

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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IN THE MATTER OF: )

) Docket No. CAA-08-2024-0011

Burlington Resources Oil & Gas )  
Company LP )  
925 N. Eldridge Pkwy )  
Houston, TX 77079 )

) **CONSENT AGREEMENT**

**Respondent.** )

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Complainant, the authorized representative of the United States Environmental Protection Agency, and Respondent, Burlington Resources Oil & Gas Company LP (collectively the “Parties”), by their undersigned representatives, hereby consent and agree as follows:

**I. PRELIMINARY STATEMENT**

1. This is an administrative penalty assessment proceeding brought under section 113(d) of the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. § 7413(d), and sections 22.13 and 22.18 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. Burlington Resources Oil & Gas Company LP (“Respondent”) owns and/or operates oil and gas facilities located in North Dakota, specifically: (1) Meri/Prairie Triple CCU, (2) CCU Pullman CTB #11 Battery, (3) CCU Meriwether CTB, (4) Harley 11/21-2 Triple Battery, and (5) Harley 31-2H (collectively “Inspected Central Tank Batteries”).
3. EPA and Respondent, having agreed settlement of this action is in the public interest, consent to the entry of this consent agreement (“Agreement”) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Agreement.

## II. JURISDICTION

4. This Agreement is entered into under the authority vested in the Administrator of the EPA by section 113(d) of the Act, 42 U.S.C. § 7413(d). The undersigned EPA official has been duly authorized to institute this action.
5. The EPA and the United States Department of Justice jointly determined this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment, as authorized by section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d), 40 C.F.R. § 19.4.
6. In satisfaction of the notice requirements of section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), on July 31, 2024, EPA issued to Respondent a notice of violation (NOV) and provided a copy of the NOV to the State of North Dakota, providing notice to both that EPA found Respondent committed the alleged violations described in Section VI of this Agreement and providing Respondent an opportunity to confer with EPA. On September 4, 2024, among other occasions, representatives of Respondent and EPA discussed the NOV.
7. The Regional Judicial Officer (“RJO”) is authorized to approve this Agreement with a final order. 40 C.F.R. §§ 22.18(b), 22.4(b).
8. The Final Order approving this Agreement simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

## III. DEFINITIONS

9. “Associated Gas” means natural gas from a wellhead, Separator, or Heater Treater routed to a sales gas line or High Pressure Flare.
10. “Day,” “day,” or “daily” means a calendar day, unless specified in this Agreement as a “Business Day.” In computing any period of time under this Agreement expressed in Calendar Days (as opposed to Business Days), where the last Calendar Day would fall on a Saturday, Sunday, or federal holiday, the period shall not be extended to the next Business Day.

11. “Business Day” means Monday through Friday, with the exception of federal holidays. In computing any period of time under this Agreement expressed in Business Days, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until 11:59 p.m. Mountain Time of the next Business Day.
12. “Visible Smoke Emissions” mean a pollutant generated by thermal oxidation in a flare or enclosed combustor and occurring immediately downstream of the flame. Visible Smoke occurring within, but not downstream, of the flame, is not considered to constitute Visible Smoke Emissions.
13. “VOC” or “VOCs” means volatile organic compounds as defined in 40 C.F.R. § 60.2.
14. “Flare” means all High-Pressure Flares and Low-Pressure Flares.
15. “High Pressure Flare” means a control device utilized to control Associated Gas, or emissions routed from a vapor recovery unit.
16. “Low Pressure Flare” means a control device utilized to control vapors routed from a storage vessel or vapor recovery tower. A Low Pressure Flare does not control Associated Gas;
17. “Inoperable Flare” means a Flare meeting conditions (i) or (ii) in Appendix A, Paragraph (3)(a).
18. “Sites” means the Well Pads or Central Tank Batteries that are subject to this Agreement that are identified in Table 1 of Appendix A.
19. “Wells” means all oil and gas production wells sending product or vapors to the Flares at the Sites.

#### **IV. GOVERNING LAW**

##### **A. Clean Air Act**

20. The Clean Air Act’s purpose is “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).
21. Section 108 of the Act, 42 U.S.C. § 7408, directs the EPA to identify pollutants that “may reasonably be anticipated to endanger public health or welfare” and to issue

air quality criteria based on the “latest scientific knowledge” about the effects of the pollutants on public health and the environment. These pollutants are known as “criteria pollutants.”

