

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION 6
DALLAS, TEXAS

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REGIONAL HEARING CLERK
EPA REGION 6

IN THE MATTER OF:

EOG Resources Inc.
Midland, Texas

RESPONDENT

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DOCKET NO. CAA 06-2025-3303

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. EOG Resources Inc. (“EOG” or “Respondent”) is a corporation doing business in the States of Texas and New Mexico. 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, as amended, 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) and (a)(3)(A) of the Act, 42 U.S.C. §§ 7413(a)(1)(B), (a)(3)(A).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involved an initial penalty assessment above \$460,926 and 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):

a. On February 1, 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 Texas. In the NOVOC, EPA provided notice to both Respondent and the State of Texas that EPA found Respondent committed the alleged violations of the Texas State

Implementation Plan (“SIP”) described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA.

b. On July 11, 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 New Mexico. In the NOVOC, EPA provided notice to both Respondent and the State of New Mexico that EPA found Respondent committed the alleged violations of the federal New Source Performance Standards (“NSPS”) and the New Mexico State Implementation Plan (“SIP”) described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA.

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 and federally-enforceable permits.

a. NSPS 40 C.F.R. Part 60, Subparts OOOO and OOOOa

12. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes EPA to promulgate regulations establishing New Source Performance Standards (“NSPS”). Section 111(e) of the CAA, 42 U.S.C. § 7411(e), states that after the effective date of standards of performance promulgated under this Section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

13. In 2012, pursuant to its authority under Section 111(b)(1)(B) of the Act, 42 U.S.C. § 7411(b)(1)(B), to review and, if appropriate, revise the NSPS, EPA published the final rule, “Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution,” found at 40 C.F.R. Part 60, Subpart OOOO (“Subpart OOOO”).

14. In 2016, EPA made amendments to the 2012 NSPS with respect to standards for storage vessels and other changes, which are found at 40 C.F.R. Part 60, Subpart OOOOa (“Subpart OOOOa”).

15. Affected facilities that commence construction, modification, or reconstruction after August 23, 2011, and on or before September 18, 2015, are subject to the standards of Subpart OOOO. 40 C.F.R. § 60.5360. Affected facilities that commence construction, modification, or reconstruction after September 18, 2015, are subject to the standards of Subpart OOOOa. 40 C.F.R. § 60.5360a.

16. Among the “affected facilities” subject to NSPS Subparts OOOO and OOOOa are “storage vessel affected facilities.” 40 C.F.R. §§ 60.5365(e), 60.5365a(e). NSPS Subparts OOOO and OOOOa specify that a “storage vessel affected facility” is a single storage vessel with the

potential for VOC emissions equal to or greater than six (6) tons per year (“tpy”). 40 C.F.R. §§ 60.5365(e), 60.5365a(e).

17. For storage vessels that commenced construction, reconstruction, or modification after August 23, 2011, and on or before September 18, 2015, NSPS Subpart OOOO requires that the potential for VOC emissions “be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to the applicable emission determination deadline specified in” 40 C.F.R. § 60.5365(e). “The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local, or tribal authority.” 40 C.F.R. § 60.5365(e).

18. For storage vessels that commenced construction, reconstruction, or modification after September 18, 2015, and on or before November 16, 2020, NSPS Subpart OOOOa requires that the potential for VOC emissions “be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput (as defined in [40 C.F.R.] § 60.5430a) determined for a 30-day period prior to the applicable emission determination deadline specified in” 40 C.F.R. § 60.5365a(e)(2)(i) and (ii). “The determination may take into account requirements under a legally and practicably enforceable limit in an operating permit or other requirement established under a Federal, state, local, or tribal authority.” 40 C.F.R. § 60.5365a(e)(1).

19. For storage vessels that commenced construction, reconstruction, or modification after November 16, 2020, NSPS Subpart OOOOa requires that the potential for VOC emissions be calculated for each individual storage vessel using a generally accepted model

or calculation methodology, based on the maximum average daily throughput, as defined in 40 C.F.R. § 60.5430a, determined for a 30-day period of production, except as specified in 40 C.F.R. § 60.5365a(e)(3). “The determination may take into account requirements under a legally and practicably enforceable limit in an operating permit or other requirement established under a Federal, state, local, or tribal authority.” 40 C.F.R. § 60.5365a(e)(2).

20. NSPS Subparts OOOO and OOOOa require owners and operators, at all times, to maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. 40 C.F.R. §§ 60.5370(b), 60.5370a(b).

21. NSPS Subparts OOOO and OOOOa require each storage vessel affected facility, that uses a control device to reduce emissions from the facility, to connect the facility through a closed vent system and route emissions to a control device or to a process. 40 C.F.R. §§ 60.5395(e)(1), 60.5395a(b)(1).

22. NSPS Subpart OOOO requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process to meet the requirements of 40 C.F.R. § 60.5411(c). 40 C.F.R. § 60.5395(e)(1). 40 C.F.R. § 60.5411(c) requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process, be designed and operated with no detectable emissions, as determined using olfactory, visual, and auditory inspections. Each closed vent system that routes emissions to a process must be operational 95 percent of the year or greater.

23. NSPS Subpart OOOOa requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process to meet the

requirements of 40 C.F.R. § 60.5411a(c) and (d). 40 C.F.R. § 60.5395a(b)(1). 40 C.F.R. § 60.5411a(c) requires that a closed vent system for a storage vessel affected facility using a control device or routing emissions to a process, be designed and operated with no detectable emissions, as determined using olfactory, visual, and auditory inspections or optical gas imaging inspections as specified in 40 C.F.R. § 5416a(c).

24. NSPS Subpart OOOO requires flares used to meet relevant emissions reduction standards at storage vessel affected facilities to “operate a continuous burning pilot flame.” 40 C.F.R. § 60.5412(d)(1)(ii).

b. State Implementation Plans

25. 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 air pollutants.

Section 109(b) of the CAA, 42 U.S.C. § 7409(b), provides that the NAAQS establish primary air quality standards to protect public health and secondary standards to protect public welfare.

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

c. New Mexico State Implementation Plan

27. The State of New Mexico has adopted a SIP that has been approved by EPA. See 40 C.F.R. Part 52, Subpart GG. The New Mexico SIP includes authorization for New Mexico to issue general construction permits to oil and gas facilities. See 40 C.F.R. § 52.1620(c); 20 N.M.A.C. 2.72.220.

28. Facilities “registered for coverage under a general permit shall be generally homogeneous in terms of operations, processes and emissions, subject to the same or substantially similar requirements, and not subject to case-by-case standards or requirements.” Id. “Any term or condition imposed by the department on a permit or permit revision is enforceable to the same extent as a regulation of the” New Mexico Environmental Improvement Board. 20 N.M.A.C. 2.72.210(D).

29. Pursuant to 20 N.M.A.C. 2.72.220, the State of New Mexico issued the New Mexico Air Quality Bureau General Construction Permit for Oil and Gas Facilities (“GCP-O&G”), which includes the following requirements relevant to this CAFO:

a. To ensure compliance with allowable emissions limitations, GCP-O&G Part A205(B) requires the permittee to either limit the hydrocarbon liquid throughput and average separator pressure to the amount and pressure listed in the relevant Registration Form or, otherwise, operate the permitted facility’s control device and/or vapor recovery units “as a closed vent system that captures and routes all emissions from tanks back to the process stream or to the control device, and does not vent to the atmosphere.”

b. GCP-O&G Part A100(F) requires the permittee to operate the facility as specified in the facility’s Registration Form.

c. GCP-O&G Part A207(B)(6) requires a flare to “combust gas at all times gas is sent to the flare.”

