UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 0 9 2014

REPLY TO THE ATTENTION OF:
SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brian Dorr
Vice President, Operations
BreitBurn Management Company, LLC
600 Travis Street, Suite 4800
Houston, TX 77002

Re: **BreitBurn Energy Partners L.P., Bay City, Michigan**
Consent Agreement and Final Order
Docket No. **CAA-05-2014-0027**

Dear Mr. Dorr,

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. U.S. EPA has filed the original CAFO with the Regional Hearing Clerk on May 9, 2014. Please note Breitburn Energy Partners L.P.'s (BreitBurn's) obligation to pay a civil penalty in the amount of $49,000 in the manner prescribed in paragraphs 39-44 and please reference your check with the docket number. In addition, BreitBurn must complete three Supplemental Environmental Projects worth $285,000 as prescribed in paragraphs 45-60.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181 if you have any questions regarding the enclosed documents. Please direct any legal questions to Randa Bishlawi, Regional Counsel, at (312) 886-0510. Thank you for your assistance in resolving this matter.

Sincerely yours,

Richard McNamara for

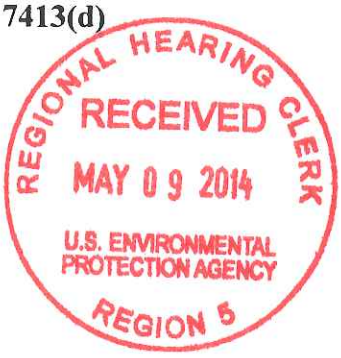
Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure

cc. Randa Bishlawi, ORC
Greg Kopel, BreitBurn
Tim Howard, BreitBurn

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	**Docket No. CAA-05-2014-0027**
	)	
BreitBurn Energy Partners L.P.	)	**Proceeding to Assess a Civil Penalty**
Bay City, Michigan	)	**under Section 113(d) of the Clean Air**
	)	**Act, 42 U.S.C. § 7413(d)**
EPA ID: 1000 0008 1225	)	
	)	
Respondent.	)	
	)	



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is BreitBurn Energy Partners L.P., a limited partnership doing business in the State of Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. In accordance with Section 112(r) of the Act, 42 U.S.C. § 7412(r), on June 20, 1996, U.S. EPA promulgated regulations to prevent accidental releases of regulated substances and minimize the consequences of those releases that do occur. These regulations, known as the Chemical Accident Prevention Program (CAPP) regulations, are codified at 40 C.F.R. Part 68.

10. As provided at 40 C.F.R. § 68.10(a), the CAPP regulations apply to all stationary sources that have more than a threshold quantity of a regulated substance in a process. The List of Regulated Toxic Substances and Threshold Quantities for Accidental Release Prevention is codified at 40 C.F.R. § 68.130. Procedures to determine whether a threshold quantity of a regulated substance is present in a process at a stationary source are codified at 40 C.F.R. § 68.115.

11. As defined at 40 C.F.R.§ 68.3, "process" means any activity involving a regulated substance including any use, storage, manufacturing, handling, on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of

vessels that are interconnected, or separate vessels that are located such that regulated substances could be involved in a potential release, shall be considered a single process.

12. As defined at 40 C.F.R. § 68.3, "stationary source" means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person, and from which an accidental release may occur.

13. According to 40 C.F.R. § 68.12(a), the owner or operator of a stationary source subject to the requirements of 40 C.F.R. Part 68 must submit a single Risk Management Plan (RMP), as provided in 40 C.F.R. §§ 68.150 to 68.185.

14. Under 40 C.F.R. §§ 68.10(a) and 68.150, the owner or operator of a stationary source subject to the requirements of 40 C.F.R. Part 68 must submit the RMP no later than the latest of the following dates: June 21, 1999; three years after the date on which the regulated substance is first listed under 40 C.F.R. § 68.130; or the date on which a regulated substance is first present in more than a threshold quantity in a process.