22. Section 109 of the Act, 42 U.S.C. § 7409, requires the EPA to establish national ambient air quality standards (NAAQS) for criteria pollutants. The primary standard must be set at a level “requisite to protect the public health” with an adequate margin of safety, and the secondary standard is intended to protect the “public welfare.”
23. Ground-level ozone is one of six criteria pollutants for which the EPA has promulgated national standards, due to its adverse effects on human health and the environment. Short-term exposures (1 to 3 hours) to ground-level ozone can cause acute health effects observed even at low concentrations, including temporary pulmonary inflammation. Long-term exposure (months to years) may cause permanent damage to lung tissue. Children and adults who are active outdoors are particularly susceptible to the adverse effects of exposure to ozone. *See National Ambient Air Quality Standards for Ozone, 73 Fed. Reg. 16,436 (Mar. 27, 2008).*
24. Ozone is not emitted directly from sources of air pollution. Ozone is a photochemical oxidant, formed when volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) react in the presence of sunlight. NO<sub>x</sub> and VOCs are known as “ozone precursors.” Sources that emit ozone precursors are regulated to reduce ground-level ozone. *See National Ambient Air Quality Standards for Ozone, 62 Fed. Reg. 38,856, 38,858 (July 18, 1997).*
25. Section 110(a)(2)(C) of the Act requires that every state implementation plan for national primary and secondary ambient air quality standards include a program to regulate the construction and modification of stationary sources; this includes a permitting program as required by parts C and D of Title I of the Act. *See 42 U.S.C. § 7410(a)(2)(C).*
26. Section 111(b) of the Act authorizes the Administrator of the EPA to promulgate standards of performance applicable to “new sources” within categories of sources

that cause “air pollution which may reasonably be anticipated to endanger public health or welfare.” 42 U.S.C. § 7411(b).

27. A “stationary source” is a building, structure, facility, or installation that emits or may emit any air pollutant. 42 U.S.C. § 7411(a)(3).
28. In 1979, the EPA listed “Crude Oil and Natural Gas Production” as a source category that contributes significantly to air pollution and for which standards of performance would be established. *See* Priority List and Additions to the List of Categories of Stationary Sources, 44 Fed. Reg. 49,222 (Aug. 21, 1979).
29. It is unlawful for owners and operators of any new source to operate in violation of applicable standards of performance after the standards have gone into effect. 42 U.S.C. § 7411(e).

#### **B. New Source Performance Standards**

30. A “new source” is any stationary source, the construction or modification of which is commenced after the promulgation of the standards of performance that will apply to such source. 42 U.S.C. § 7411(a)(2).

##### **i. 40 C.F.R part 60, subpart OOOO (NSPS OOOO)**

31. In 2012, the EPA promulgated “Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution” under section 111 of the Clean Air Act. 77 Fed. Reg. 49,490, 49,542 (Aug. 16, 2012). These standards are set forth in 40 C.F.R part 60, subpart OOOO, which includes 40 C.F.R. §§ 60.5360–5430 & Tables 1-3.
32. Each of these standards is a “standard of performance” within the meaning of section 111(a)(1) of the Clean Air Act, 42 U.S.C. § 7411(a)(1), or a “design, equipment, work practice, or operational standard, or combination thereof” under section 111(h) of the Clean Air Act, 42 U.S.C. § 7411(h).
33. NSPS OOOO applies to “affected facilities” for which owners or operators commence construction, modification or reconstruction after August 23, 2011, and on or before September 18, 2015. 40 C.F.R. § 60.5365.

34. A “storage vessel affected facility” under NSPS OOOO includes a single storage vessel located in the natural gas production segment that has the potential for VOC emissions equal to or greater than 6 tons per year, as determined according to 40 C.F.R. § 60.5365(e).
35. NSPS OOOO requires “[a]t all times, including periods of startup, shutdown, and malfunction, owners and operators shall 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).
36. NSPS OOOO requires storage vessel affected facilities that utilize a control device to be equipped with a cover that meets the requirements of 40 C.F.R. § 60.5411(b) and is connected through a closed vent system that meets the requirements of § 60.5411(c), and emissions must be routed to a control device that meets the conditions specified in § 60.5412(c) and (d). 40 C.F.R. § 60.5395(e)(1).
37. Owners and operators must comply with the following requirements for covers on storage vessel affected facilities under NSPS OOOO:
  - a. The cover and all openings on the cover (e.g., access hatches and pressure relief valves) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel. 40 C.F.R. § 60.5411(b)(1).
  - b. Each cover opening must be secured in a closed, sealed position whenever material is in the unit, except during those times specified in 40 C.F.R. § 60.5411(b)(2)(i)–(iv). 40 C.F.R. § 60.5411(b)(2).
  - c. Each storage vessel thief hatch must be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated. 40 C.F.R. § 60.5411(b)(3).
38. Owners and operators must comply with the following requirements for closed vent systems associated with storage vessel affected facilities under NSPS OOOO:
  - a. Design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in § 60.5412(c) and (d), or to a process.

