UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Westlake Natrium LLC	:	**U.S. EPA Docket No. CAA-03-2023-0095**
2801 Post Oak Boulevard	:	
Houston, Texas 77056,	:	**Proceeding under Sections 112(r) and 113(d) of**
	:	**the Clean Air Act, 42 U.S.C. §§ 7412(r) and**
Respondent.	:	**7413(d)**
	:	
Westlake Natrium	:	
15696 Energy Road	:	
WV State Road 2	:	
Proctor, WV 26055,	:	
	:	
Facility.	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and Westlake Natrium LLC ("Respondent") (collectively the "Parties"), pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Section 113 of the Clean Air Act authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under the Clean Air Act (or the "Act") for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.

6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.

8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.

9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

11. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

13. Respondent Westlake Natrium LLC, formerly known as Eagle Natrium LLC, is a limited liability company organized in the State of Delaware, with its headquarters located at 2801 Post Oak Boulevard, in Houston, Texas.

14. Respondent is the owner of a chemical manufacturing facility located at 15696 Energy Road, WV State Road 2, in Proctor, West Virginia (the "Facility").

15. As a limited liability company, Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and is subject to the assessment of civil penalties for the violations alleged herein.

16. Respondent is, and at times referred to herein was, the owner and operator of a "stationary source," as the term is defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R.§ 68.3.

17. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).

18. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment, the threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7), 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.

19. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68 (referred to as the "RMP Regulations"), which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. The RMP Regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program must be described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

20. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130, or the date on which a regulated substance is first present above the threshold quantity in a process.

21. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines "stationary source," as "any buildings, structures, equipment, installations, or substance emitting stationary

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

22. The regulations at 40 C.F.R. § 68.3 define "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

23. The regulations at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), in 40 C.F.R. § 68.130.

24. The regulations at 40 C.F.R. § 68.3 define "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

25. On September 10, 2020, Complainant issued an information request pursuant to Section 114 of the Clean Air Act ("CAA"), 42 U.S.C. § 7414, and Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9603, regarding the Facility to Respondent, a subsidiary of Westlake Corporation ("Westlake"). Westlake responded to the information request on October 13, 2020. Complainant sent additional questions pursuant to Section 114 of the CAA on May 26, 2021, to which Westlake responded on July 23, 2021. The information requests were issued in response to an incident on July 12, 2020, during which the #85 diaphragm cell in the #8 Circuit over-pressured due to ignition of an explosive mixture of hydrogen and chlorine in the cell during startup, injuring four employees with concussive force, and releasing an estimated 115 pounds of chlorine.

26. Based on EPA's investigation, EPA has determined that Respondent has the potential to store as much as 27,000,000 pounds of the toxic chemical chlorine in the form of liquefied chlorine gas at the Facility in pressurized storage vessels, ranging in capacity from 180,000 pounds to 700,000 pounds.

27. Chlorine, Chemical Abstract Service ("CAS") # 7782-50-5, is a regulated substance listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), in the list of regulated substances compiled at 40 C.F.R. § 68.130, with a threshold quantity of 2,500 pounds.

Count I
Failure to Comply With Process Hazard Analyses Requirements

28. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

29. The RMP Regulations require owners and operators of stationary sources to perform process hazard analyses ("PHAs") that address, among other requirements, at 40 C.F.R. §§ 68.67(c)(1), (3), (4) and (7):

> (1) The hazards of the process and to perform a qualitative analysis of a range of possible safety and health effects of failures of controls; …
> …
> (3) Engineering and administrative controls applicable to the hazards and their interrelationships…;
> (4) Consequences of failure of engineering and administrative controls; … and
> (7) A qualitative evaluation of a range of the possible safety and health effects of failure of controls.

30. Respondent prepared a PHA Report on March 7, 2018 for the #8 Chlorine Circuit at the Facility ("2018 Chlorine PHA"), which it provided to EPA in response to the information requests.

31. On July 12, 2020, during startup of the #8 Chlorine Circuit at the Facility, a diaphragm cell over-pressurized due to the ignition of an explosive mixture of chlorine and hydrogen. Four employees were injured and an estimated 115 pounds of chlorine were released at the Facility during this event, referred to herein as the "Incident."