30. Pursuant to 20 N.M.A.C. 2.72.220, the State of New Mexico issued the Air Quality Bureau General Construction Permit 6 (“GCP-6”), which includes the following requirements relevant to this CAFO:

a. GCP-6 Part A108(A)(1) requires tank emissions to “be routed at all times to the flare,” if a facility has installed a flare as a method of reducing volatile organic compound (“VOC”) emissions.

b. GCP-6 Part B101(A) requires the permittee to operate the facility as specified in the permit application and any subsequent submittals to the New Mexico Environment Department (“NMED”).

31. Pursuant to 20 N.M.A.C. 2.72.201, the State of New Mexico issued the Air Quality Bureau New Source Review Permit (“NSR Permit”), which includes the following requirements relevant to this CAFO:

a. NSR Part B101(A) requires the permittee to operate the facility as specified in the permit application and any supplemental submittals to the NMED.

d. Texas State Implementation Plan

32. The State of Texas has adopted a SIP that has been approved by EPA. See 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a permit by rule (“PBR”) program, which can be found at 30 Tex. Admin. Code Chapter 106 - Permits by Rule. See 40 C.F.R. § 52.2270(c).

33. Subchapter O of Chapter 106 of the Texas Administrative Code regulates permitting by rule for oil and gas facilities that produce more than a de minimis level of emissions. See 30 Tex. Admin. Code §§ 106.4(a) and 106.351-59. Additional regulations

applicable to such facilities are also located in Subchapters A and V of Chapter 106 of the Texas Administrative Code. The permit by rule program includes the following requirements relevant to this CAFO:

a. “The emissions from the facility shall comply with all rules and regulations of the [Texas Commission on Environmental Quality] and with the intent of the Texas Clean Air Act (TCAA), including protection of health and property of the public, and all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility.” 30 Tex. Admin. Code § 106.4(c).

b. “All representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration under this section become conditions upon which the facility permitted by rule shall be constructed and operated.” 30 Tex. Admin. Code § 106.6(b).

c. “It shall be unlawful for any person to vary from such representation if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless the certified registration is first revised.” 30 Tex. Admin. Code § 106.6(c).

d. 30 Tex. Admin. Code § 106.352(l) applies “to new and modified facilities” and provides that “[a]ny oil or gas production facility, carbon dioxide separation facility, or oil or gas pipeline facility consisting of one or more tanks, separators, dehydration units, free water knockouts, gunbarrels, heater treaters, natural gas liquid recovery units, or gas sweetening and other gas conditioning facilities . . . are permitted by rule” for “those facilities named which handle gases and liquids associated with the

production, conditioning, processing, and pipeline transfer of fluids found in geologic formations beneath the earth's surface."

e. 30 Tex. Admin. Code § 106.352(l)(1) requires flares to "meet the requirements of § 106.492."

34. The State of Texas has adopted a SIP that has been approved by EPA. See 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a program for standard permits, which can be found at 30 Tex. Admin. Code Chapter 116, Subchapter F - Standard Permits. See 40 C.F.R. § 52.2270(c).

35. Non-rule Standard Permits must comply with applicable requirements under Subchapter F of Chapter 116 of the Texas Administrative Code, which regulates standard permits for air pollution control projects that reduce or maintain authorized emission rates for existing facilities. See 30 Tex. Admin. Code § 116.601 - 116.615. Pursuant to 30 Tex. Admin. Code § 116.601(a)(2), the State of Texas issued the Air Quality Standard Permit for Oil and Gas Handling and Production Facilities ("TCEQ Non-Rule Standard Permit for Oil and Gas Facilities"), which includes the following requirements relevant to this CAFO:

a. "All facilities which have the potential to emit air contaminants must be maintained in good working order and operated properly during facility operations."
TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(1).

b. All process equipment and storage facilities individually must meet the requirements of BACT listed in Table 10, and any combination of process equipment and storage facilities with an uncontrolled potential to emit equal to or greater than 25 tons per year of VOC are required to capture and route emissions to a control device with a

minimum design control efficiency of at least 95%. TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(5) and (m) Table 10.

c. All seals and gaskets in VOC or H₂S service must be “installed, checked, and properly maintained to prevent leaking” and tank hatches must “remain closed . . . except for sampling, gauging, loading, unloading, or planned maintenance activities.” TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(6)(A) and (D).

d. “Flares must be lit at all times when gas streams are present” and pilot flame monitoring must meet the specifications in 40 C.F.R. § 60.18. TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(11)(A) and (E).

e. Sufficient gas must be added to flares if necessary to ensure adequate combustion. TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(11)(B).

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

36. Respondent owns and/or operates and owned and/or operated at all times relevant to this proceeding the oil and natural gas handling and production facilities listed in Appendix A, which are located in the New Mexico and Texas Permian Basin (the “Facilities”).

37. Respondent is the owner and/or operator of the Facilities within the meaning of the Act, Section 111(a)(5), 42 U.S.C. § 7411(a)(5), 40 C.F.R. § 60.2, and/or 40 C.F.R. § 51.100(f).

38. At all times relevant to this proceeding, Respondent owned and/or operated units that emit Volatile Organic Compounds (“VOCs”) at the Facilities, which handle and/or produce oil and gas.

39. The facilities in Table 1 of Appendix A (the “NOI Facilities”) are covered by the State of New Mexico’s Notice of Intent and Emissions Inventory Requirements program for oil and gas facilities, located at 20 N.M.A.C. 2.73.

40. The NOI Facilities contain single storage vessels in the oil and natural gas production segments with the potential for VOC emissions equal to or greater than six (6) tons per year (tpy) and certain Facilities were constructed after August 23, 2011, and on or before September 18, 2015, while other Facilities were constructed after September 18, 2015. They are therefore subject to the requirements of NSPS Subpart OOOO and OOOOa, as listed in Appendix A.

41. The Facilities in Table 2 of Appendix A (the “GCP Facilities”) are permitted under the State of New Mexico’s General Construction Permits program for oil and gas facilities, located at 20 N.M.A.C. 2.72.220.

42. NMED issued air permits to Respondent, listed in Appendix A, under the SIP-approved General Construction Permits program. The permits cover various emission units at the GCP Facilities, including process equipment, vapor recovery systems, tanks, and flares.

43. Respondent is required by the GCP Facilities’ permits listed in Appendix A to control the emission of waste gas streams from the GCP Facilities and to operate in compliance with certain provisions of the New Mexico SIP.

44. The Facility in Table 3 of Appendix A (the “NSR Facility”) is permitted under the State of New Mexico’s New Source Review permit program, located at 20 N.M.A.C. 2.72.201.

45. NMED issued an air permit to Respondent, listed in Appendix A, under the SIP-approved NSR permit program. The permit covers various emission units at the NSR Facility, including process equipment, vapor recovery systems, tanks, and flares.

46. The Facilities in Table 4 of Appendix A are subject to the State of Texas's Permits by Rule program for oil and gas facilities under Subchapter O of Chapter 106 of the Texas Administrative Code or the State of Texas's Standard Permits program under Subchapter F of Chapter 116 of the Texas Administrative Code, as specified in Table 4.

47. The Texas Commission on Environmental Quality ("TCEQ") issued air permits to the Respondent, listed in Table 4 of Appendix A, under the SIP-approved Permits by Rule or Non-Rule Standard Permit program. The permits cover various emission units at the Texas Facilities, including process equipment, vapor recovery systems, tanks, and flares.