40 C.F.R. § 60.5411(c)(1).

- b. Design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual and auditory inspections. 40 C.F.R. § 60.5411(c)(2).

39. Owners and operators must comply with the following requirements for control devices to reduce emissions from storage vessel affected facilities under NSPS OOOO:

- a. Install and operate a continuous burning pilot flame. 40 C.F.R. §§ 60.5412(d)(1)(ii), 60.5413(e)(2).
- b. Operate each control device used to comply with NSPS OOOO at all times when gases, vapors, and fumes are vented from storage vessel affected facilities through the closed vent system to the control device. 40 C.F.R. § 60.5412(d)(3).

40. Each control device used to comply with the emission reduction standard in § 60.5395(d)(1) for a storage vessel affected facility must demonstrate continuous compliance with (h)(1) through (3) of 40 C.F.R. § 60.5417(h). 40 C.F.R. § 60.5415(e)(3)(ii)(B).

41. 40 C.F.R. § 60.5417(h)(3) requires that each control device must be operated following the manufacturer's written operating instructions, procedures and maintenance schedules to ensure good air pollution control practices to reduce emissions.

**ii. 40 C.F.R. Part 60, Subpart OOOOa (NSPS OOOOa)**

42. In 2016, the EPA promulgated "Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015" under section 111 of the Act. 81 Fed. Reg. 35,824 (June 3, 2016). These standards are set forth in 40 C.F.R Part 60, Subpart OOOOa, which includes 40 C.F.R. §§ 60.5360a–5432a (NSPS OOOOa).

43. Each of these standards is a "standard of performance" within the meaning of section 111(a)(1) of the Clean Air Act, 42 U.S.C. § 7411(a)(1), or a "design,

equipment, work practice, or operational standard, or combination thereof” under section 111(h) of the Clean Air Act, 42 U.S.C. § 7411(h).

44. NSPS OOOOa applies to “affected facilities” for which owners or operators commence construction, modification or reconstruction after September 18, 2015. 40 C.F.R. § 60.5365a.
45. A “storage vessel affected facility” under NSPS OOOOa includes a single storage vessel that has the potential for VOC emissions equal to or greater than 6 tons per year (tpy), as determined according to 40 C.F.R. § 60.5365a(e).
46. “VOCs” is defined as “any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method, an equivalent method, an alternative method, or which is determined by procedures specified under any subpart. 40 C.F.R. § 60.2.
47. NSPS OOOOa requires “[a]t all times, including periods of startup, shutdown, and malfunction, owners and operators shall 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. § 60.5370a(b).
48. NSPS OOOOa requires storage vessel affected facilities that utilize a control device to be equipped with a cover that meets the requirements of 40 C.F.R. § 60.5411a(b) and is connected through a closed vent system that meets the requirements of § 60.5411a(c) and (d), and emissions must be routed to a control device that meets the conditions specified in § 60.5412a(c) and (d). 40 C.F.R. § 60.5395a(b)(1).
49. Owners and operators must comply with the following requirements for closed vent systems associated with storage vessel affected facilities under NSPS OOOOa:
  - a. Design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in § 60.5412a(c) and (d), or to a process. 40 C.F.R. § 60.5411a(c)(1).
  - b. Design and operate a closed vent system with no detectable emissions, as

determined using olfactory, visual and auditory inspections. 40 C.F.R.  
§ 60.5411a(c)(2).

50. Owners and operators must comply with the following requirements for control devices to reduce emissions from storage vessel affected facilities under NSPS OOOOa:
- a. Install and operate a continuous burning pilot flame. 40 C.F.R. §§ 60.5412a(d)(1)(ii), 60.5413a(e)(2).
  - b. Operate a flare in accordance with the requirements of § 60.18. 40 C.F.R. § 60.5412a(d)(3). Flares shall be operated with a flame present at all times when emissions may be vented to them. 40 C.F.R. § 60.18(c)(2), 40 C.F.R. § 60.18(e).
  - c. Operate each control device used to comply with NSPS OOOOa at all times when gases, vapors, and fumes are vented from storage vessel affected facilities through the closed vent system to the control device. 40 C.F.R. § 60.5412a(d)(4).
  - d. Each control device must be operated following the manufacturer's written operating instructions, procedures and maintenance schedule to ensure good air pollution control practices for minimizing emissions. 40 C.F.R. § 60.5417a(h)(3).

