA documentation of the following information: (a) the date the installation of each device was completed; (b) all work orders associated to the installation; (c) the location of each device noted on a Piping and Instrumentation Diagram(s); and (d) the manufacturer specifications for each device. Such documentation shall be emailed to:

Colleen McCarthy
U.S. EPA Region 6
mccarthy.colleen01@epa.gov

50. Within sixty (60) days of the Effective Date of this CAFO, Respondent shall review its operation and maintenance procedures for inspecting tanks, closed-vent systems, control devices, and safety vent stacks and associated pressure control valves at the Facility, and update the procedures, as necessary, to ensure that these procedures, at a minimum, meet the requirements described in Section IV of Appendix A. If Respondent does not have such procedures, it shall create such procedures in accordance with Section IV of Appendix A.

51. Within sixty (60) days of the Effective Date of this CAFO, Respondent will select an independent third-party auditor (the "Auditor") who satisfies the Auditor Qualifications listed in Section I of Appendix A to perform the Independent Audit described in Paragraph 53.

52. Respondent shall bear all expenses of selecting and retaining the Auditor.

53. The Independent Audit shall consist of the following:

- a. Respondent shall (1) provide the Auditor with a copy of this CAFO and all attachments; (2) grant the Auditor reasonable access to the Facility; and (3) provide or otherwise make available any necessary personnel, documents, trainings, and other resources to enable the Auditor to fully perform all

activities required by this CAFO.

- b. Respondent shall ensure that within ninety (90) days of the Effective Date of this CAFO, the Auditor completes all permitting and operations reviews at the Facility in accordance with Section II of Appendix A. The Auditor may conduct additional steps beyond those identified in Section II of Appendix A as part of the permitting and operations review if it determines that such steps are necessary to complete the Audit.
- c. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO to assist the Auditor so that within ninety (90) days of the Effective Date of this CAFO, the Auditor completes the site inspection and evaluation at the Facility in accordance with Section III of Appendix A. The Auditor may conduct additional steps beyond those identified in Section III of Appendix A as part of the site inspection and evaluation if it determines that such steps are necessary to complete the Audit.
- d. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO so that upon completion of subparagraphs (b) and (c) of this Paragraph, the Auditor completes an assessment of the operation and maintenance procedures at the Facility within one hundred twenty (120) days of the Effective Date of this CAFO, in accordance with Section IV of Appendix A. The Auditor may conduct additional steps beyond those identified in Section IV of Appendix A as part of the operations and maintenance review if it determines that such steps are necessary to complete the Audit.

- e. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO so that within forty-five (45) days of the Auditor completing the work described in subparagraph (d) of this Paragraph, the Auditor simultaneously provides a report of the Audit (the "Audit Report") to EPA and Respondent that includes, at a minimum, the information identified in Section V of Appendix A.
- f. If the Auditor provides a draft of the Audit Report to Respondent, it must simultaneously also provide a copy of the draft to EPA.
- g. Respondent shall not assert that any documents reviewed, cited, or relied on by the Auditor and the audit team in undertaking the Audit are privileged as attorney-client communications or attorney work products, even if written for or reviewed by legal staff.
- h. As soon as possible, but no later than sixty (60) days of receipt of the Audit Report, Respondent shall email a letter report to EPA ("Letter Report") containing all information identified in Section VI of Appendix A to the EPA enforcement officer identified in Paragraph 49.

54. Between February 5 and August 2 of 2024, Respondent shall conduct an OGI survey to detect and correct any gas leaks or fugitive emissions from all tanks, control devices, closed vent systems, and safety vent stacks at the Facility.

55. Within thirty (30) days of completing the OGI survey required by Paragraph 54, Respondent shall submit to EPA documentation of the following information: (a) the date and time that the OGI survey was completed; (b) a description of the issue(s) observed; and (c) the nature and timing of all modifications, corrective actions, or other actions planned or undertaken

as a result of the OGI survey. Such documentation shall be emailed to the EPA enforcement officer identified in Paragraph 49.

56. EPA reserves the right to pursue enforcement of any violations identified as a result of Paragraphs 46 through 55.

Additional Terms of Settlement

57. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 46 through 55 (Conditions of Settlement) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

58. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 57 of this CAFO, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until EPA has provided written approval.

59. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. *See* 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

60. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

61. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

62. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: Roland.alexandrea@epa.gov

To Respondent: joe.perez3@energytransfer.com

63. 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. Except as qualified by Paragraph 44 of this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

64. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

65. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 46 through 55 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 46 through 55, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both.

66. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

67. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 46 through 55 is restitution, remediation, or required to come into compliance with the law.

68. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

69. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

70. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$117,468 per day of violation, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

71. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

72. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

H. EFFECTIVE DATE

73. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of ETC Texas Pipeline Ltd., Docket No. 06-2023-3354, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 9.28.23



Eric Amundsen
Group Sr. VP - Operations
ETC Texas Pipeline, Ltd.
By: LG PL, LLC, its general partner

FOR COMPLAINANT:

Date: _____

 Digitally signed by
MARGARET OSBOURNE
Date: 2023.09.28
09:39:27 -05'00'

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

Attachment A

I. Auditor Qualifications

The Auditor shall satisfy the following independence requirements:

1. The Auditor shall be impartial and independent in conducting all third-party audit activities.
2. The Auditor shall receive no compensation or financial benefit from the outcome of the audit, apart from payment for auditing services.
3. The Auditor shall be:
 - a. Knowledgeable about all regulatory requirements, all applicable and generally accepted good engineering practices, and technical elements related to this Facility (e.g. NAICS:211130, Natural Gas Extraction).
 - b. Trained or certified in proper auditing techniques.
4. If the Auditor has performed work for Respondent within the last two (2) years as of the effective date of the contract or agreement between Respondent and the Auditor (the phrase "performed work" shall not include being an auditor in an independent third-party audit that meets the requirements of independence described in this CAFO), the Auditor may not perform elements of the Independent Audit on the same equipment or processes.
5. Respondent may not hire, as either employees or contractors, the Auditor or audit team members for a period of two (2) years following the submission of the final audit report from the Auditor to Respondent (the phrase "hire" shall not include being an auditor in an independent third-party audit that meets the requirements of independence described in this CAFO).
6. The Auditor and audit team members shall each sign and date a conflict-of-interest statement verifying that they are eligible to perform the audit under the terms of this CAFO. As soon as possible, but no later than sixty (60) days after the Effective Date of this CAFO, the signed and dated statement shall be emailed to:

Colleen McCarthy
U.S. EPA Region 6
mccarthy.colleen01@epa.gov
7. Retired employees who otherwise satisfy the requirements of independence may qualify as independent if their sole continuing financial attachment to Respondent are employer-financed or managed retirement and/or health plans.

II. Permitting and Operations Review

The permitting and operations review shall include, at a minimum, the following:

1. For the tanks, closed vent systems, control devices, and safety vent stacks at the Facility, review current permit representations (i.e., applications), current equipment inventories, current reported production and emissions data (for all operating scenarios), and all maintenance and operating logs and repair/replacement work orders generated within the twelve (12) months preceding the Effective Date (including those available from past owners), in order to evaluate and ascertain current or possible recurring non-compliance issues associated with equipment and process controls at the Facility.
2. Review current permit representations for all Insignificant Activities identified in the Facility's permit and evaluate if the equipment is properly permitted.

III. Site Inspection and Evaluation

The site inspection shall consist, at a minimum, of the following at the Facility:

1. For all tanks (including Insignificant Activities tanks):
 - a. Inspect the tanks and associated hatches, valves, gaskets, regulators, and pressure relief devices.
 - b. Evaluate whether the materials used are compatible with the gas compositions and whether they will deteriorate at unexpected rates.
 - c. Evaluate whether emergency pressure relief devices are set at the proper pressure set points.
 - d. Confirm that every thief hatch is either welded to the storage tank or bolt-mounted with a suitable gasket to the storage tank, in accordance with good engineering practices and applicable manufacturer specifications.
2. For all control devices:
 - a. Evaluate whether control devices are operated and maintained in conformance with their designs, including recommendations and specifications provided by the device manufacturers, and in a manner consistent with good air pollution control practices for minimizing emissions.

3. For all safety vent stacks:
 - a. Evaluate whether safety vent stacks are operated and maintained in conformance with their designs, including recommendations and specifications provided by the manufacturers, and in a manner consistent with good air pollution control practices for minimizing emissions.
 - b. Evaluate whether pressure control valves are set at the proper pressure set points.
 - c. Confirm that every valve is open or closed in the appropriate operating position and car seals are in place.
4. Identify and inspect liquid leaks and staining at permitted equipment (i.e., tanks, closed-vent systems, safety vent stacks, boilers, heaters, condensers, reboilers, truck loading equipment, and control devices).
5. Evaluate whether equipment inventories and process operational descriptions for tanks, closed-vent systems, boilers, heaters, condensers, reboilers, truck loading, and control devices are current and accurate.
6. Evaluate whether there are unauthorized emissions during routine operations by conducting an optical gas imaging survey to detect and correct any gas leaks or fugitive emissions from tanks, control devices, closed vent systems, safety vent stacks, control devices, and truck loading operations.

IV. Operation and Maintenance Procedures

For the Facility, review operation and maintenance procedures for inspecting tanks, closed vent systems, control devices, and safety vent stacks and associated pressure control valves to ensure that unauthorized emissions are timely identified and addressed to minimize emissions from such equipment.