32. The PHA in effect at the time of the Incident, Respondent's 2018 Chlorine PHA, did not contain sufficient documentation of the hazards posed by a torn diaphragm or adequately evaluate safeguards. Respondent's 2013 Chlorine PHA had documented hazards posed by a torn diaphragm and evaluated safeguards. In its 2018 Chlorine PHA, Respondent failed to fully document the known safety hazards associated with a torn or damaged diaphragm due to corrosion and adequately evaluate the range of possible safety and health effects of failure of controls related to a torn or damaged diaphragm, as required by 40 C.F.R. § 68.67(c)(1) and (7).

33. The 2018 Chlorine PHA did not sufficiently identify a torn diaphragm as a hazard that could cause reverse flow of hydrogen into the anode cell, potentially leading to an explosion. The PHA identified reverse flow as a hazard in the chlorine cells but identified no credible causes. The PHA identified a torn diaphragm as an operational issue, not as a safety hazard. In its 2018 Chlorine PHA, Respondent failed to adequately identify the hazards, consequences and safeguards related to hydrogen backflowing into the anode cell and mixing with chlorine, as required by 40 C.F.R. § 68.67(c)(1), (3), and (4).

34. The 2018 Chlorine PHA did not evaluate the hazards, consequences or safeguards related to adding water through the percolation pipe, a practice that was not provided for in the operating procedures. Respondent should have evaluated the possibility of adding water through the percolation pipe because EPA determined during the course of its investigation that Respondent's operators had added water through the percolation pipe in the past. In its 2018 Chlorine PHA, Respondent failed to adequately address the hazards, consequences, or safeguards related to the addition of water through the percolation pipe, as required by 40 C.F.R. § 68.67(c)(1), (3), and (4).

35. The 2018 Chlorine PHA did not specifically address causes of low liquid levels during startup. Although Respondent had addressed causes of low liquid levels in the 2018 Chlorine PHA during different phases of operations, and thus, knew that liquid levels might be low during startup, Respondent did not identify in the 2018 PHA any particular safeguards to ensure that liquid levels were adequate during startup. In its 2018 Chlorine PHA, Respondent failed to adequately address causes of low liquid levels during startup of the Chlorine #8 Circuit Cells, as required by 40 C.F.R. § 68.67(c)(1) and (2).

36. The 2018 Chlorine PHA did not analyze the hazards of using low wavelength light sources, even though Respondent used such light sources. One industry publication indicated low wavelength light sources might initiate an explosive chemical reaction between mixtures of chlorine and hydrogen. *See* Chlorine Institute Pamphlet 121, *Explosive Properties of Gaseous Mixtures Containing Hydrogen and Chlorine*, 3d. ed. (2009), § 2.2. In its 2018 Chlorine PHA, Respondent failed to adequately address the hazards of using low wavelength light sources, as required by 40 C.F.R. § 68.67(c)(1).

37. By June 2021, Respondent made a number of operational, procedural and administrative changes at its Facility to address the issues identified in the 2018 PHA. Respondent revised its PHA procedures to better ensure that identified hazards are properly risk-ranked based on a team analysis to trigger a layer of protection analysis (LOPA) when applicable. Operational changes included eliminating the possibility of adding water through the percolation pipe, replacing low wavelength flashlights and revising its operating procedures to ban such flashlights. Finally, Respondent added a requirement that PHA reports be reviewed by an industry subject matter expert. Respondent has indicated to EPA that it will perform a new PHA during calendar year 2023, as required by the RMP Regulations.

38. From the time of the Incident on July 12, 2020 to June 2021, Respondent violated 68.67(c) of the RMP Regulations, 40 C.F.R. § 68.67(c)(1), (3), (4) and (7), by failing to perform a process hazard analysis that fully addressed the hazard of the process, engineering and administrative controls applicable to the hazards and their interrelationships, the consequences of failure of engineering and administrative controls, and a qualitative evaluation of a range of the possible safety and health effects of failure of controls.