### **C. North Dakota Regulations for the Oil & Gas Industry**

51. The EPA approved the State of North Dakota's Air Pollution Control (NDAC) Rules in its State Implementation Plan (SIP). *See Approval & Promulgation of Implementation Plans; North Dakota*, 84 Fed. Reg. 1,610 (Feb. 5, 2019). The approved SIP incorporates North Dakota's requirements for flares at oil and gas facilities, as set forth in NDAC 33.1-15-07 for Control of Organic Compounds. *See 42 U.S.C. § 7413(a)(1)* (authorizing EPA enforcement of requirements and prohibitions in EPA-approved SIPs after 30-day notice to the State).
52. No person may cause or permit the emission of organic compounds gases and vapors, except from an emergency vapor blowdown system or emergency relief system, unless these gases and vapors are burned by flares, or an equally effective control device as approved by the department. Minor sources, as determined by the

department and not subject to New Source Performance Standards (NSPS), may be granted exemptions to this subsection. NDAC 33.1-15-07-02.1.

53. Each flare required under this section must be equipped and operated with an automatic igniter or a continuous burning pilot. NDAC 33.1-15-07-02.3.
54. "Emission" means a release of air contaminants into the ambient air. NDAC 33.1-15-01-04.9.
55. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof and any legal successor, representative agent, or agency of the foregoing. NDAC 33.1-15-01-04.29.

## **V. FINDINGS OF FACT**

56. Respondent is a limited partnership formed in the State of Delaware and at all relevant times to this Agreement doing business in the State of North Dakota.
57. Respondent owns and operates oil and natural gas production facilities in the State of North Dakota.
58. Respondent is a "person" within the meaning of section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e).
59. Respondent owns and operates the oil and natural gas facilities referred to as the Inspected Central Tank Batteries in North Dakota (specifically: (1) Meri/Prairie Triple CCU, (2) CCU Pullman CTB #11 Battery, (3) CCU Meriwether CTB, (4) Harley 11/21-2 Triple Battery, and (5) Harley 31-2H).
60. As a person operating in the State of North Dakota, Respondent is subject to the Requirements for Organic Compounds Gas Disposal under NDAC 33.1-15-07-02, at each of the Inspected Central Tank Batteries.
61. Oil and water produced from the Inspected Central Tank Batteries are stored in produced oil and produced water storage tanks. Produced oil and produced water storage tanks are kept at or near atmospheric pressure.
62. When pressurized oil is transferred from higher-pressure separators or heater treaters to lower-pressure atmospheric storage tanks, some of the hydrocarbons in

the oil, including VOC and hazardous air pollutants, vaporize in a process known as “flashing.” After flashing occurs, the oil continues to emit vapors due to liquid level changes and temperature fluctuations (commonly known “working,” “standing,” or “breathing” losses).

63. Vapors from storage tanks are captured and controlled through a series of pipes or vent lines, often referred to as a closed vent system or CVS, that route vapors to a combustion device.
64. In October of 2023, EPA’s contractor, Toeroek Associates, Inc. (“Toeroek”) and ChampionX Emissions Technologies Group (“ChampionX”) performed aerial monitoring surveys of oil and gas facility operations in North Dakota. The aerial surveys were conducted using a helicopter operating at approximately 250 feet above ground level and an optical gas imaging (“OGI”) camera.
65. On October 21, 2023, Toeroek/Champion X recorded observations of hydrocarbon emissions, including VOCs, from unlit flares at the following three facilities described in Paragraph 59: (1) the Meri/Prairie Triple CCU, (2) CCU Pullman CTB #11 Battery, (3) CCU Meriwether CTB.
66. On November 15, 2023, after reviewing the information provided by Toeroek/Champion X, EPA contacted Respondent representatives to inform them of the unlit flares at the (1) Meri/Prairie Triple CCU, (2) CCU Pullman CTB #11 Battery, (3) CCU Meriwether CTB facilities, which were identified in the aerial survey on October 21, 2023.
67. On July 31, 2024, the EPA issued a NOV to Respondent to notify Respondent of the violations identified at those three facilities, described in Section VI, below.
68. On October 20, 2024, the EPA conducted on the ground inspections of various oil and gas facilities in North Dakota and found recorded observations of hydrocarbon emissions, including VOCs, from unlit flares at the following two facilities described in Paragraph 59: (4) Harley 11/21-2 Triple Battery, and (5) Harley 31-2H.
69. On October 22, 2024, the EPA notified Respondent of the violations at those two facilities, described in Section VI, below.