15. Under 40 C.F.R. § 68.10, covered processes are subjected to one of three sets of program requirements: Program 1 eligibility requirements; Program 2 eligibility requirements; or Program 3 eligibility requirements.

16. Under 40 C.F.R. § 68.10(d), Program 3 applies to a process that (1) does not meet the requirements of Program 1 eligibility, as set forth at 40 C.F.R. § 68.10(b), and (2) is subject to the OSHA Process Safety Management (PSM) standard set forth at 29 C.F.R. § 1910.119.

17. Under 40 C.F.R. § 68.10(b), Program 1 applies to a process that meets all the following requirements: (1) for the five years prior to the submission of an RMP, the process has

not had an accidental release of a regulated substance where exposure to the substance, its reaction products, over-pressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to off-site death, injury, or response or restoration activities for an exposure of an environmental receptor; (2) the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under 40 C.F.R. § 68.25 is less than the distance to any public receptor; and (3) emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

18. Pursuant to 29 C.F.R. § 1910.119(a)(ii), a process is subject to the OSHA PSM standard if it involves a flammable liquid or gas on site in one location, in a quantity of 10,000 pounds or more.

19. The general requirements at 40 C.F.R. § 68.12(d)(2) require that the owner or operator of a stationary source with a process subject to Program 3 requirements conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20 through 68.42, implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87, and develop and implement an emergency response program as provided in 40 C.F.R. §§ 68.90 through 68.95.

20. Under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, the Administrator of U.S. EPA (Administrator) may assess a civil penalty of up to $27,500 per day of violation of the Act, up to a total of $220,000, for violations that occurred on or after January 31, 1997, through March 15, 2004, may assess a civil penalty of up to $32,500 per day of violation, up to a total of $270,000, for violations that occurred after March 15, 2004, through January 12, 2009; and may assess a civil penalty of up to $37,500 per day of violation up to a total of $295,000, for violations that occurred after January 12, 2009.

21. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

22. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

Factual Allegations and Alleged Violations

23. Respondent is a corporation with a place of business located at 3900 Three Mile Road, Bay City, Michigan 48706 (the facility).

24. Respondent is a "person," as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

25. At the facility, Respondent operates a gas processing facility, which uses flammable mixtures that include pentane, isobutene, butane, propane, and ethane.

26. The facility is a "stationary source," as that term is defined at 40 C.F.R. § 68.3.

27. Respondent is the "owner or operator" of the facility, as defined at Section 112(a)(9) of the Act, 42 U.S.C. § 7412(a)(9).

28. Respondent's use and storage of flammable mixtures is a "process," as defined at 40 C.F.R. § 68.3.

29. Flammable mixtures that include pentane, isobutene, butane, propane, and ethane are listed as regulated flammable substances in Tables 3 and 4 of 40 C.F.R. § 68.130.

30. Respondent maintained flammable mixtures containing more than one percent of pentane, isobutene, butane, propane, and ethane or other regulated substances in quantities exceeding 10,000 pounds. Respondent thus maintained flammable substances in quantities exceeding the threshold quantities under the Chemical Accident Pollution Prevention rule.

31. Flammable Mixtures are "regulated substances" as that term is defined in Section 112(r)(2) of the Act, 42 U.S.C. § 7412(r)(2) and 40 C.F.R. § 68.3.

32. The "threshold quantity" (as that term is defined in 40 C.F.R. § 68.3) for flammable mixtures is 10,000 pounds, as listed in 40 C.F.R. § 68.130, Tables 3 and 4.

33. At all times relevant to this CAFO, Respondent had present at its facility an amount of flammable mixtures greater than 10,000 pounds.

34. The distance from the facility to a toxic or flammable endpoint for a worst-case release assessment conducted under 40 C.F.R. § 68.25 is greater than the distance to any public receptor.