48. Respondent is required to operate in compliance with certain provisions of the Texas SIP and Respondent is required by the Texas Facilities' permits identified in Table 4 of Appendix A to control the emission of waste gas streams from the Facilities.

49. EPA contracted helicopter flyovers of the Permian Basin between August 25, 2020, and October 15, 2020, to assess energy extraction facility emissions using Optical Gas Imaging ("OGI") technology.

50. Flyovers of the Facilities at issue in this CAFO were conducted on August 31, September 1, 2, and 11, and October 5, 11, 12, 13, and 14 of 2020. Appendix A identifies EPA's observations at each Facility.

51. On December 11, 2020, EPA sent Respondent OGI video captures showing potentially unauthorized hydrocarbon emissions from process equipment and vapor recovery

systems at the Texas Facilities. On February 1, 2021, EPA sent Respondent OGI video captures showing potentially unauthorized hydrocarbon emissions from process equipment and vapor recovery systems at the New Mexico Facilities. In both instances, EPA asked Respondent to verify ownership, provide current site-specific permit information and inspection records, and take any necessary corrective action to address unauthorized hydrocarbon emissions at each facility. EPA considered information provided by Respondent to determine whether violations occurred at the Facilities.

52. On January 8, 2021, and February 26, 2021, Respondent provided information to EPA that corrective actions were completed at the Texas and New Mexico Facilities listed in Appendix A to address the compliance issues observed during the flyovers.

53. More than thirty (30) days before the issuance of this CAFO, Respondent was notified of the violations alleged herein. In accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), on February 1, 2022, EPA sent Respondent an NOVOC pertaining to violations of the Texas SIP and provided a copy to the State of Texas, and on July 11, 2022, EPA sent Respondent an NOVOC pertaining to the violations of the NSPS and New Mexico SIP, and provided a copy to the State of New Mexico.

54. On March 10, 2022, August 5, 2022, and on various other occasions, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

55. On March 25, 2022, April 10, 2022, and on various other dates, Respondent submitted information to EPA about the Facilities, including:

- a. Facility plots plans and process flow diagrams;

- b. air quality permit applications, permits, and permit approval letters;
- c. leak detection and repair records;
- d. documentation clarifying the operating status of State Johnny Cash 23 2H Facility; and
- e. documentation of Respondent's sale of Chamaeleon Bin State Corn CTB on January 1, 2021.

E. ALLEGED VIOLATIONS

56. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the OGI video captures, facility permitted operations, and information provided by Respondent. Based on this review, EPA alleges the following violations for the Facilities:

- a. Respondent violated NSPS Subparts OOOO and OOOOa, 40 C.F.R. §§ 60.5370(b) and 60.5370a(b), by failing to maintain and operate the NOI Facilities in a manner consistent with good air pollution control practice for minimizing emissions.
- b. Respondent violated NSPS Subparts OOOO and OOOOa, 40 C.F.R. §§ 60.5395(e)(1) and 60.5395a(b)(1), by failing to use the NOI Facilities control device(s) to reduce emissions from the NOI Facilities by connecting the NOI Facilities through a closed vent system and routing emissions to a control device or to a process.
- c. Respondent violated NSPS Subpart OOOO, 40 C.F.R. § 60.5395(e)(1), by failing to operate the closed vent systems of the NOI Facilities—which all use control devices or route emissions to process and operate as closed vent systems—with no

detectable emissions, as determined using olfactory, visual, and auditory inspections, as required by 40 C.F.R. § 60.5411(c).

d. Respondent violated NSPS Subpart OOOOa, 40 C.F.R. § 60.5395a(b)(1), by failing to operate the closed vent system of the NOI Facility—which uses control devices or routes emissions to process and operate as closed vent systems—with no detectable emissions, as determined using olfactory, visual and auditory inspections or optical gas imaging inspections as specified in 40 C.F.R. § 60.5416a(c), as required by 40 C.F.R. § 60.5411a(c).

e. Respondent violated NSPS Subpart OOOO, 40 C.F.R. § 60.5412(d)(1)(ii), by failing to operate each flare at its storage vessel affected facilities with continuously burning pilot flames.

f. Respondent violated 20 N.M.A.C. 2.72.210(D) by failing to comply with the NSR Facility's permit conditions, as identified in subparagraph 56.g.

g. Respondent violated Part B101(A) of the NSR Facility's NSR permit by failing to operate the NSR Facility in accordance with the NSR Facility's permit application and any supplemental submittals to NMED.

h. Respondent violated 20 N.M.A.C. 2.72.210(D) by failing to comply with the GCP Facilities' permit conditions, as identified in subparagraphs 56.i. - 56.k.

i. Respondent violated Part A205(B) of the GCP Facilities' GCP-O&G permit by failing to either limit the hydrocarbon liquid throughput and average separator pressure to the amount and pressure listed in the relevant Registration Form or, otherwise, operate a control device and/or vapor recovery unit as a closed vent system

that captures and routes tank emissions to the process stream or to the control device, and does not vent to atmosphere.

j. Respondent violated Part A207(B)(6) of the GCP Facility's GCP-O&G permit by failing to combust gas at all times gas was sent to the flare.

k. Respondent violated Part A100(F) of the GCP Facilities' GCP-O&G permits by failing to operate the GCP Facilities as specified in the Facilities' Registration Forms.

l. Respondent violated 20 N.M.A.C. 2.72.210(D) by failing to comply with the GCP Facilities' permit conditions, as identified in subparagraphs 56.m. - 56.n.

m. Respondent violated Part A108(A)(1) of the GCP Facilities' GCP-6 permits by failing to route tank emission to the GCP Facilities' flares at all times.

n. Respondent violated Part B101(A) of the GCP Facilities' GCP-6 permits by failing to operate the GCP Facilities in accordance with the GCP Facilities' permit application and any supplemental submittals to NMED.

o. Respondent violated 30 Tex. Admin. Code § 106.4(c) by failing to maintain the Texas Facilities' emissions control equipment in good condition and properly operate such equipment.

p. Respondent violated 30 Tex. Admin. Code § 106.6(b) by failing to operate equipment consistent with operating procedures in the Texas Facilities' certified registrations.

q. Respondent violated 30 Tex. Admin. Code § 106.6(c) by varying from representations in the Facilities' certified registrations regarding emissions at the Texas Facilities.

- r. Respondent violated 30 Tex. Admin. Code § 106.352(l)(1) by failing to comply with the requirements of 30 Tex. Admin. Code § 106.492.
- s. Respondent violated 30 Tex. Admin. Code § 106.492(l)(B) by failing to equip certain Texas facilities with a continuously burning pilot or automatic ignition system that assures gas ignition.
- t. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(1) by failing to ensure that Texas facilities that have the potential to emit air contaminants are maintained in good working order and are operating properly during facility operations.
- u. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(5) by failing to ensure that emissions from tanks are captured and routed to a control device with a minimum design control efficiency as specified in Table 10.
- v. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(6) by not properly maintaining seals and gaskets to prevent leaking and not ensuring that tank hatches remain closed except during sampling, gauging, loading, unloading, or planned maintenance activities.
- w. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(11)(A) and (E) by failing to ensure that the flare is lit at all times when waste gas streams are present and that the flare tip is monitored per the specifications in 40 C.F.R. § 60.18.
- x. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(11)(B) by not ensuring adequate combustion at the flare.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

a. General

57. 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. by signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement;
- d. consents to the assessment of a civil penalty, as stated below;
- e. consents to the issuance of any specified compliance or corrective action order;¹
- f. consents to the conditions specified in this CAFO;
- g. consents to any stated Permit Action;
- h. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
- i. waives its rights to appeal the Final Order included in this CAFO.