70. The storage vessels and associated emissions control equipment at the CCU Meriwether CTB facility is subject to the NSPS contained in 40 C.F.R part 60, subpart OOOO, which includes 40 C.F.R. §§ 60.5360–5430 & Tables 1-3.
71. The storage vessels and associated emissions control equipment at Meri/Prairie Triple CCU are subject to the NSPS contained in 40 C.F.R part 60, subpart OOOOa, which includes 40 C.F.R. §§ 60.5360a–5432a & Tables 1-3.
72. The storage vessels and associated emissions control equipment at each of the Inspected Central Tank Batteries are subject to the North Dakota’s requirements for flares at oil and gas facilities, including NDAC 33.1-15-07-02.3.

## **VI. ALLEGED VIOLATIONS OF LAW**

### **A. New Source Performance Standards, Subpart OOOO**

73. Based on aerial survey and on the ground inspection findings at CCU Meriwether CTB, EPA alleges that Respondent violated requirements under 40 C.F.R. § 60.5370(b) to maintain and operate at all times, including periods of startup, shutdown, and malfunction, tank affected facilities and the associated flare air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
74. Based on aerial survey and on the ground inspection findings at CCU Meriwether CTB, EPA alleges that Respondent violated the requirement under 40 C.F.R. § 60.5395(e)(1) to equip storage vessel affected facilities with a cover that meets the requirements of 40 C.F.R. § 60.5411(b) and is connected through a closed vent system that meets the requirements of § 60.5411(c), and that routes emissions to a control device that meets the conditions specified in § 60.5412(c) and(d), because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
75. Based on aerial survey and on the ground inspection findings at CCU Meriwether CTB, EPA alleges that Respondent violated requirements under 40 C.F.R. §§ 60.5395(e)(1) and 60.5411(c) to design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control

device and to operate storage vessel closed vent system(s) with no detectable emissions, as determined using olfactory, visual, and auditory inspections, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.

76. Based on aerial survey and on the ground inspection findings at CCU Meriwether CTB, EPA alleges that Respondent violated requirements under 40 C.F.R. §§ 60.5412(d)(1)(ii) and 60.5413(e)(2) to install and operate a continuous burning pilot flame in the flare, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
77. Based on aerial survey and on the ground inspection findings at CCU Meriwether CTB, EPA alleges that Respondent violated requirements under 40 C.F.R. § 60.5412(d)(3) to operate each flare control device at all times when gases, vapors, and fumes are vented from the storage vessel affected facility through the closed vent system to the control device.
78. Based on aerial survey and on the ground inspection findings at CCU Meriwether CTB, EPA alleges that Respondent violated 40 C.F.R. § 60.5415(e)(3)(ii)(B) by failing to demonstrate continuous compliance according to 40 C.F.R. § 60.5417(h)(3) for each control device used to comply with the emission reduction standard in § 60.5395(d)(1) for a storage vessel affected facility. Specifically, EPA alleges that Respondent failed to operate each control device following the manufacturer's written operating instructions, procedures and maintenance schedules to ensure good air pollution control practices to reduce emissions. 40 C.F.R. § 60.5417(h)(3).
79. Each of the violations alleged in Paragraphs 73-78 are violations of section 111 of the Clean Air Act, 42 U.S.C. § 7411(e).

#### **B. New Source Performance Standards, Subpart OOOOa**

80. Based on aerial survey findings at Meri/Prairie Triple CCU, EPA alleges that Respondent violated requirements under 40 C.F.R. § 60.5370a(b) to maintain and operate at all times, including periods of startup, shutdown, and malfunction, an affected facility and the associated flare air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions,

because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.