39. In failing to comply with Section 68.67(c) of the RMP Regulations, 40 C.F.R.

§ 68.67(c)(1), (3), (4) and (7), Respondent violated Section 112(r)(7)(E) of the Clean Air Act, 42 U.S.C. § 7412(r)(7)(E), and is subject to the assessment of penalties under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

Count II
Failure to Comply with Operating Procedure Requirements

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

41. The RMP Regulations require owners and operators to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and that address, among other requirements: (1) steps for each operating phase, including (i) initial startup, (ii) normal operations, (iii) temporary operations, (iv) emergency shutdown, and (v) emergency operations, (vi) normal shutdown, and (vii) startup following a turnaround, or after emergency shutdown, and (2) operating limits. 40 C.F.R. § 68.69(a)(1)(i)-(vii), (2).

42. At the time of the Incident, Respondent had numerous operating procedures for the #8 Chlorine Circuit, which were provided to EPA in response to the information requests.

43. The operating procedures in effect at the time of the Incident did not contain clear instructions, in the form of numerical limits easily understood or implementable by operators, to ensure that the safe lower limit for anolyte level was maintained during startup and normal operations. Rather, the operating procedures contained phrases such as "unacceptably low," "safe" and "sufficient," without defining what those terms meant or how to measure for them. As of July 12, 2020, Respondent failed to adequately develop and implement operating procedures that provided clear instructions for safely conducting activities during startup and normal operations, consistent with the process safety information and safe lower operating limit for anolyte level, as required by 40 C.F.R. § 68.69(a)(1)(i)-(ii), and (a)(2).

44. The operating procedures in effect at the time of the Incident were not protective because they defined levels of brine in a diaphragm cell that would require an emergency shutdown at levels less than the safe lower limit for the level of brine, as defined in the Facility's Safe Operating Envelope Table, which Respondent provided to EPA in response to information requests. As of July 12, 2020, Respondent failed to adequately develop and implement operating procedures that provide clear instructions for emergency shutdown, including the conditions under which emergency shutdown is required, with respect to the safe lower operating limit for anolyte level, as required by 40 C.F.R. § 68.69(a)(1)(iv), (a)(2).

45. The operating procedures in effect at the time of the Incident did not specify how to add water to the chlorine cells during a shutdown. The procedures stated that water should be added as needed to keep the liquid level above the

diaphragm but did not specify how the water should be added. As a result, operators added water through the percolation pipe. As of July 12, 2020, Respondent failed to adequately develop and implement operating procedures that provide clear instructions for safely adding water to diaphragm cells to prevent damage to diaphragms during a shutdown, as required by 40 C.F.R. § 68.69(a)(1).

46. The operating procedures in effect at the time of the Incident did not provide clear instructions for safely flushing plant service water from the diaphragms before startup. The hazard from failure to fully flush the plant service water is a buildup of hydrogen. The operating procedures contained sufficient time for flushing but no clear direction to flush plant service water, in contrast to the operating procedures for shutdown. As of July 12, 2020, Respondent failed to adequately develop and implement operating procedures that provide clear instructions for safely flushing the plant service water from diaphragm cells before startup, as required by 40 C.F.R. § 68.69(a)(1)(iii).

47. In the aftermath of the Incident, by June 2021, Respondent revised nine of its operating procedures for the #8 Chlorine Circuit. Among other things, the revised operating procedures provided clear instructions for measuring liquid levels, safely adding water to diaphragm cells, and safely flushing plant service water prior to startup, and defined shutdown levels for low brine levels.

48. From July 12, 2020 to June 2021, Respondent violated Section 68.69(a)(1)(i)-(vii) of the RMP Regulations, 40 C.F.R. § 68.69(a)(1)(i)-(vii), (2), by failing to develop and implement operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and that address, among other requirements: (1) steps for each operating phase, including (i) initial startup, (ii) normal operations, (iii) temporary operations, (iv) emergency shutdown, and (v) emergency operations, (vi) normal shutdown, and (vii) startup following a turnaround, or after emergency shutdown, and (2) operating limits.

