

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2023-0027
)	
Bluewater Gas Storage, LLC)	Proceeding to Assess a Civil Penalty
Ray Township, Michigan)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
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 CAA), 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 Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Bluewater Gas Storage, LLC (“Bluewater Gas”), a Delaware limited liability company doing business in 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 the assessment of the civil penalty specified in this CAFO and to the terms of this 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 this 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. Section 111 of the CAA, 42 U.S.C. § 7411, requires EPA to implement a New Source Performance Standards ("NSPS") program for the control of air pollutant emissions. NSPS regulations impose nationally uniform emission standards for new or modified stationary sources falling within industrial categories that significantly contribute to air pollution.

10. The NSPS includes Standards of Performance for New Stationary Sources for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015, found in 40 C.F.R. Part 60, Subpart OOOOa ("Subpart OOOOa").

11. Subpart OOOOa establishes emission standards for the control of emissions of volatile organic compounds ("VOCs"), sulfur dioxide, and greenhouse gases in the form of methane from various types of equipment at oil and natural gas facilities constructed, modified, or reconstructed after September 18, 2015, including fugitive emissions components at compressor stations.

12. Subpart OOOOa, at 40 C.F.R. § 60.5430a, states, "*Compressor station* means any permanent combination of one or more compressors that move natural gas at increased pressure through gathering pipelines. This includes, but is not limited to, gathering and boosting stations.

The combination of one or more compressors located at a well site, or located at an onshore natural gas processing plant, is not a compressor station for purposes of § 60.5397a.”

13. Subpart OOOOa, at 40 C.F.R. § 60.5430a, states, “*First attempt at repair* means, for the purposes of fugitive emissions components, an action taken for the purpose of stopping or reducing fugitive emissions to the atmosphere. First attempts at repair include, but are not limited to, the following practices where practicable and appropriate: Tightening bonnet bolts; replacing bonnet bolts; tightening packing gland nuts; or injecting lubricant into lubricated packing.”

14. Subpart OOOOa, at 40 C.F.R. § 60.5430a, states, “*Fugitive emissions component* means any component that has the potential to emit fugitive emissions of VOC at a well site or compressor station, including valves, connectors, pressure relief devices, open-ended lines, flanges, covers and closed vent systems not subject to § 60.5411 or § 60.5411a, thief hatches or other openings on a controlled storage vessel not subject to § 60.5395 or § 60.5395a, compressors, instruments, and meters. Devices that vent as part of normal operations, such as natural gas-driven pneumatic controllers or natural gas-driven pumps, are not fugitive emissions components, insofar as the natural gas discharged from the device's vent is not considered a fugitive emission. Emissions originating from other than the device's vent, such as the thief hatch on a controlled storage vessel, would be considered fugitive emissions.”

15. Subpart OOOOa, at 40 C.F.R. § 60.5430a, states, “*Repaired* means, for the purposes of fugitive emissions components, that fugitive emissions components are adjusted, replaced, or otherwise altered, in order to eliminate fugitive emissions as defined in § 60.5397a and resurveyed as specified in § 60.5397a(h)(4) and it is verified that emissions from the fugitive emissions components are below the applicable fugitive emissions definition.”

16. Subpart OOOOa, at 40 C.F.R. § 60.5365a, states, “You are subject to the applicable provisions of this subpart if you are the owner or operator of one or more of the onshore affected facilities listed in paragraphs (a) through (j) of this section, that is located within the Crude Oil and Natural Gas Production source category, as defined in § 60.5430a, for which you commence construction, modification, or reconstruction after September 18, 2015.”

17. Subpart OOOOa, at 40 C.F.R. § 60.5365a(j), defines the collection of fugitive emissions components at a compressor station, as defined in § 60.5430a, as an affected facility. For purposes of § 60.5397a, a “modification” to a compressor station occurs when:

- (1) An additional compressor is installed at a compressor station; or
- (2) One or more compressors at a compressor station is replaced by one or more compressors of greater total horsepower than the compressor(s) being replaced. When one or more compressors is replaced by one or more compressors of an equal or smaller total horsepower than the compressor(s) being replaced, installation of the replacement compressor(s) does not trigger a modification of the compressor station for purposes of § 60.5397a.

18. Subpart OOOOa, at 40 C.F.R. § 60.5397a(h), states, in part:

Each identified source of fugitive emissions shall be repaired, as defined in § 60.5430a, in accordance with paragraphs (h)(1) and (2) of this section.

(1) A first attempt at repair shall be made no later than 30 calendar days after detection of the fugitive emissions.

(2) Repair shall be completed as soon as practicable, but no later than 30 calendar days after the first attempt at repair as required in paragraph (h)(1) of this section.

...

(4) Each identified source of fugitive emissions must be resurveyed to complete repair according to the requirements in

paragraphs (h)(4)(i) through (iv) of this section, to ensure that there are no fugitive emissions.

(i) The operator may resurvey the fugitive emissions components to verify repair using either Method 21 of appendix A-7 of this part or optical gas imaging.

...

(iii) Operators that use Method 21 of appendix A-7 of this part to resurvey the repaired fugitive emissions components are subject to the resurvey provisions specified in paragraphs (h)(4)(iii)(A) and (B) of this section.

(A) A fugitive emissions component is repaired when the Method 21 instrument indicates a concentration of less than 500 ppm above background or when no soap bubbles are observed when the alternative screening procedures specified in section 8.3.3 of Method 21 of appendix A-7 of this part are used.

(B) Operators must use the Method 21 monitoring requirements specified in paragraph (c)(8)(ii) of this section or the alternative screening procedures specified in section 8.3.3 of Method 21 of appendix A-7 of this part

...