81. Based on aerial survey findings at Meri/Prairie Triple CCU, EPA alleges that Respondent violated the requirement under 40 C.F.R. § 60.5411a(b) to equip storage vessel affected facilities with a cover that meets the requirements of § 60.5411a(c) and (d) and routes emissions to a control device that meets the conditions specified in § 60.5412a(c) and (d), because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
82. Based on aerial survey findings at Meri/Prairie Triple CCU, EPA alleges that Respondent violated requirements under 40 C.F.R. § 60.5395a(b)(1) to route emissions from storage vessel affected facilities to a control device that meets the conditions specified in § 60.5412a(c) and (d), because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
83. Based on aerial survey findings at Meri/Prairie Triple CCU, EPA alleges that Respondent violated requirements under 40 C.F.R. § 60.5411a(c)(1) and (c)(2) to design and operate, with no detectable emissions as determined using optical gas imaging inspections, a closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in § 60.5412a(d) or to a process, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
84. Based on aerial survey findings at Meri/Prairie Triple CCU, EPA alleges that Respondent violated requirements under 40 C.F.R. §§ 60.5412a(d)(1)(ii) and 60.5413a(e)(2) to install and operate a continuous burning pilot flame in the facility flare, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
85. Based on aerial survey findings at Meri/Prairie Triple CCU, EPA alleges that Respondent violated requirements under 40 C.F.R. §§ 60.5412a(d)(3)-(4) and 60.18(c)(2) and (e) to operate each flare control device at all times when emissions are vented from the storage vessel affected facility through the closed vent system

to the control device, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.

86. Based on aerial survey findings at Meri/Prairie Triple CCU, EPA alleges that Respondent violated requirements under 40 C.F.R. § 60.5412a(d)(4) to operate each control device used to comply with NSPS OOOOa at all times when gases, vapors, and fumes are vented from storage vessel affected facilities through the closed vent system to the control device, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
87. Based on aerial survey findings at Meri/Prairie Triple CCU, Respondent violated requirements under 40 C.F.R. § 60.5417a(h)(3) to operate each control device following the manufacturer's written operating instructions, procedures and maintenance schedule to ensure good air pollution control practices for minimizing emissions, because the flare was unlit and venting uncontrolled VOC emissions to the atmosphere.
88. Each of the violations alleged in Paragraphs 80-87 are violations of section 111 of the Clean Air Act, 42 U.S.C. § 7411(e).

### **C. State of North Dakota's Air Pollution Control (NDAC) Rules**

89. Based on aerial survey and on the ground inspection findings at the Inspected Central Tank Batteries, EPA alleges that Respondent violated requirements under NDAC 33.1-15-07-02.1 by causing or permitting the emission of organic compounds gases and vapors which were not burned by flares or an equally effective control device approved by the NDEQ. NDAC 33.1-15-07-02.1.
90. Based on aerial survey and on the ground inspection findings at the Inspected Central Tank Batteries, EPA alleges that Respondent violated requirements under NDAC 33.1-15-07-02.3 to equip and operate each flare with an automatic igniter or a continuous burning pilot. NDAC 33.1-15-07-02.3.

## **VII. TERMS OF CONSENT AGREEMENT**

91. For the purpose of this proceeding, Respondent:
- a. admits the jurisdictional allegations in Section II of this Agreement;

- b. neither admits nor denies the alleged findings of fact and violations of law stated above;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the conditions specified in this Agreement and Appendix A of this Agreement;
  - e. consents to the issuance of any specified compliance or corrective action order;<sup>1</sup>
  - f. consents to any stated Permit Action;
  - g. waives any right to contest the alleged violations of law stated above; and
  - h. waives any right to challenge the unlawfulness of the Final Order accompanying this Agreement.
92. For the purpose of this proceeding, Respondent:
- a. acknowledges this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;
  - b. waives any and all available rights to judicial or administrative review or other remedies Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Agreement, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701–706;
  - c. 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
  - d. waives any rights 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 the Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

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<sup>1</sup> Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this Agreement, subparagraphs (e) and (f) are not applicable to this particular case.

### A. Civil Penalty

93. Section 113(d)(1), 42 U.S.C. § 7413(d)(1), authorizes EPA to assess a civil penalty in this matter.
94. To determine the amount of the civil penalty, the EPA considered the size of Respondent's 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 as established by any credible evidence, payment by the Respondent of penalties previously assessed for the same violations, the economic benefit of noncompliance, the seriousness of the violations, and such other factors as justice may require. 42 U.S.C. § 7413(e)(1).
95. The EPA has compromised the civil penalty pursuant to section 113(d)(2)(B) of the Act, 42 U.S.C. § 7413(d)(2)(B).
96. Penalty Payment. Respondent agrees to pay the civil penalty in the amount of \$170,000 ("Assessed Penalty") within 30 days of the Effective Date.
97. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of methods, provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
98. When making a payment, a Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Agreement, CAA-08-2023-0011; and
  - b. Within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