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraphs (e) and (g) are not applicable to this particular case.

58. 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);

d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the District of New Mexico.

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 these Facilities, 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.

b. Penalty Assessment and Collection

59. 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 violations, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violations, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$412,500.00 (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.

60. 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) U.S. Postal Service mail; (2) non-U.S. Postal Service shipping (e.g., FedEx); (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

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

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, MO 63197-9000

For U.S. Postal Service mail sent certified and/or with return receipt service, or if using a non-U.S. Postal Service shipping provider (e.g. FedEx), payment should be remitted to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

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 06-2025-3303 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 06-2025-3303. 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:

Bailey Brown U.S. EPA Region 6
Brown.Bailey@epa.gov

And

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

61. 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.

62. 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.

63. 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.

c. Conditions of Settlement

64. Auditor. Within forty-five (45) days of the Effective Date of this CAFO, Respondent shall select an independent third-party auditor (the “Auditor”) who satisfies the Auditor Qualifications listed in Section I of Appendix B to perform the independent audit described in paragraph 66.

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

66. The Independent Audit shall consist of the following:

a. Respondent shall (i) provide the Auditor with a copy of this CAFO and all attachments; (ii) grant the Auditor reasonable access to the Facilities; and (iii) 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 one hundred fifty (150) days of the Effective Date of the CAFO, the Auditor completes the Facility Review in accordance with subparagraph (c) of this paragraph. The Auditor may conduct additional steps beyond those identified in subparagraph (c) of this paragraph as part of the Facility Review if it determines that such steps are necessary to complete the Independent Audit.

c. Facility Review. The Auditor shall perform the following facility review at each Facility:

i. Within ninety (90) days of the Effective Date of this CAFO, the Auditor shall conduct a permitting and operations review in accordance with Section II of Appendix B.

ii. Within ninety (90) days of the Effective Date of this CAFO, the Auditor shall complete a site inspection in accordance with Section III of Appendix B.

iii. Within sixty (60) days of the Auditor completing the permitting and operations review and site inspections described in subparagraphs (i) and (ii) of Paragraph 66.c, the Auditor shall complete an engineering assessment, in accordance with Section IV of Appendix B.

d. Respondent shall ensure that within thirty (30) days of the Auditor completing the work described in subparagraph (c) 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 B.

e. If the Auditor provides a draft of the Audit Report to Respondent, the Auditor must simultaneously provide a copy of the draft to EPA.

f. 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.

67. Compliance Monitoring. Respondent shall perform the following compliance monitoring:

a. Respondent shall conduct optical gas imaging ("OGI") surveys at each Facility, indicated in Appendix A, in accordance with Section I of Appendix C (hereinafter

“OGI Survey”) on a monthly basis, with at least fourteen (14) days between consecutive OGI Surveys, for a period of one (1) year from the Effective Date of this CAFO. The initial OGI Survey shall be conducted within sixty (60) days of the Effective Date of this CAFO.

b. Within sixty (60) days of the Effective Date of this CAFO, Respondent shall install and operate monitoring equipment in accordance with Sections II-V of Appendix C for a period of one (1) year from the Effective Date of this CAFO.

68. Facility Shut-In. The permanent shut-in of a Facility, in accordance with Paragraphs 68 through 71, shall be deemed to satisfy the requirements in Paragraphs 64 through 67 applicable to that Facility.

69. Respondent shall provide written notice to EPA of Respondent’s intent to shut-in the Facility. Within thirty (30) days of notifying EPA of Respondent’s intent to shut-in the Facility, Respondent shall (i) shut-in the flow of all liquids and vapor into the tank battery and (ii) permanently cease all production operations.

70. For New Mexico Facilities, Respondent shall:

a. Within thirty (30) days of submitting notice to EPA pursuant to Paragraph 69, submit notice to Oil Conservation Division (OCD) as required under NMAC § 19.15.25.9.

b. Within ninety (90) days of completing Paragraph 69, permanently plug and abandon all wells associated with the Facility in compliance with NMAC § 19.15.25.10.

c. Within thirty (30) days of receiving receipt from the applicable regulatory agencies, provide EPA with a copy of (i) verified reporting of abandonment made in

accordance with NMAC § 19.15.25.11; and (ii) confirmation of receipt of the notice provided to NMED, through the Permitting Administrative Multi-Form, as required under NMAC § 20.2.73.200(E)(2).

71. For Texas Facilities, Respondent shall:

- a. Within thirty (30) days of submitting notice to EPA pursuant to Paragraph 69, submit Notice of Intention to Plug and Abandon (Form W-3A) to the Railroad Commission of Texas.
- b. Within ninety (90) days of completing Paragraph 69, permanently plug and abandon all wells associated with the Facility in compliance with 16 TAC § 3.14.
- c. Within thirty (30) days of receiving receipt from the applicable regulatory agencies, provide EPA with a copy of (i) the fully executed Railroad Commission of Texas plugging record (Form W-3); and (ii) confirmation from TCEQ that the air permit for the Facility is voided.

72. Letter Report. Within one (1) year of the Effective Date of this CAFO, and no earlier than eleven (11) months after the Effective Date of this CAFO, Respondent shall send a letter report to EPA ("Letter Report") containing all information identified in Section I of Appendix D. The Letter Report shall be emailed to:

Bailey Brown
brown.bailey@epa.gov

73. EPA reserves the right to pursue enforcement of any violations identified as a result of Paragraphs 64 through 72 ("Conditions of Settlement").

d. Additional Terms of Settlement

74. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 64 through 72 of this CAFO are completed (the “Tolling Period”) 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.

75. 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 74 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 Facilities. 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.

76. 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).

77. 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.

78. 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.

79. 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
mosavihecht.pegga@epa.gov

To Respondent: eddie.lewis@nortonrosefulbright.com

80. 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 62 of this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

81. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that

EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at Chalifoux.Jessica@epa.gov, within thirty (30) days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within thirty

(30) days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall further:

- i. notify EPA's Cincinnati Finance Center of this fact, via email, within thirty (30) days after the thirty (30) days after the Effective Date of this Order per Section H of this CAFO; and
- ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

G. SUPPLEMENTAL ENVIRONMENTAL PROJECT

82. In response to the alleged violations of Section 111 of the CAA, 42 U.S.C. § 7411, and of the Texas and New Mexico SIPs approved under Section 110 of the CAA, and in settlement of this matter, although not required by Section 111 of the CAA, 42 U.S.C. § 7411, the Texas or New Mexico SIP, or any other federal, state or local law, Respondent agrees to implement a supplemental environmental project (SEP), as described below in Paragraph 83.

83. Respondent shall complete a Diesel Emissions Reduction SEP, which requires Respondent:

- a. Convert eight CAT 3512 diesel engines ("Diesel Engines") into eight CAT 3512C DGB dual fuel engines ("Dual Fuel Engines");
- b. Install converted eight Dual Fuel Engines onto Helmerich & Payne International Drilling Co. ("H&P") Rigs 246 and 623; and

c. Utilize each Dual Fuel Engine installed on Rigs 246 and 623 at Respondent owned drilling sites in Texas and New Mexico for no less than five (5) years at a minimum average operating rate of 6,000 hours per year.²

84. In the event Respondent is unable to use either or both Rigs 246 and 623 equipped with the Dual Fuel Engines at Respondent's drilling sites, it may use one (or two) other rigs equipped with Dual Fuel Engines to satisfy Paragraph 83(c).