35. Respondent's process is subject to the OSHA PSM standard set forth at 29 C.F.R. § 1910.119.

36. On September 11, 2006, Respondent submitted a Risk Management Plan (RMP) for the process, which indicated the process is subject to the Program 3 eligibility requirements.

37. On July 27, 2011, an authorized representative of U.S. EPA conducted a compliance inspection at the facility to determine Respondent's compliance with the Risk Management Program regulations.

38. Based on the inspection, U.S. EPA alleges that Respondent has committed the following violations of the Risk Management Program regulations:

a. Respondent failed to document other persons' responsibilities for implementing individual requirements of the risk management program and define the lines of authority through an organization chart or similar document, in violation of 40 C.F.R. § 68.15(c).
b. Respondent failed to document information pertaining to the technology of the process that included maximum intended inventory, in violation of 40 C.F.R. § 68.65(c)(1)(iii).
c. Respondent failed to document information pertaining to the equipment in the process that included material of construction in violation of 40 C.F.R. § 68.65(d)(1)(i).
d. Respondent failed to document information pertaining to the equipment in the process that included electrical classification, in violation of 40 C.F.R. § 68.65(d)(1)(ii).
e. Respondent failed to document information pertaining to the equipment in the process that included relief system design and design basis, in violation of 40 C.F.R. § 68.65(d)(1)(iv).
f. Respondent failed to document information pertaining to the equipment in the process that included ventilation system design, in violation of 40 C.F.R. § 68.65(d)(1)(v).
g. Respondent failed to document information pertaining to the equipment in the process that included material and energy balances, in violation of 40 C.F.R. § 68.65(d)(1)(vii).
h. Respondent failed to document that equipment complies with recognized and generally accepted good engineering practices, in violation of 40 C.F.R. § 68.65(d)(2).
i. Respondent failed to perform a Process Hazard Analysis that addressed the identification of any previous incident which had a likely potential for catastrophic consequences, in violation of 40 C.F.R. § 68.67(c)(2).
j. Respondent failed to perform a Process Hazard Analysis that addressed stationary source siting, in violation of 40 C.F.R. § 68.67(c)(5).
k. Respondent failed to perform a Process Hazard Analysis that addressed human factors, in violation of 40 C.F.R. § 68.67(c)(6).
l. Respondent failed to ensure that procedures address consequences of deviation, in violation of 40 C.F.R. § 68.69(a)(2)(i).
m. Respondent failed to ensure that procedures address steps required to correct or avoid deviation, in violation of 40 C.F.R. § 68.69(a)(2)(ii).
n. Respondent failed to certify annually that operating procedures are current and accurate, in violation of 40 C.F.R. § 68.69(d).
o. Respondent failed to provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process, in violation of 40 C.F.R. § 68.71(b).
p. Respondent failed to ascertain that each employee involved in operating a process at the facility had received and understood the training required by 40 C.F.R. § 68.71, and failed to prepare a record for each employee which contained the identity of the

employee, the training date, and the means Respondent used to verify that the employee understood the training, in violation of 40 C.F.R. § 68.71(c).

q. Respondent failed to establish and implement written procedures to maintain the on-going integrity of the process equipment listed in 68.73(a), in violation of 40 C.F.R. § 68.73(b).

r. Respondent failed to train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner, in violation of 40 C.F.R. § 68.73(c).

s. Respondent failed to follow inspection and testing procedures that follow recognized and generally accepted good engineering practices, in violation of 40 C.F.R. § 68.73(d)(2).

t. Respondent failed to ensure the frequency of inspections and tests of process equipment is consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience, in violation of 40 C.F.R. § 68.73(d)(3).

u. Respondent failed to document each inspection and test that has been performed on process equipment, which identifies the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test, in violation of 40 C.F.R. § 68.73(d)(4).

v. Respondent failed to perform appropriate checks and inspections to assure that equipment was installed properly and consistent with design specifications and manufacturer's instructions, specifically for the facility expansion, in violation of 40 C.F.R. § 68.73(f)(2).

w. Respondent failed to certify that it had evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed, in violation of 40 C.F.R. § 68.79(a).

x. Respondent failed to periodically evaluate the performance of the contractor owner or operator in fulfilling its obligations, in violation of 40 C.F.R. § 68.87(b)(5).