**Regional Hearing Clerk**  
**U.S. Environmental Protection Agency, Region 8**  
**ORC-IO, 1595 Wynkoop Street, Denver, CO 80202**  
**[R8 hearing\\_clerk@epa.gov](mailto:R8_hearing_clerk@epa.gov)**

**and**

**Mr. Scott Patefield**  
**Manager, Air and Toxics Enforcement Branch**  
**U.S. Environmental Protection Agency, Region 8**

**8ENF-AT, 1595 Wynkoop Street, Denver, CO**  
[R8AirReportEnforcement@epa.gov](mailto:R8AirReportEnforcement@epa.gov)

**and**

**U.S. Environmental Protection Agency**  
**Cincinnati Finance Center**  
**Via electronic mail to: CINWD\_acctsReceivable@epa.gov**

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

99. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:
- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within 30 days, interest accrued is waived. If the Assessed Penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the Assessed Penalty, as well as any interest, penalties, and other charges, are paid in full. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard rate, equal to the Federal short-term rate plus 3 percentage points.
  - b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of handling collection.
  - c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.
100. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, If Respondent fails to timely pay any portion of the Assessed Penalty, the EPA may

take additional actions. Such actions EPA may take include but are not limited to the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
  - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
  - 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, per 40 C.F.R. § 13.17.
  - d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.
101. 26 U.S.C. § 162(F)(2)(A)(ii) Identification. For the 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 the Conditions of Settlement as described in Section VII.B of this Agreement and Appendix A is restitution, remediation, or required to come into compliance with the law.
102. Tax Reporting. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service (IRS) 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). Respondent's 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. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable.

- 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 certify that its completed IRS Form W-9 included 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 Division at [chalifoux.jessica@epa.gov](mailto:chalifoux.jessica@epa.gov) on or before the date that Respondent's civil penalty is due pursuant to Paragraphs 96 or within 7 days should the order become effective between December 14 and 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN from the IRS.

### **B. Conditions of Settlement**

103. As a condition of settlement, Respondent agrees to comply with all conditions set forth in Appendix A of this Agreement.
104. The provisions of this Agreement shall apply to and be binding upon Respondent, and their officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. No closing or transfer of ownership or

operation of any portion of or interest in the Sites shall relieve Respondent of its obligation to comply with the terms of this Agreement, unless:

- a. From the Effective Date of this Agreement until its termination pursuant to Section X, Respondent must provide written notice and a copy of this Agreement to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Sites at least 30 Days prior to closing. Simultaneously with such notice, Respondent shall provide written notice of the transfer, assignment, or delegation to the EPA together with a copy of the Purchase and Sale Agreement (PSA);
  - b. The transferee agrees in the PSA to undertake the obligations and liabilities of this Agreement and to be bound by the terms thereof;
  - c. The transferee agrees in writing to be substituted for Respondent for all provisions in this Agreement and to be bound by the terms thereof, including implementation of the conditions of settlement set forth in Section VII.B and Appendix A of this Agreement (unless already satisfactorily implemented by Respondent);
  - d. Respondent submits information to the EPA to demonstrate the transferee has both the financial and technical capability to perform the obligations in Section VII.B and Appendix A of this Agreement; and
  - e. The EPA approves Respondent's request to be relieved of its obligations under this Agreement, which approval shall not be unreasonably withheld.
105. Upon receipt of a request by Respondent to transfer the obligations of this Agreement in accordance with Paragraph 104, the EPA shall have 30 Days to object to the request. If the EPA denies the request to transfer the obligations of this Agreement, the Parties will follow the Dispute Resolution process set forth in Section VIII of this Agreement. The EPA shall bear the burden of showing that any objection to relieving Respondent of its obligations of this Agreement was not unreasonable.

106. This Agreement shall not be construed to prohibit a contractual allocation—as between Respondent and any purchaser or transferee of the Sites—of the obligations of compliance with this Agreement, provided, however, that such contractual allocation shall not relieve Respondent of its obligations under the Agreement unless and until the provisions of Paragraphs 96 and 103 have been met, subject to the right of transfer as provided in Paragraph 104.
107. By signing this Agreement, Respondent acknowledges that this Agreement will be available to the public and agrees that this Agreement does not contain any confidential business information or personally identifiable information.
108. The undersigned representative of Respondent certifies he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.
109. The Parties agree that this Agreement may be signed in any number of counterparts, each of which will be deemed an original and, when taken together, constitute one agreement; the counterparts are binding on the parties individually as fully and completely as if the Parties had signed one single instrument, so that the rights and liabilities of the Parties will be unaffected by the failure of any of the undersigned to execute any or all of the counterparts; any signature page and any copy of a signed signature page may be detached from any counterpart and attached to any other counterpart of this Agreement and any signature page may be transmitted electronically (e.g., a PDF file).
110. By signing this Agreement, both Parties agree that each Party's obligations under this Agreement constitute sufficient consideration for the other Party's obligations.
111. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such 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.