49. In failing to comply with Section 68.69(a)(1)(i)-(vii) and (2), Respondent violated Section 112(r)(7)(E) of the Clean Air Act, 42 U.S.C. § 7412(r)(7)(E), and is subject to the assessment of penalties under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

CIVIL PENALTY

50. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of one hundred twenty-six thousand one hundred twenty-two dollars ($126,122.00), which Respondent shall be liable to pay in accordance with the terms set forth below.

51. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including, the following: the size of the business, the economic impact of the

penalty on the business, the violator's full compliance history and good faith efforts to

comply, the duration of the violation, payment by the violator of penalties previously assessed for the violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012), which reflects the statutory penalty criteria and factors set forth at Section 113(e) of the Act, 42 U.S.C. § 7413(e), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

52. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, CAA-03-2023-0095;

b. All checks shall be made payable to the "United States Treasury";

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000

d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

https://www.epa.gov/financial/makepayment

e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Lauren Curry
Assistant Regional Counsel
curry.lauren@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

53. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

54. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

55. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).

56. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

57. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

58. If Respondent fails to make a full and complete payment of the civil penalty in accordance with this Consent Agreement and Final Order, the entire unpaid balance of the penalty shall become immediately due and owing. Failure by Respondent to pay the CAA civil penalty assessed by the Final Order in full in accordance with this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

59. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

60. The parties consent to service of the Final Order by e-mail at the following valid email addresses: curry.lauren@epa.gov (for Complainant), and matthew.paulson@bracewell.com (for Respondent).

GENERAL SETTLEMENT CONDITIONS

61. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

62. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

63. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

64. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, 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 the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Act, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

65. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

EXECUTION /PARTIES BOUND

66. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

67. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

68. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Westlake Natrium LLC

Date: 8/8/2023 By: _____

John Scroggins
Plant Manager
Westlake Natrium

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: KAREN MELVIN Digitally signed by KAREN MELVIN Date: 2023.09.11 07:26:11 -04'00'

[*Digital Signature and Date*]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By: LAUREN CURRY Digitally signed by LAUREN CURRY Date: 2023.08.29 07:46:46 -04'00'

[*Digital Signature and Date*]
Lauren Curry
Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Westlake Natrium LLC	:	**U.S. EPA Docket No. CAA-03-2023-0095**
2801 Post Oak Boulevard	:	
Houston, Texas 77056,	:	**Proceeding under Sections 112(r) and 113(d)**
	:	**of the Clean Air Act, 42 U.S.C. §§ 7412(r) and**
Respondent.	:	**7413(d)**
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15696 Energy Road	:	
WV State Road 2	:	
Proctor, WV 26055,	:	
	:	
Facility.	:	

FINAL ORDER

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Westlake Natrium LLC have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ***ONE HUNDRED TWENTY-SIX THOUSAND ONE HUNDRED TWENTY-TWO DOLLARS ($126,122.00)***, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate

injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: Lisa, Joseph Digitally signed by Lisa, Joseph Date: 2023.09.14 12:04:34 -04'00'

[Digital Signature and Date]
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
Westlake Natrium LLC	:	**U.S. EPA Docket No. CAA-03-2023-0095**
2801 Post Oak Boulevard	:	
Houston, Texas 77056,	:	**Proceeding under Sections 112(r) and 113(d) of the Clean Air Act, 42 U.S.C. §§ 7412(r) and 7413(d)**
Respondent.	:	
	:	
Westlake Natrium	:	
15696 Energy Road	:	
WV State Road 2	:	
Proctor, WV 26055,	:	
	:	
Facility.	:	

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Matthew Paulson, Esq.
Bracewell LLP
111 Congress Avenue, Suite 2300
Austin, TX 78701
matthew.paulson@bracewell.com

John Scroggins
Plant Manager
Westlake Corporation, Natrium
15696 Energy Road
Proctor, WV 26055
jscroggins@westlake.com

Lauren Curry
Assistant Regional Counsel
U.S. EPA, Region III
curry.lauren@epa.gov

Zoe Longenecker-Wright
Risk Management Program Coordinator
U.S. EPA, Region III
LongeneckerWright.Zoe@epa.gov

BEVIN ESPOSITO
Digitally signed by BEVIN ESPOSITO
Date: 2023.09.14 13:17:57 -04'00'

[*Digital Signature and Date*]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III