(j) Annual reports shall be submitted for each collection of fugitive emissions components at a well site and each collection of fugitive emissions components at a compressor station that include the information specified in § 60.5420a(b)(7). Multiple collection of fugitive emissions components at a well site or at a compressor station may be included in a single annual report.

19. Subpart OOOOa, at 40 C.F.R. § 60.5420a(b)(7), states, in part, “For the collection of fugitive emissions components at each well site and the collection of fugitive emissions components at each compressor station, report the information specified in paragraphs (b)(7)(i) through (iii) of this section, as applicable.”

20. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$55,808 per day of violation up to a total of \$446,456 for violations that occurred after

November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

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 the 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 CAFO.

Factual Allegations and Alleged Violations

23. Bluewater Gas owns and operates a natural gas compressor station at 68211 and 68233 Omo Road, Ray Township, Michigan (the Omo Road Facility).

24. The Omo Road Facility was issued Permit to Install 9-19 on May 17, 2019, by the Michigan Department of Environment, Great Lakes, and Energy, Air Quality Division.

25. The Omo Road Facility is subject to requirements at 40 C.F.R. Part 60, Subpart OOOOa, because it was constructed after September 15, 2015 and includes equipment that meets the definition of the collection of fugitive emissions components at a compressor station as defined in 40 C.F.R. § 60.5430a. The Omo Road Facility is therefore an affected facility under 40 C.F.R. § 60.5365a(j).

26. On December 21, 2022, Bluewater Gas submitted to EPA a periodic report due pursuant to 40 C.F.R. § 60.5420a(b)(7).

27. In the December 21, 2022 periodic report, Bluewater Gas identified four connectors, among other components, that had been found to be leaking during a required fugitive emissions components survey conducted on February 2, 2022.

28. In a letter attachment to the December 21, 2022 periodic report, Bluewater Gas stated that it had not made a first attempt at repair for these four connectors within 30 days, as required by 40 C.F.R. § 60.5397a(h)(1).

29. In the letter attachment to the December 21, 2022 periodic report, Bluewater Gas stated that the repairs on the four leaking connectors were made on May 16, 2022.

30. After discovering that the four connectors were leaking on February 2, 2022, Bluewater Gas did not make a first attempt at repair within 30 days.

31. Bluewater Gas did not complete repairs of the four connectors within 60 calendar days of detection of the fugitive emission.

32. On February 22, 2023, EPA Region 5 issued a Finding of Violation (FOV) to Bluewater Gas.

33. On March 23, 2023, Bluewater Gas and EPA representatives held a virtual conference to discuss the violations alleged in the February 22, 2023 FOV. On March 31, 2023, Bluewater Gas provided a written response to the FOV.

34. By not attempting a first attempt at repair within 30 calendar days, Bluewater violated 40 C.F.R. § 60.5397a(h)(1).

35. By not completing repairs within 60 calendar days, Bluewater violated 40 C.F.R. § 60.5397a(h)(2).

Civil Penalty

36. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$49,885.

37. Penalty Payment. Respondent agrees to:

a. pay the civil penalty of \$49,885 within 30 days after the effective date of this CAFO.

b. Pay the civil penalty using any method provided in the table below.

Payment Method	Payment Instructions
<p>Automated Clearinghouse (ACH) payments made through the US Treasury</p>	<p>US Treasury REX/Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the CAFO docket number.</p>
<p>Wire transfers made through Fedwire</p>	<p>Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Beneficiary: US Environmental Protection Agency</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.</p>
<p>Payments made through Pay.gov</p> <p>Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.</p>	<ul style="list-style-type: none"> • Go to Pay.gov and enter “SFO 1.1” in the form search box on the top left side of the screen. • Open the form and follow the on-screen instructions. • Select your type of payment from the "Type of Payment" drop down menu. • Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field
<p>Cashier’s or certified check payable to “Treasurer, United States of America.”</p> <p>Please notate the CAFO docket number on the check</p>	<p>For standard delivery: U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center P.O. Box 979077 St. Louis, Missouri 63197-9000</p> <p>For signed receipt confirmation (FedEx, UPS, Certified Mail, etc.): U.S. Environmental Protection Agency Government Lockbox 979077 U.S. EPA Fines and Penalties 1005 Convention Plaza SL-MO-C2-GL St. Louis, Missouri 63101</p>

38. Within 24 hours of the payment of the civil penalty, Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Logan Glasenapp
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
glasenapp.logan.m@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

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

40. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties, and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

41. 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 pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. 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. 42 U.S.C. § 7413(d)(5).

General Provisions

42. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: glasenapp.logan.m@epa.gov (for Complainant), and cynthia.faur@quarles.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

43. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

44. The effect of the settlement described in paragraph 40, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in paragraphs 26 through 29, and 32 of this CAFO and Respondent's letter dated March 31, 2023.

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

46. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 40, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

47. Respondent certifies that it is complying fully with the NSPS Subpart OOOOa.

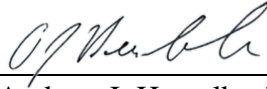
48. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

49. The terms of this CAFO bind Respondent, its successors and assigns.
50. 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.
51. Each party agrees to bear its own costs and attorney's fees in this action.
52. This CAFO constitutes the entire agreement between the parties.

Bluewater Gas Storage, LLC, Respondent

8/21/2023

Date



Andrew J. Hesselbach,
Senior Vice President Gas Operations,
WEC Business Services LLC (an affiliate of
Bluewater Gas Storage, LLC and the centralized
service company for WEC Energy Group, Inc. and
its subsidiaries, including Bluewater Gas Storage,
LLC), on behalf of Bluewater Gas Storage, LLC

65-1177845

Tax Identification Number

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order
In the Matter of: Bluewater Gas Storage, LLC
Docket No. CAA-05-2023-0027**

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.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5