Civil Penalty

39. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, other factors such as cooperation and prompt compliance, and Respondent's agreement to perform three Supplemental Environmental Projects described below in this CAFO, Complainant has determined that an appropriate civil penalty to settle this action is $49,000.

40. Within 30 days after the effective date of this CAFO, Respondent must pay a

$49,000 civil penalty by sending a cashier's or certified check payable to the "Treasurer, United States of America," to:

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

The check must note the case name, docket number of this CAFO and the billing document number.

41. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Monika Chrzaszcz, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Randa Bishlawi, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

42. This civil penalty is not deductible for federal tax purposes.

43. If Respondent does not pay timely the civil penalty, or any stipulated penalties due under paragraph 55, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States'

enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

44. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a $15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

SUPPLEMENTAL ENVIRONMENTAL PROJECTS

45. Respondent must complete three supplemental environmental projects (SEPs) designed to protect the environment and public health.

46. Within 120 days of the effective date of this CAFO, Respondent must complete the SEPs as follows:

a. Purchase and donate four gas monitors for each of the sixteen fire departments in Bay County, Michigan. The monitors assist the fire departments in quickly identifying the presence of potentially dangerous releases to the atmosphere;

b. Purchase, install and donate four additional public warning sirens for the public warning system in Bay County, Michigan. The sirens are essential in notifying the public of potentially dangerous conditions; and

c. Purchase, install and apply for Federal Communications Commission licensing of two

new VHF 100 watt base stations (tower sites) that would fill in a current gap in signal coverage to facilitate communications in the event of an emergency. Respondent shall donate the base stations to Bay County.

47. Respondent must spend at least $285,000 to accomplish the projects described in the previous two paragraphs.

48. Respondent, by its undersigned signatory, certifies as follows:

I certify that BreitBurn Energy Partners L.P., is not required to perform or develop the SEPs by any law, regulation, prior order, or prior agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that BreitBurn Energy Partners L.P., has not received, and is not negotiating to receive, credit for the SEPs in any other enforcement action.

I certify that BreitBurn Energy Partners L.P., is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEPs. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEPs, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

49. Within 120 days of the effective date of this CAFO, Respondent must submit to U.S. EPA an interim report on the implementation of the SEPs, identifying the date the equipment was purchased for the SEPs, the date that the equipment was installed, the date that the FCC license was applied for the base stations, and the date that the SEP equipment was donated to Bay County.

50. Within 240 days of the effective date of this CAFO, Respondent must submit a SEP completion report to U.S. EPA. This report must contain the following information:

a. Detailed description of the SEP as completed including verification that the

gas monitors and public warning sirens and associated equipment are operating correctly and if the FCC license was issued;

b. Description of any operating problems and the actions taken to correct the problems;

c. Itemized costs of the equipment purchased and any applicable labor costs, or additional costs;

d. Certification that Respondent has completed the SEPs in compliance with this CAFO; and

e. Description of the environmental and public health benefits resulting from the SEPs.

U.S. EPA acknowledges that the FCC may not have issued the FCC license for the tower sites prior to completion of the SEPs.

51. Respondent must submit all notices and report required by this CAFO by first class mail to Monika Chrzaszcz of the Chemical Emergency Preparedness and Prevention Section at the address specified in paragraph 41, above.

52. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

53. Following receipt of the SEP completion report described in paragraph 50, above, U.S. EPA must notify Respondent in writing that:

a. It has satisfactorily completed the SEPs and the SEP reports;

b. There are deficiencies in the SEPs as completed or in the SEP reports and U.S EPA will give Respondent 30 days to correct the deficiencies; or

c. It has not satisfactorily completed the SEPs or the SEP reports and U.S. EPA will seek stipulated penalties under paragraph 55, below.

54. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any reasonable requirements U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 55, below.

55. If Respondent violates any requirement of this CAFO relating to the SEPs, Respondent must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b, below, if Respondent did not complete the SEPs satisfactorily according to the requirements of this CAFO, Respondent must pay a penalty of $147,000.

b. If Respondent did not complete the SEPs satisfactorily, but U.S. EPA determines that Respondent made good faith and timely efforts to complete the SEPs and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 47, Respondent will not be liable for any stipulated penalty under subparagraph a, above.

c. If Respondent completed the SEPs satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 47, Respondent must pay a penalty of $28,500.

d. If Respondent did not submit timely the SEP reports, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the reports:

Penalty Per Violation Per Day	Period of Violation
$100	1st through 14th day
$200	15th through 30th day
$500	31st day and forward

56. U.S. EPA's determinations of whether Respondent completed the SEPs satisfactorily and whether Respondent made good faith and timely efforts to complete the SEPs will bind Respondent.

57. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 40-41, above, and will pay interest and nonpayment penalties on any overdue amounts.

58. Any public statement that Respondent makes referring to the SEPs must include the following language, "BreitBurn Energy Partners L.P. undertook this project in settlement of an enforcement action brought by the United States Environmental Protection Agency for violations of the emergency planning requirements of the Clean Air Act."

59. a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this Agreement, Respondent shall notify U.S. EPA in writing not more than 10 days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Failure by

Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this Agreement based upon such incident.

b. If the Parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances entirely beyond the control of the Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

c. In the event that the U.S. EPA does not agree that a delay in achieving compliance with the requirements of this Consent Agreement and Order has been or will be caused by circumstances beyond the control of the Respondent, U.S. EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be a basis for changes in this CAFO or extensions of times under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

60. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct the $285,000 expenditure incurred in performing the SEPs.

General Provisions

61. This CAFO resolves only Respondent's liability for federal civil penalties for the

violations alleged in this CAFO.

62. The CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

63. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 61 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

64. Respondent certifies that it is complying fully with Section 112(r) of the Act, 42 U.S.C. § 7412(r).

65. This CAFO constitutes an "enforcement response" as that term is used in U.S. EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

66. The terms of this CAFO bind Respondent, its successors, and assigns.

67. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

68. Each party agrees to bear its own costs and attorneys' fees in this action.

69. This CAFO constitutes the entire agreement between the parties.

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of: BreitBurn Energy, L.P., Bay City, Michigan
Docket No.

BreitBurn Energy, L.P., Respondent

May 1, 2014
Date

Name: Brian Dorr
Title: Vice President Operations

United States Environmental Protection Agency, Complainant

5-6-14
Date

Richard Karl, Director
Superfund Division

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of: BreitBurn Energy, L.P., Bay City, Michigan
Docket No.
CAA-05-2014-0027

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

May 7, 2014
Date

Susan Hedman
Regional Administrator
U.S. Environmental Protection
Agency, Region 5

In the Matter of: BreitBurn Energy Partners L.P., Bay City, Michigan
Docket No. CAA-05-2014-0027

Certificate of Service

I hereby certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U. S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Brian Dorr
Vice President, Operations
BreitBurn Management Company, LLC
600 Travis Street, Suite 4800
Houston, TX 77002

Original copy mailed to:

Greg Kopel
BreitBurn Management Company, LLC
600 Travis Street, Suite 4800
Houston, TX 77002

Tim Howard
BreitBurn Energy Partners L.P.
Area Superintendent
515 South Flower Street, 48th Floor
Los Angeles, California 90071

Monika Chrzaszcz
U.S. EPA, Region 5

Electronic copy sent to:
Randa Bishlawi,
U.S. EPA, Region 5

on the 9th day of May, 2014

Jarrah P. Sanders
U.S. Environmental Protection Agency
Region 5