85. Respondent shall spend no less than \$1,980,000.00 on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

86. Respondent shall complete the SEP by no later than the dates noted below:

a. Permanently convert eight existing Diesel Engines into Dual Fuel Engines and install the eight Dual Fuel Engines onto Rigs 246 and 623 (or alternative rigs pursuant to Paragraph 84) within five (5) months of the Effective Date of this CAFO; and

b. Begin operation of Rigs 246 and 623 (or alternative rigs pursuant to Paragraph 84) with the eight newly installed Dual Fuel Engines at Respondent owned Texas and New Mexico drilling sites within seven (7) months of the Effective Date of this CAFO and continue to operate each Dual Fuel Engine at Respondent owned Texas and New Mexico drilling sites for a duration of no less than five (5) years at a minimum average operating rate of 6,000 hours per year.³

² Should at the end of 5 years, each Dual Fuel Engine accrue less than 30,000 hours each, then Respondent shall continue operating the engines until 30,000 hours is achieved.

³ Should at the end of 5 years, each Dual Fuel Engine accrue less than 30,000 hours each, then Respondent shall continue operating the engines until 30,000 hours is achieved.

87. Use of SEP Implementer

- a. Respondent has selected H&P as a contractor to assist with implementation of the SEP;
- b. EPA had no role in the selection of the SEP implementer or specific equipment identified in the SEP, nor shall this CAFO be construed to constitute EPA approval or endorsement of any SEP implementer, or specific equipment identified in this CAFO.

88. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015). The SEP advances at least one of the objectives of the CAA, 42 U.S.C. § 7401 et seq., by reducing NOx and VOC, specifically non-methane hydrocarbon ("NMHC"), emissions (collectively, "NOx and VOC emissions") through engine upgrades on rigs used at Respondent's drilling sites in Texas and New Mexico. The SEP is not inconsistent with any provision of the CAA. The SEP relates to the alleged violation(s), and is designed to reduce:

- a. The amount of NOx and VOC emissions released to the atmosphere by Respondent's drilling projects in Texas and New Mexico;
- b. The adverse impact to public health and/or the environment to which the alleged violations contribute, specifically the SEP will decrease the NOx and VOC emissions from Respondent's operations in Texas and New Mexico; or
- c. The overall risk to public health and/or the environment potentially affected by the alleged violations by reducing the NOx and VOC emissions released to the atmosphere from Respondent's operations.

89. Respondent certifies the truth and accuracy of each of the following:

a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP is \$1,980,000.00;

b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

d. That Respondent has not received and will not have received credit for the SEP in any other enforcement action;

e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;

f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;

g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 83;

h. That Respondent has inquired of the SEP implementer whether it is party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the implementer that it is not a party to such a transaction; and

i. That under penalty of law Respondent would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction SEP, if the Agency were precluded by law from accepting a diesel emissions reduction SEP.

90. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws."

91. SEP Reports

a. SEP Completion Report. Respondent shall submit a SEP Completion Report to EPA within thirty (30) days of completion of the SEP (*i.e.*, within 30 days of completion of the SEP in accordance with Paragraph 83). The SEP Completion Report shall contain the following information, with supporting documentation:

- i. A detailed description of the SEP as implemented;
- ii. A description of any operating problems encountered and the solutions thereto;
- iii. Itemized costs;

- iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
 - v. description of the environmental and public health benefits resulting from implementation of the SEP, with a quantification of the benefits and pollutant reductions to date.
- b. Periodic Reports. Respondent shall submit additional reports as follows:
- i. Within seven (7) months of the Effective Date of this CAFO, submit a report containing the following:
 - 1. A detailed description of the SEP as it has been implemented at the time of reporting;
 - 2. Itemized costs at the time of reporting;
 - 3. A detailed description of any challenges to the implementation of the SEP at the time of reporting; and
 - 4. A list of the Respondent owned Texas and New Mexico drilling sites where Rigs 246 and 623 (or alternative rigs pursuant to Paragraph 84) with the Dual Fuel Engines have been installed for use by Respondent.
 - ii. Submit periodic reports after twelve (12) months from the Effective Date of this CAFO and each year thereafter until SEP completion. The periodic reports will be due thirty (30) days after twelve (12) months from the Effective Date of this CAFO, and each

year thereafter. The reports shall contain the following information, with supporting documentation:

1. A list of the Respondent owned Texas and New Mexico drilling sites where the Dual Fuel Engine equipped Rigs 246 and 623 or alternative rigs pursuant to Paragraph 84 have been used by Respondent;
2. Pollutant reductions to date; and
3. Hours of operation for each Dual Fuel Engine at Rigs 246 and 623 or alternative rigs pursuant to Paragraph 84.

c. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by subsections (a) and (b) above shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 93 below.

d. Respondent shall submit all notices and reports required by this CAFO to Bailey Brown at brown.bailey@epa.gov.

e. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such

drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

92. EPA acceptance of SEP Report.

a. After receipt of the SEP Completion Report described in Paragraph 91 above, EPA will, in writing to the Respondent, either:

- i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies;
- ii. Indicate that EPA concludes that the project has been completed satisfactorily; or
- iii. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with Paragraph 93 herein.

b. If EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the

completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

93. Stipulated Penalties

a. Except as provided in subparagraphs (b) and (c) below, if Respondent fails to satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in Paragraph 85, by the deadline in Paragraph 86 Respondent agrees to pay, in addition to the civil penalty in Paragraph 59, the following per day per violation stipulated penalty for each day the Respondent is late meeting the SEP requirement:

i. \$450 per day for days 1-30

ii. \$2500 per day thereafter

b. If Respondent fails to timely submit any SEP reports, such as those referred to in Paragraph 91, in accordance with the timelines set forth in this CAFO, Respondent agrees to the following stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:

i. \$350 per day for days 1-30

ii. \$1500 per day thereafter

c. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in Paragraph 85 above, Respondent shall pay a stipulated penalty to the United States in the amount of \$2,268,000.00.

“Satisfactory completion” of the SEP is defined as Respondent spending no less than 1,980,000.00 to convert the eight Diesel Engines and install eight Dual Fuel Engines at Rigs 246 and 623 (or alternative rigs pursuant to Paragraph 84) within five (5) months of

the Effective Date of this CAFO, begin use of the eight Dual Fuel Engines on Rigs 246 and 623 (or alternative rigs pursuant to Paragraph 84) at Respondent owned drilling sites in Texas and New Mexico within seven (7) months of the Effective Date of this CAFO, and continue use of the eight Dual Fuel Engines on Rigs 246 and 623, or equivalent rigs, at Respondent owned drilling sites in Texas and New Mexico for no less than five (5) years at a minimum average operating rate of 6,000 hours per year. The determination of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

d. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.

e. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 60 above. Interest and late charges shall be paid as stated in paragraphs 61 and 62.

H. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

94. 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 in Sections D and E above.

95. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 64 through 72 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 64 through 72, 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.

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

97. 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 paragraphs 64 through 72 is restitution, remediation, or required to come into compliance with the law.

98. 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.

99. 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.

100. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$121,275 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.

101. 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. EPA does not, by its consent to the entry of this CAFO, warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act, 42 U.S.C. § 7401, et seq., or with any other provisions of federal, state, or local laws, regulations, or permits.

102. 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.

I. EFFECTIVE DATE

103. 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 EOG Resources Inc., Docket No. CAA 06-2025-3303, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:


Date: 1-16-25



Michael P. Donaldson
EVP, General Counsel and Corporate Secretary
1111 Bagby St Sky Lobby 2
Houston, Texas 77002
EOG Resources Inc.