112. Except as qualified by Paragraph 99 each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
113. Respondent agrees the time period from the Effective Date of this Agreement until all of the conditions specified in Section VII.B and Attachment A are completed ("Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by EPA on any claims ("Tolled Claims") set forth in Section VI of this Agreement. 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.

### **VIII. DISPUTE RESOLUTION**

114. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Agreement. Respondent's failure to seek resolution of a dispute under this Section shall preclude Respondent from raising any such issue as a defense to an action by EPA to enforce any obligation of Respondent arising under this Agreement.
115. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Respondent sends EPA a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 60 days from the date the dispute arises, unless that period is extended by written agreement. If the EPA and Respondent cannot resolve a dispute by informal negotiations, then the position advanced by EPA shall be considered binding unless, within 45 days after the conclusion of the informal negotiation period, including any agreed extension of the period for negotiation under this paragraph, Respondent invokes formal dispute resolution procedures as set forth below.

116. Formal Dispute Resolution. Respondent shall invoke formal dispute resolution procedures, within the time period provided in the preceding paragraph, by serving on EPA a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Respondent's position and any supporting documentation relied upon by Respondent.
117. EPA shall serve its Statement of Position within 45 days of receipt of Respondent's Statement of Position. EPA's Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by EPA. EPA's Statement of Position shall be binding on Respondent, unless Respondent requests alternative dispute resolution in accordance with the following paragraph.
118. Respondent may request that EPA coordinate to designate a neutral party for dispute resolution. If the Parties cannot agree on a neutral party, Respondent may request the Regional Administrator or the RJO appoint a neutral party to proceed with dispute resolution.
119. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Respondent under this Agreement, unless and until final resolution of the dispute so provides.

#### **IX. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER**

120. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Agreement resolves only Respondent's liability for federal civil penalties for the violations specifically alleged above.
121. Consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.
122. This Agreement 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.

123. Any violation of this Agreement, and subsequently issued Final Order approving this Agreement, may result in a civil judicial action for an injunction or civil penalties of up to \$59,114, see 40 C.F.R. Part 19 per day per 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). The EPA may use any information submitted under this Agreement in an administrative, civil judicial, or criminal action.
124. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws, 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 determination of, any issue related to any federal, state, or local permit.
125. Nothing herein shall be construed to limit the power of the 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.
126. If and to the extent EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA, EPA reserves any and all of its legal and equitable rights.
127. The parties consent to service of the Final Order approving this Agreement by e-mail at the following valid e-mail addresses: eakins.shaula@epa.gov (for Complainant), and samita.mehta@conocophillips.com (for Respondent).

## **X. TERMINATION**

128. Within one (1) year of the Effective Date, and no earlier than eleven (11) months after the Effective Date, Respondent shall provide a Statement of Completion to EPA along with the final Periodic Report required under Appendix A, Paragraph 5.
129. The Statement of Completion shall certify that Respondent is in substantial and material compliance with all requirements of this Agreement.

130. Within 90 days of receipt of the Statement of Completion, EPA shall provide a Confirmation of Termination or notify Respondent of outstanding compliance items.

**XI. EFFECTIVE DATE**

131. Respondent and Complainant agree to issuance of a Final Order approving this Agreement. Upon filing, the RJO will transmit a copy of the filed Agreement to the Respondent. This Agreement and subsequently issued Final Order shall become effective after execution of the Final Order by the RJO, on the date of filing with the Hearing Clerk (the "Effective Date").

The foregoing Consent Agreement *In the Matter of Burlington Resources Oil & Gas Company LP* is hereby stipulated, agreed, and approved for entry.

[Signatures on Following Page]

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Scott Patefield, Manager  
Air and Toxics Enforcement Branch  
Enforcement and Compliance Assurance Division

**Complainant.**

Burlington Resources Oil & Gas Company LP  
By: BROG GP LLC, its sole General Partner

**Respondent.**

Date: 4/7/2026

By: Wendy K. D. King

Printed Name: Wendy K. D. King

Title: President, Gulf Coast & Rockies JM