



3. EagleClaw Midstream Ventures, LLC and CR Permian Processing, LLC (“Respondent(s)”) are limited liability companies doing business in the State of Texas. Each Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondents, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without adjudication of any issues of law or fact herein, and Respondents agrees to comply with the terms of this CAFO.

### **B. JURISDICTION**

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(1)(B) of the Act, 42 U.S.C. § 7413(a)(1)(B).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than a year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. In satisfaction of the notice requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), on July 1, 2022, EPA issued to Respondents a Notice of Violation and Opportunity to Confer (the “NOVOC”) and provided a copy of the NOVOC to the State of Texas. In the NOVOC, EPA provided notice to both Respondents and the State of Texas that EPA found Respondents committed the alleged violations of the Texas State Implementation Plan (“SIP”) described in Section E of this CAFO and provided Respondents an opportunity to confer with EPA.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondents. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

### **C. GOVERNING LAW**

10. The Act is designed “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

11. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in SIPs and federally-enforceable permits.

#### **a. Texas State Implementation Plan**

12. Section 109(a) of the CAA, 42 U.S.C. § 7409(a), requires the Administrator of EPA to publish national ambient air quality standards (“NAAQS”) for certain air pollutants. Section 109(b) of the CAA, 42 U.S.C. § 7409(b), provides that the NAAQS establish primary air quality standards to protect public health and secondary standards to protect public welfare.

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

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

15. Subchapter F of Chapter 116 of the Texas Administrative Code regulates standard permits for air pollution control projects that reduce or maintain authorized emission rates for existing facilities. This Subchapter also establishes standards for emission control equipment. *See* 30 Tex. Admin. Code §§ 116.601-620. The standard permit regulations include the following requirements relevant to this CAFO:

a. “All representations with regard to construction plans, operating procedures, and maximum emission rates in any registration for a standard permit become conditions upon which the facility or changes thereto, must be constructed and operated.” 30 Tex. Admin. Code § 116.615(2).

b. “The facilities covered by the standard permit may not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations.” 30 Tex. Admin. Code § 116.615(9).

c. 30 Tex. Admin. Code § 116.620(a)(12) requires adequate combustion in flares and pilot flame monitoring.

d. 30 Tex. Admin. Code § 116.620(b)(1) requires “[f]loating roofs or equivalent controls” on “all new or modified storage tanks. . . .”; however, 30 Tex. Admin. Code § 116.620(b)(1)(D)(i) and (ii) provide that “[i]n lieu of a floating roof, tank emissions may be routed to a destruction device such that a minimum VOC destruction

efficiency of 98% is achieved; or a vapor control system such that a minimum VOC recovery efficiency of 95% is achieved.”

**D. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

16. Respondents own and/or operate the oil and natural gas handling and production facilities listed in Appendix A, which are located in the Texas Permian Basin (the “Facilities”).

17. Respondents are the owners and/or operators of the Facilities within the meaning of 40 C.F.R. § 51.100(f).

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

19. The Facilities in Table 1 of Appendix A are subject to the State of Texas’s Standard Permits program under Subchapter F of Chapter 116 of the Texas Administrative Code, as specified in Table 1.

20. The Texas Commission on Environmental Quality (“TCEQ”) issued air permits to the Respondents, listed in Table 1 of Appendix A, under the SIP-approved Standard Permit program. The permits cover various emission units at the Texas Facilities, including process equipment and/or vapor recovery systems, tanks and flares.

21. Respondents are required to operate in compliance with certain provisions of the Texas SIP and Respondents are required by the Facilities’ permits identified in Table 1 of Appendix A to control the emission of waste gas streams from the Facilities.

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

23. Flyovers of the Facilities at issue in this CAFO were conducted on August 27, 2020, and September 1, 2020. Appendix A identifies EPA's observations at each Facility.

24. On December 11, 2020, February 18, 2021, and April 6, 2022, EPA sent Respondents OGI video captures showing potentially unauthorized hydrocarbon emissions from process equipment and vapor recovery systems at the Facilities. EPA asked Respondents to verify ownership, provide current site-specific permit information, and take any necessary corrective action to address unauthorized hydrocarbon emissions at each facility. EPA considered information provided by Respondents to determine whether violations occurred at the Facilities.

25. On January 29, 2021, March 1, 2021, and April 13, 2022, Respondents provided information to EPA that corrective actions were completed at the Facilities listed in Appendix A to address some of the compliance issues observed during the flyovers.