FOR COMPLAINANT:

Date: January 17, 2025



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

APPENDIX A: FACILITIES

EOG Resources, Inc.

Table 1. Notice of Intent Facilities

| Site Identity | New Mexico AIRS Number | NOI Number | NSPS Applicability | Flyover Date | Flyover Video ID | EPA Team Observations of Flyover Video Capture | Corresponding Sections of Appendix C, Sections II-V |
|--|------------------------|------------|--------------------|--------------|------------------|---|---|
| Chamaeleon BIN State Com Battery | 350151368 | 6487 | OOOO | 10/11/2020 | 1537 | Pressure relief valve leak | Not Applicable [§] |
| Spunky BUK State Com No 1H | 350151361 | 6472 | OOOO | 10/11/2020 | 1544 | Multiple pressure relief valve leaks | Sections II - V |
| Maduro Box & Torpedo BOW Battery | 350151081 | 5869 | OOOO | 10/12/2020 | 1552 | Pressure relief valve leak | Sections II - V |
| Bolivar BRD Federal Com No 1H | 350151088 | 5887 | OOOO | 10/12/2020 | 1557 | Pressure relief valve leak | Sections II - V |
| Perdomo BMP State Com No 1H | 350151393 | 6555 | OOOOa | 10/12/2020 | 1567 | Pressure relief valve leak | Sections II - V |
| Undaunted BSD State Com No 1H | 350250678 | 5873 | OOOO | 10/13/2020 | 1607 | Unlit flare and two pressure relief valve leaks | Sections II - V |
| Farber BOB Federal No. 1H | 350250747 | 6103 | OOOO | 10/13/2020 | 1609 | Unlit flare and pressure relief valve leak | Sections II - V |
| Jefe BSJ Federal Com No. 1H (Facility) | 350250604 | 5549 | OOOO | 10/13/2020 | 1642 | Tank hatch leak | Sections II - V |

[§] Chamaeleon BIN State Com Battery was sold by Respondent on January 1, 2021. As such, Appendices B, C, and D are inapplicable to this facility.

Table 2. General Construction Permit Facilities

| Site Identity | New Mexico AIRS Number | Permit Number | Application Type | Flyover Date | Flyover Video ID | EPA Team Observations of Flyover Video Capture | Corresponding Sections of Appendix C, Sections II-V |
|--------------------------------------|------------------------|---------------|------------------|--------------|------------------|--|---|
| Dauntless 7 Fed CTB | 350251656 | 8329 | GCP - 6 | 10/13/2020 | 1610 | Tank hatch leak | Sections II - V |
| Caballo 23 Fed Com CTB | 350251432 | 7845 | GCP - 6 | 10/13/2020 | 1626 | Tank hatch leak | Sections II - V |
| Audacious BTL Fed CTB | 350251205 | 7299 | GCP - 6 | 10/13/2020 | 1631 | Tank hatch leak | Sections II - V |
| Valiant 24 Fed Com CTB | 350251863 | 8800 | GCP-O&G | 10/13/2020 | 1633 | Tank hatch leaks | Sections II - V |
| Quijote 2 State Com CTB | 350251698 | 8422 | GCP - O&G | 10/14/2020 | 1644 | Improperly operating flare | Sections II - V |
| Deep Elem Localized Gas Lift Station | 350152133 | 8339 | GCP - O&G | 10/14/2020 | 1660 | Pressure relief valve | Sections II - V |

Table 3. New Source Review Permit Facilities

| Site Identity | New Mexico AIRS Number | Permit Number | Application Type | Flyover Date | Flyover Video ID | EPA Team Observations of Flyover Video Capture | Corresponding Sections of Appendix C, Sections II-V |
|---|------------------------|---------------|------------------|--------------|------------------|--|---|
| Red Hills Enterprise Compressor Station | 350250438 | 4973-M2 | NSR | 10/5/2020 | 1258 | Unlit flare | Section II-V |

Table 4. Texas Facilities

| Site Identity | TCEQ Regulated Entity No. | Permit Number | Application Type | Flyover Date | Flyover Video ID | EPA Team Observations of Flyover Video Capture | Corresponding Sections of Appendix C, Sections II-V |
|---------------------------------------|---------------------------|---------------|--|--------------|------------------|---|---|
| State Atlantis CTB | RN11059 5535 | 154732 | PBR 106.352(I); 106.492 | 8/31/2020 | 878 | Unlit flare | Sections II - V |
| Magellan Voyager Facility | RN10941 5331 | 142615 | Non-Rule STDPMPT | 9/1/2020 | 885 | Tank hatch leaks | Sections II - V |
| Gemini West CTB | RN10990 5554 | 148143 | PBR 106.352(I); 106.492 | 9/1/2020 | 886 | Tank hatch leaks | Sections II - V |
| State Pathfinder 1H to 3H Facility | RN10990 5570 | 148144 | PBR106.352(I); 106.492 | 9/1/2020 | 887 | Tank hatch leaks | Sections II - V |
| State Magellan CTB | RN10872 3743 | 161324 | Non-Rule STDPMPT | 9/1/2020 | 888 | Unlit flare and multiple tank hatch leaks | Sections II - V |
| Allman 24 CTB | RN11044 8685 | 152639 | PBR 106.352(I); 106.359; 106.492; 106.512 | 9/2/2020 | 934 | Unlit flare | Sections II - V |
| State Johnny Cash 23 2H Facility | RN10927 0454 | 141619 | PBR 106.352(I); 106.359; 106.492; 106.512 | 9/2/2020 | 935 | Unlit flare | Sections II - V |
| State Cortez CTB | RN11011 1317 | 161177 | Non-Rule STDPMPT | 9/11/2020 | 1043 | Tank hatch leaks | Sections II - V |

APPENDIX B: FACILITY REVIEW

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 and technical elements related to oil and gas production facilities.
 - b. Experienced with oil and gas production facilities and with all applicable and generally accepted good engineering practices.
 - c. 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 thirty (30) days after the selection of the Auditor, the signed and dated statement shall be emailed to the enforcement officer identified in Paragraph 72 of Section F (Conditions of Settlement).
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 Auditor shall conduct a permitting and operations review, which shall consist, at a minimum, of the following:

1. For any Facilities acquired in the six (6) months prior to the flyover, obtain and review appropriate historical environmental compliance documentation for each site to ascertain potential on-going compliance issues for all equipment and process controls at each Facility. Records to review may include, but are not limited to, the following: permit applications by former owners, equipment inventories provided by former owners or completed as part of the new acquisition, excess emissions reports, flare operation records, leak detection and repair (“LDAR”) survey reports, federal rule reporting and exemption status (e.g., New Source Performance Standards (“NSPS”) Subparts OOOO and OOOOa reporting), spill and emergency response plans and records, well-completion information, and other information necessary to confirm the compliance status of all Facility operations. Ensure that appropriate documentation, such as the Change of Name/Ownership Form, have been submitted to the Texas Commission on Environmental Quality (“TCEQ”) and the New Mexico Environment Department (“NMED”).

2. For all the Facilities, 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 eighteen (18) 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 Facilities.

3. For all the Facilities, review operation and maintenance procedures for inspecting process equipment at each of the Facilities to evaluate whether procedures need to be updated to ensure that problems are timely identified and addressed to minimize emissions from process equipment.

a. The Auditor shall review the procedures to determine whether these procedures include, at a minimum, the following:

i. the use of a standard site inspection checklist during regular inspections that requires evaluation of the following: well pad, flares, separators, heater treaters, tank batteries, compressors, fuel skid, well heads, spill containment, solid waste and chemical storage, and miscellaneous Facility-wide operations;

ii. a quality control program that ensures the quality, efficiency, and performance of Facility maintenance activities; and

iii. appropriate and regular training for personnel implementing the operation and maintenance procedures.

b. If Respondent does not have such procedures, the Auditor shall note the lack of such procedures in the Audit Findings.