The operation and maintenance procedures, at a minimum, shall include written Standard Operating Procedures (“SOPs”) for the following:

1. Conducting inspections of tanks, closed-vent systems, control devices, safety vent stacks, and loading equipment at the Facility.
2. Preventative Maintenance. SOPs shall include maintenance, inspection, and replacement schedules for equipment related to tanks, closed vent systems, safety vent stacks, control devices, and loading equipment that are subject to wear and tear.

3. Quality Control and Training. SOPs shall establish a quality control program that ensures the quality and performance of facility maintenance activities; and appropriate and regular training for personnel implementing the operation and maintenance procedures. The SOP shall include a procedure by which Respondent evaluates compliance with operation and maintenance procedures on a regular basis.

4. Recordkeeping and Reporting. SOPs shall establish and implement requirements for documenting compliance with operation and maintenance procedures, including recordkeeping of the date of inspection/maintenance activities, the performance of any corrective actions, and all training conducted.

5. Documentation Protocol. SOPs shall establish document generation and retention protocols, personnel roles and responsibilities, safety protocols, and work order systems to ensure problems are timely identified and addressed.

V. Audit Report

The Audit Report shall, at a minimum, comply with the following:

1. Explain the audit scope, provide a summary of the audit process, and explain any obstacles encountered.
2. State the period of time covered by the Audit and list the date(s) any on-site portion of the audit was conducted.
3. Identify the audit team members, including names, titles, and summaries of qualifications.
4. Identify any representatives of EPA or Respondent who observed any portion of the Audit.
5. Identify the recipients of the Audit Report.
6. Include a written explanation of the instances of non-compliance noted during the Audit, and the areas of concern identified during the course of the Audit, regardless of whether, in the Auditor's judgement, they require corrective action or merit further review or evaluation for potential environmental or regulatory impacts ("Audit Findings").
7. Contain an explanation of the basis for each of the Audit Findings.
8. Include any necessary corrective actions for Respondent to take in order to address the Audit Findings and to improve its programs, procedures, or policies so that

they are consistent with the EPA Environmental Management Systems Guidance and improve environmental performance.

9. Include a summary of Respondent's comments on, and identify any adjustments made by the Auditor to, any draft of the Audit Report provided by the Auditor to Respondent for review and comment.
10. Verification that Respondent's operation and maintenance procedures meet the requirements of the operation and maintenance procedures described in Section IV of this Appendix A.
11. Identify any Audit Findings corrected during the Audit, including a description of the corrective measures and when they were implemented.
12. Include the following certification, signed and dated by the Auditor or supervising manager for the Audit:

I certify that this compliance audit report was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted, and this report was prepared, pursuant to all applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.

VI. Letter Report

Respondent shall provide a Letter Report to EPA containing the following:

1. A copy of the final Audit Report.
2. An appropriate response to each of the Audit Findings.
3. A description of the following steps that Respondent has taken or will take in response to the Audit Findings:
 - a. A schedule for promptly addressing deficiencies.
 - b. A list of new equipment and piping to be procured (e.g., control devices, combustors, vapor recovery system, tank hatches, pressure relief valves, piping, and gaskets).

- c. The repair, replacement, upgrading, and/or installation of equipment (e.g., vapor recovery system, control devices, combustors, tank pressure relief valves, tank hatches and gaskets, and compressors).
 - d. The replacement of any piping, valves, flame arrestors, or other equipment that is inadequately sized for the flow of condensate and volume of emissions.
4. Confirmation that there are no unauthorized emissions from any necessary repair, replacement, upgrade, and/or installation of equipment (e.g., conduct optical gas imaging survey to detect and correct any gas leaks or fugitive emissions).
5. A summary of any updates made, in accordance with Section IV of Appendix A, to Respondent's operations and maintenance procedures.
6. A statement of whether Respondent is applying for, or will apply for, new or modified permits, and a statement of whether Respondent is repairing or replacing any equipment in accordance with the Audit Findings.
7. A certification, signed and dated by a senior corporate officer or other officer in an equivalent position of Respondent (who may be Respondent's Director of Environmental Safety & Health), stating:

I certify under penalty of law that the attached compliance audit report was received, reviewed, and responded to under my direction or supervision by qualified personnel. I further certify that appropriate responses to the findings have been identified and deficiencies were corrected, or are being corrected, as documented herein. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.

CERTIFICATE OF SERVICE

I hereby certify that, on the date in the electronic signature below, an electronic copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and a true and correct copy was delivered to the following individual by the method indicated below:

EMAIL - READ RECEIPT REQUESTED

joe.perez3@energytransfer.com

U.S. EPA, Region 6
Dallas, Texas