26. More than thirty (30) days before the issuance of this CAFO, Respondents were notified of the violations alleged herein. On July 1, 2022, EPA sent Respondents the NOVOC and provided a copy to the State of Texas, in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

27. On July 21, 2022, and on various other occasions, EPA conferred with Respondents regarding the violations alleged herein and provided an opportunity for Respondents to submit additional information or materials.

#### **E. ALLEGED VIOLATIONS**

28. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the OGI video captures, facility permitted

operations, and information provided by Respondents. Based on this review, EPA alleges the following violations for the Facilities:

- a. Respondents violated 30 Tex. Admin. Code § 116.615(2) by failing to operate equipment consistent with the operating procedures set forth in the applicable permits listed in Appendix A.
- b. Respondents violated 30 Tex. Admin. Code § 116.615(9) by failing to ensure that equipment was maintained in good working order and operating properly during normal facility operations.
- c. Respondents violated 30 Tex. Admin. Code § 116.620(a)(12) by failing to ensure adequate combustion in flares and failing to properly conduct pilot flame monitoring.
- d. Respondents violated 30 Tex. Admin. Code § 116.620(b)(1)(D)(ii) by failing to route emissions from tanks without floating roofs to a destruction device such that a minimum VOC destruction efficiency of 98% is achieved or to a vapor recovery system such that a minimum VOC recovery efficiency of 95% is achieved.

**F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT**

**a. General**

29. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondents:

- a. admit that EPA has jurisdiction over the subject matter alleged in this CAFO;

- b. neither admit nor deny the specific factual allegations contained in the CAFO;
  - c. consent to the assessment of a civil penalty, as stated below;
  - d. consent to the issuance of any specified compliance or corrective action order<sup>1</sup>;
  - e. consent to the conditions specified in this CAFO;
  - f. consent to any stated Permit Action;
  - g. waive any right to contest the alleged violations set forth in Section E of this CAFO; and
  - h. waive its rights to appeal the Final Order included in this CAFO.
30. For the purpose of this proceeding, Respondents:
- a. agree that this CAFO states a claim upon which relief may be granted against Respondent;
  - b. acknowledge that this CAFO constitutes an enforcement action for purposes of considering Respondents' compliance history in any subsequent enforcement action;
  - c. waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);

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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 CAFO, subparagraphs (d) and (f) are not applicable to this particular case.



d. consent to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Western District of Texas;

e. waive any right it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agree that federal law shall govern in any such civil action; and

f. agree that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to these Facilities, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

**b. Penalty Assessment and Collection**

31. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, Respondents' full compliance history and good faith efforts to comply, the duration of the violations, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violations, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$206,000 (the "EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no

time exceeded EPA's statutory authority.

32. Respondents agrees to:

a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO; and

b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

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

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, *e.g.* FedEx), payment should be remitted to:

U.S. Bank  
Government Lockbox 979078  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

Contact: Natalie Pearson  
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
“D 68010727 Environmental Protection Agency”

For Automated Clearinghouse (also known as “remittance express” or “REX”):

U.S. Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: Jesse White  
(301) 887-6548

For Online Payment:

<https://www.pay.gov/paygov/>  
Enter sfo 1.1 in search field  
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2023-3351 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondents’ name and address, the case name, and docket number CAA-06-2023-3351. Respondents’ adherence to this request will ensure proper credit is given when penalties are received for Region 6. Respondents shall also email a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following email addresses:

Uma Lad  
U.S. EPA Region 6

Lad.Uma@epa.gov

And

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

33. Respondents agrees to pay the following on any overdue EPA Penalty:

a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C.

§ 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).

b. Nonpayment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondents must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph (a) of this Paragraph.

34. Respondents shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including, but not limited to, attorney's fees incurred by the United States for collection proceedings.

35. If Respondents fail to timely pay any portion of the penalty assessed under this CAFO, EPA may:

a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which

may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;

b. collect the above-referenced debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

c. suspend or revoke Respondents' licenses or other privileges or suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

**c. Conditions of Settlement**

36. Facility Review. Respondents shall perform the following facility review at each Facility:

a. Within sixty (60) days of the Effective Date of this CAFO, Respondents shall conduct a permitting and operations review in accordance with Section I of Appendix B.

b. Within sixty (60) days of the Effective Date of this CAFO, Respondents shall complete a site inspection in accordance with Section II of Appendix B.

c. Within ninety (90) days of Respondents completing the site inspections described in subparagraph b of Paragraph 36, Respondents shall complete an engineering assessment, in accordance with Section III of Appendix B.