III. Site Inspections

The Auditor shall conduct a site inspection that consists, at a minimum, of the following at each Facility:

1. For all tanks
 - a. Inspect and evaluate oil and water storage tanks and associated hatches, valves, gaskets, 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.
2. For all flares and vapor combustion units (“VCUs”)
 - a. Evaluate whether flares and VCUs are operating with a continuous pilot flame and that flame arrestors are properly installed.
 - b. Evaluate whether technology upgrades should be made to the flares and VCUs.
 - c. Evaluate whether reconfiguration of flare tips and installation of thermocouples with Supervisory Control and Data Acquisition capability, auto ignitors with pilots, air assist packages, and pressure gauges for flame arrestors would be appropriate.
3. Evaluate the operation of tanks, separators, compressors, vapor recovery units/towers, and other operational equipment.
 - a. Inspect and address liquid leaks and staining at the well and production pad site, particularly near well heads, flares, VCUs, storage tanks, and separators.
 - b. Evaluate whether equipment inventories and process operational descriptions for each site are current.
 - c. Evaluate whether there are unauthorized emissions during normal operations by conducting an OGI Survey in accordance with Section I of Appendix C.

IV. Engineering Assessment

The Auditor shall conduct an engineering assessment that consists, at a minimum, of the following at each Facility:

1. Performed by a Professional Engineer with experience conducting an engineering and design assessment of oil and gas production facilities.
2. Use pressure volume temperature (“PVT”) condensate and gas samples, equipment inventories, and production rates to perform process flow modeling (e.g., ProMax modeling) and evaluate whether site equipment and design sufficiently address vapor emissions and meet regulatory requirements.
3. Evaluate whether all emissions sources, including process equipment fire tubes, pneumatic pumps, and pneumatically actuated control valves, have been identified and accounted for in determining total emissions.
4. Based on the preliminary compliance review and site inspections, reevaluate whether the Facilities are properly permitted and determine whether Respondent should prepare permit applications or revisions.
5. Evaluate whether flares are operated and maintained in conformance with their designs, including recommendations and specifications provided by the flare manufacturers, and in a manner consistent with good air pollution control practices for minimizing emissions.
6. Use engineering assessment results to revise the equipment specifications and process configuration to ensure vapor control systems, where required, adequately handle maximum instantaneous vapor emissions, including working, breathing, or flashing losses from the tank battery.
7. Based on the Facility Review, Site Inspection, and Engineering Assessment, evaluate the sufficiency of each Facility’s spill containment adequacy and retention capacity.

V. Audit Report Requirements

The Audit Report prepared by the Auditor 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 copy of the results of the Engineering Assessment conducted pursuant to Section IV of Appendix B. Include documentation of the PVT condensate and gas samples used to perform process flow modeling, as well as the results of the process flow modeling, pursuant to Paragraph 2 of Section IV of Appendix B and the results of quality assurance and quality control analyses conducted for the PVT condensate and gas samples.
7. 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").
8. Verify that Respondent's operation and maintenance procedures meet the requirements of the operation and maintenance procedures described in Paragraph 3.a of Section II of this Appendix B.
9. Contain an explanation of the basis for each of the Audit Findings.
10. 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 EMS Guidance and improve environmental performance.
11. 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.
12. Identify any Audit Findings corrected during the Audit, including a description of the corrective measures and when they were implemented.
13. Include, if possible, an estimate of the total emission reductions for each corrective action or improvement that should be taken by Respondent.
14. 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.

APPENDIX C: COMPLIANCE MONITORING

I. OGI Survey

Respondent shall conduct an OGI camera survey (“OGI Survey”) at each Facility, that includes, at a minimum, the following procedures:

1. The OGI Survey shall be conducted using an OGI camera designed for and capable of detecting hydrocarbon and VOC emissions, performed by trained personnel or third parties, who maintain proficiency through regular use of the OGI camera. The OGI Survey shall be conducted during normal operations to detect any visible emissions, including while and immediately after hydrocarbon liquids are being sent to the tanks from associated well production operations.

2. The OGI Survey shall consist of an inspection of all equipment and components at the Facility, including tanks and associated hatches, valves, gaskets, and pressure relief devices; control devices; compressors; separators; vapor recovery units/towers, and vapor control piping.

Conducting the OGI Survey

3. At least once each monitoring day, each operator must record a verification video to demonstrate the OGI camera is capable of detecting hydrocarbon and VOC emissions.

4. For all OGI Surveys, maintain a survey log electronically in an Excel spreadsheet that includes, at a minimum, the following:

- a. Site name and GPS coordinates;
- b. OGI camera operator name;
- c. Weather conditions at the start and end of each survey, including ambient temperature, wind speed, relative humidity, and sky conditions;
- d. Identification of the OGI camera used to conduct the survey, including make and model;
- e. Date and approximate start and end times; and
- f. Description of emissions observed with the OGI camera.

5. If hydrocarbon emissions (including VOCs) are observed, at a minimum capture a 10-second video clip of the emissions, including the emitting component, and keep the video clip with the rest of the OGI Survey documentation. The emitting component must be identified for repair, and the date, time, and location of the observed emissions must be recorded in the survey log referenced in Paragraph 4 of this Section.

6. An emitting component shall be repaired as soon as practicable but no later than fifteen (15) calendar days after initial observation. Any absence of pilot flame at a control device, or other indication of improper operation, shall be corrected and the control device returned to proper operation as soon as practicable. No later than fifteen (15) days after an emitting component is repaired, Respondent shall verify all corrective actions by capturing, at a minimum, a 10-second video clip using an OGI camera to demonstrate the component is not emitting. The video clip must be kept with the rest of the OGI Survey documentation. The date and description of the corrective action, as well as the date of corrective action verification using an OGI Survey, must be recorded in the survey log referenced in Paragraph 4 of this Section.

Quality Assurance and Quality Control

7. The Facility must have or establish a written process which ensures the validity of the monitoring data. Examples may include routine review and sign-off of the monitoring data by the camera operator's supervisor, periodic comparative monitoring using a different camera operator as part of a continuing training verification plan, or other due-diligence procedures.

Reporting

8. The Facility must submit the following records to EPA on a monthly basis pursuant to the requirements in Paragraph 9 of this Section, but no later than thirty (30) days after conducting each OGI Survey:

- a. Survey logs for all OGI Surveys;
- b. All video footage for each OGI Survey, including, but not limited to, all video clips recorded or captured pursuant to Paragraphs 3, 5, and 6 of Section I of Appendix C; and
- c. Record of corrective actions.

9. Upload all required records in Paragraph 8 of this Section to an electronic folder provided by EPA. Respondent shall contact the enforcement officer identified in Paragraph 72 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

II. Tank Pressure Monitoring

Respondent shall conduct tank pressure monitoring at the Facilities indicated in Appendix A in accordance with the following requirements:

1. Use manufacturer's recommendation to install, calibrate, maintain, and operate an electronic pressure monitor(s) at each tank system (collectively, "Tank Pressure Monitors").
2. Tank Pressure Monitors shall record data at least once every minute with a data transmission at least every hour to a central monitoring station.

3. Tank Pressure Monitors must be operated and function continuously except during instances of planned or unplanned maintenance or malfunction of the Tank Pressure Monitors. If a Tank Pressure Monitor is identified as malfunctioning, Respondent shall complete the repair within five (5) days. Respondent shall record all dates, locations, durations, and causes of Tank Pressure Monitor malfunctions.

