

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

FILED  
2017 NOV 15 AM 10:13  
REGIONAL HEARING CLERK  
EPA REGION VI

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IN THE MATTER OF:	§	EPA DOCKET NO.
	§	CAA-06-2017-3365
PIONEER NATURAL RESOURCES	§	CONSENT AGREEMENT
USA, INC.	§	AND FINAL ORDER
IRVING, TEXAS	§	
RESPONDENT	§	
	§	
	§	

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**CONSENT AGREEMENT**

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant) and Pioneer Natural Resources USA, Inc. (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)(A) and 113(d)(1)(B) of the Clean Air Act (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), 22.18(b)(2) and (3), and 22.34.

2. This CAFO serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A).

3. 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.

4. 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 alleged in this CAFO.

5. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for federal civil penalties for those violations which are alleged herein.

6. Respondent consents to the following: issuance of the CAFO hereinafter recited; and the assessment and payment of the stated civil penalty in the amount, and by the method set forth in this CAFO.

## **II. STATUTORY AND REGULATORY BACKGROUND**

7. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that the objective of the regulations and programs authorized under Section 112(r) shall be to prevent the accidental release of regulated substances or other extremely hazardous substances and to minimize the consequences of any such release that does occur.

8. 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.

9. Under Sections §§ 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), whenever the Administrator finds that any person has violated or is violating a requirement of the CAA including, but not limited to, a requirement or prohibition of any rule

promulgated under the CAA, the Administrator may issue an order assessing a civil administrative penalty.

10. As adjusted by the 2017 Civil Monetary Penalty Inflation Adjustment Rule (2017 Rule) (82 Fed. Reg. 3633), 40 C.F.R. § 19.4, the Administrator may assess a civil penalty of up to \$45,268.00 per day of violation for a violation occurring after November 2, 2015 and assessed on or after January 15, 2017.

11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines person as an “individual, corporation, partnership, association [ . . . ] and any officer, agent, or employee thereof.”

12. “Owner or operator” shall mean any person who owns, leases, operates, controls, or supervises a stationary source.

13. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as:

any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

14. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), defines “accidental release” as “an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.”

15. “Regulated substance” is defined in 40 C.F.R. § 68.3 as any substance listed pursuant to Section 112(r)(3) of the CAA as amended, in § 68.130.

### **III. FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

16. Respondent is incorporated under the laws of Delaware and registered to transact business in the State of Texas.

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

18. Respondent owns and operates the Fain Gas Plant located in Masterson, Texas at the following latitude and longitude coordinates (35.538056, -101.895556).

19. Respondent’s facility is a natural gas plant, NAICS Code 211112-natural gas liquids extraction.

20. 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).

21. 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.

22. Flammable mixtures containing ethane, pentane, propane, methane, and butane, are regulated substances under Section 112(r) of the CAA, 42 U.S.C. § 7412, listed under Table 1 to 40 C.F.R. § 68.130.

23. On December 18, 2016, at 010:57 the valve control module in the dehydration process malfunctioned and caused a high pressure situation and subsequent plant compression shutdown.

24. Upon inspection, it was discovered that the automatic valve for the F-103 line flowing to the slug catcher did not actuate.

25. The F-103 manual block valve was frozen and was inoperable.

26. The check valves failed to seat properly and gas from the plant back flowed through the check valves. Pressure built-up in the slug catchers, which resulted in releases from the slug catchers pressure safety valves (PSVs).

27. The failure of the check valves to seal completely was attributed to debris blockage in the valves.

28. In accordance with the slug catcher emission event standard operating procedure, compressor stations upstream of the slug catchers were shut down via Supervisory Control and Data Acquisition (SCADA) system to eliminate gas flow to the plant.

29. The SCADA failed to send a close command to the block valves due to a faulty transmitter.

30. The pressure transmitter sensor line was frozen.

31. Respondent did not have insulation or heat trace on the transmitter sensor line.

32. The release continued until the event was controlled and stopped after 55 minutes.

33. Respondent calculated a total release of the following:

<b>Release</b>	<b>Total Pounds Released</b>
Nitrogen	12,171.75
Carbon Dioxide	2,878.98
Hydrogen sulfide	16.83
Methane	59,238.33
Ethane	20,077.82
Propane	39,433.35
Butanes (any isomer)	92,558.23
Pentanes (any isomer)	65,078.42
n-Hexane	20,537.90
Heptanes	3,688.69
Octanes	208.11
Nonanes	15.29
Benzene	60.52
Toluene	48.63
Ethylbenzene	2.71
Xylenes (mixture)	10.85
Decanes Plus	4.85

34. 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.

35. Complainant alleges that the release at the facility on December 18, 2016, (the December 18, 2016, Release) 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).

36. Complainant alleges that Respondent’s failure to have insulation or a heat trace on the transmitter sense line that lead to the failure of the Supervisory Control and Data Acquisition system to not send a close command to the relevant block valves, was a failure to minimize the consequences of accidental release that occurred on December 18, 2016, and constitutes a violation of the general duty clause in section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

37. Complainant alleges that 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**

38. 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, the seriousness of the violation, and Respondent's cooperation, as well as other factors which justice may require, Complainant has proposed a civil penalty of **\$45,200.00** (forty-five thousand two hundred dollars). Respondent has agreed to payment of that amount to resolve Complainant's allegations in this CAFO.

39. Respondent shall pay the assessed penalty within thirty (30) days of the effective date of this CAFO 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 Service mail (including certified mail), overnight mail, or wire transfer.

For U.S. Postal Service 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; e.g., FedEx), 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-06-2017-3365 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 to the following:

Justin McDowell  
Enforcement Officer (6EN-AS)  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Lorena Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

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

40. 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.



41. 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 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).

42. 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 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**

43. The provisions of this CAFO shall apply to and be binding upon the parties to this action and their successors and assigns. The undersigned representative of each party to this CAFO certifies 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**

44. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

45. 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.

46. 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, except as specifically set forth herein, nothing in this CAFO shall be construed to prevent or limit EPA's civil, injunctive, or criminal authorities, or that of Federal, State, or local agencies or departments to obtain penalties or injunctive relief under Federal, State, or local laws or regulations.

47. 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 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 specifically resolved pursuant to this CAFO.

### **D. COSTS**

48. 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**

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

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

**FOR THE RESPONDENT:**

10/26/17

Date

  
\_\_\_\_\_  
Pioneer Natural Resources USA, Inc.

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**FOR THE COMPLAINANT:**

11/8/17

Date

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

**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 the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and civil penalty payment instructions 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.

11/15/17

Date



Thomas Rucki  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of Nov., 2017, 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, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, 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: # 9005 1820 00037458 4028

Nov. 15, 2017

Date



U.S. EPA, Region 6  
Dallas, Texas