4. After the Tank Pressure Monitors are installed pursuant to Paragraph 1 of this Section, Respondent shall evaluate calibration and optimize the Tank Pressure Monitors to ensure that the data produced by the Tank Pressure Monitors are accurate.

5. After the Tank Pressure Monitors are calibrated and optimized pursuant to Paragraph 4 of this Section, Respondent shall:

a. conduct an OGI Survey during a pressure test to determine the leak point of each tank system. During the pressure test, Respondent shall pressurize the tank system up to the highest point at which the pressure relief devices are not emitting ("leak point"). The leak point shall be no greater than the lowest set point of any pressure relief device; and

b. determine the trigger point, which must be at least two ounces per square inch below the lowest set point of any pressure relief device in the tank system and less than the leak point (e.g., if a tank is equipped with a thief hatch with a set point of 16 oz/in² and a pressure relief valve ("PRV") with a set point of 14 oz/in², the trigger point can be no greater than 12 oz/in²).

6. Respondent shall record all dates, locations, durations, and causes of each instance when a Tank Pressure Monitor records a measurement that exceeds the trigger point.

7. At any time after the completion of Paragraph 5 of this Section, if (a) any Tank Pressure Monitor records two (2) or more measurements in a 48-hour period that exceed the trigger point, or (b) a measurement exceeds the trigger point continuously for a duration of one (1) minute or longer, such record shall require a site investigation using an OGI camera. Respondent shall complete, within five (5) days of such record, the site investigation and all necessary corrective action. Each site investigation shall be documented with a record that includes the results of the site investigation, any observation of VOC emissions observed, and any corrective actions taken to address observations of VOC emissions or any instances of malfunction of the Tank Pressure Monitors.

8. The Facility must submit all records made pursuant to Paragraphs 3, 6, and 7 of this Section to EPA on a monthly basis within twenty-one (21) days of the end of each month. The Facility must upload the records to an electronic folder provided by EPA. Respondent shall contact the enforcement officer identified in Paragraph 72 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

III. Combustion Control Device Monitoring

Respondent shall conduct combustion control device monitoring at the Facilities indicated in Appendix A, in accordance with the following requirements:

1. Use manufacturer's recommendations to install, calibrate, maintain, and operate, a thermocouple or equivalent device to detect the presence of a flame for each combustion control device at each Facility (collectively, "Pilot Monitors").
2. Pilot Monitors shall record data at least once every five (5) minutes and, whenever the monitor fails to detect the presence of a flame, the monitors shall transmit data reporting such event to a central monitoring station within one (1) hour.
3. Pilot Monitors must be operated and function continuously except during instances of planned or unplanned maintenance or malfunction of the Pilot Monitors. If a Pilot Monitor malfunctions, Respondent shall complete the repair or maintenance of the Pilot Monitor within five (5) days. Respondent shall record all dates, locations, durations, and causes of Pilot Monitor malfunctions.
4. Respondent shall record all dates, locations, durations and causes of each instance when the Pilot Monitor failed to detect the presence of a flame.
5. The Facility must submit all records made pursuant to Paragraphs 3 and 4 of this Section to EPA on a monthly basis within twenty-one (21) days of the end of each month. The Facility must upload the records to an electronic folder provided by EPA. Respondent shall contact the enforcement officer identified in Paragraph 72 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

IV. Vapor Recovery Unit Monitoring

Respondent shall conduct vapor recovery unit ("VRU") monitoring at the Facilities identified in Appendix A in accordance with the following requirements:

1. Use manufacturer's recommendations to install, calibrate, maintain, and operate a monitor that records the periods of time when the VRU is operating (collectively, "VRU Uptime Monitors") at each tank system that uses a VRU.
2. Each VRU Uptime Monitor shall continually monitor periods of VRU operation and record data at least once every fifteen (15) seconds and, every five (5) minutes, shall transmit records—one from each minute of the five minutes—to a central monitoring station. The VRU Uptime Monitors must be operated and function continuously except during instances of planned or unplanned maintenance or malfunction of the VRU Uptime Monitors.
3. Within thirty (30) days of installing each VRU Uptime Monitor pursuant to Paragraph 1 above, Respondent shall record the date, time, location, and periods when the VRU is not operating.

4. The Facility must submit all records made pursuant to Paragraph 3 of this Section to EPA on a monthly basis within twenty-one (21) days of the end of each month. The Facility must upload the records to an electronic folder provided by EPA. Respondent shall contact the enforcement officer identified in Paragraph 72 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

V. Bypass Monitoring

Respondent shall conduct bypass monitoring at each VRU and control device for which a bypass device exists at the Facilities identified in Appendix A in accordance with the following requirements:

1. Respondent shall comply with the bypass monitoring requirements of 40 C.F.R. §§ 60.5411a(c)(3) and 60.5416a(c)(3).
2. Respondent shall prepare and maintain the following records:
 - a. Records required to be maintained by 40 C.F.R. § 60.5420a(c)(8); and
 - b. Whenever a bypass to the atmosphere has occurred, the time, date, location, duration, and description of the bypass.
3. The Facility must submit all records made pursuant to Paragraph 2 of this Section to EPA on a monthly basis within twenty-one (21) days of the end of each month. The Facility must upload the records to an electronic folder provided by EPA. Respondent shall contact the enforcement officer identified in Paragraph 72 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

APPENDIX D:

I. Letter Report Requirements

Respondent shall provide a Letter Report to EPA containing the following information for each of the Facilities:

1. Include a copy of the final Audit Report.
2. Include a response to each of the Audit Findings.
3. A statement of whether Respondent is applying for, or will apply for, new or modified permits, repairing or replacing any equipment in accordance with the Audit Findings.
4. A description of the following steps that Respondent has taken or will take:
 - a. A schedule for promptly addressing deficiencies identified in the Audit Findings and Compliance Monitoring.
 - b. A list of new equipment and piping to be procured, including flares, combustors, vapor recovery units/towers, tank hatches, pressure relief valves, piping, and gaskets.
 - c. The repair, replacement, upgrading, and/or installation of equipment, including vapor recovery units/towers, flares, 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.
 - e. If the Audit Findings included a lack of operation and maintenance procedures for inspecting process equipment at each of the Facilities, in reference to paragraph 3.b of Section II of Appendix B, confirmation of the creation of such procedures that include, at a minimum, the items listed in paragraph 3.a of Section II of Appendix B. Confirmation shall include providing EPA a copy of the operation and maintenance procedures.
5. An estimation of the total emission reductions for specific actions taken or improvements made or planned to be made.
6. Confirmation that there are no unauthorized emissions during normal operations for newly installed equipment (e.g., conduct OGI Camera Surveys to detect and correct any visible emissions).

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REGIONAL HEARING CLERK
EPA REGION 6

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

EOG Resources Inc.
Midland, Texas

RESPONDENT

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DOCKET NO. CAA 06-2025-3303

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act, 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 attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

EOG Resources Inc. is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated _____

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the addressees:

Copy via Email to Complainant - READ RECEIPT REQUESTED

roland.alexandrea@epa.gov
mosavihecht.pegga@epa.gov

Copy via Email to Respondent- READ RECEIPT REQUESTED

eddie.lewis@nortonrosefulbright.com
Eddie Lewis
Norton Rose Fulbright US LLP
1550 Lamar Street, Suite 2000
Houston, Texas 77010

Regional Hearing Clerk
U.S. EPA, Region 6