37. Compliance Monitoring. Respondents shall perform the following compliance monitoring:

a. Respondents shall conduct optical gas imaging (“OGI”) surveys at each Facility in accordance with Section I of Appendix C (hereinafter “OGI Survey”) on a monthly basis, with at least fourteen (14) days between consecutive OGI Surveys, for a period of one (1) year from the Effective Date of this CAFO. The initial OGI Survey shall be conducted within ninety (90) days of the Effective Date of this CAFO.

b. Within ninety (90) days of the Effective Date of this CAFO, Respondents shall install and operate equipment monitoring in accordance with Sections II–III of Appendix C for a period of one year from the Effective Date of this CAFO.

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

Uma Lad

Lad.Uma@epa.gov

39. EPA reserves the right to pursue enforcement of any violations identified as a result of Paragraphs 36-38 (“Conditions of Settlement”).

**d. Additional Terms of Settlement**

40. Respondents agree that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraph 36-38 of this CAFO are completed (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the “Tolled Claims”). Respondents 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 Tolloed Claims.

41. The provisions of this CAFO shall apply to and be binding upon Respondents and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 40 of this CAFO, Respondents must give written notice and a copy of this CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the Facilities. Simultaneously with such notice, Respondents shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment or delegation, Respondents shall continue to be bound by the obligations or liabilities of this CAFO until EPA has provided written approval.

42. By signing this CAFO, Respondents acknowledge that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. *See* 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

43. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondents each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

44. By signing this CAFO, Respondents certify that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondents acknowledge 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.

45. EPA and Respondents agree to the use of electronic signatures for this matter.

EPA and Respondents further agree to electronic service of this CAFO by email to the following addresses:

To EPA: Smith.Christian.A@epa.gov

To Respondent: mwall@kinetik.com

46. Respondents specifically waive its rights to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 34 of this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

**G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER**

47. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondents' liability for federal civil penalties for the violations and facts specifically alleged above.

48. If Respondents fail to timely and satisfactorily complete every condition stated in Paragraphs 36-38 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondents to perform the conditions in Paragraphs 36-38, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both.

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

50. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2),



performance of Paragraphs 36-38 is restitution, remediation, or required to come into compliance with the law.

51. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

52. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

53. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$117,468 per day of violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

54. Nothing in this CAFO shall relieve Respondents of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

55. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondents or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

**H. EFFECTIVE DATE**

56. Respondents and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

EagleClaw Midstream Ventures, LLC  
CR Permian Processing, LLC  
Docket No. CAA-06-2023-3351

The foregoing Consent Agreement In the Matter of EagleClaw Midstream Ventures, LLC, and CR Permian Processing, LLC, Docket No. CAA-06-2023-3351, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENTS:

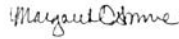
Date: 9/27/2023



\_\_\_\_\_  
Matt Wall  
EVP and COO  
EagleClaw Midstream Ventures, LLC  
CR Permian Processing, LLC

FOR COMPLAINANT:

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



Digitally signed by  
MARGARET OSBOURNE  
Date: 2023.09.28  
08:46:40 -05'00'

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

**APPENDIX A: FACILITIES**  
 EagleClaw Midstream Ventures, LLC  
 CR Permian Processing, LLC  
 CAA-06-2023-3351

**Table 1. Texas Facilities**

| <b>Site Identity</b>            | <b>TCEQ Regulated Entity No.</b> | <b>Permit Number</b> | <b>Application Type</b> | <b>Flyover Date</b> | <b>Flyover Video ID</b> | <b>EPA Team Observations of Flyover Video Capture</b> | <b>Corresponding Sections of Appendix C, Sections II–III</b> |
|---------------------------------|----------------------------------|----------------------|-------------------------|---------------------|-------------------------|---|--|
| Celero Compressor Station       | 109140624                        | 142869               | Standard Permit         | 8/27/20             | 776 and 777             | Compressor Emissions                                  | None   |
| Pecos Bend Gas Processing Plant | 109238691                        | 151653               | Standard Permit         | 8/27/20             | 757                     | Improperly Operating Flare and PRV Emissions          | Sections II and III  |
| PigPen Compressor Station       | 110948502                        | 159930               | Standard Permit         | 9/1/20              | 890                     | PRV Emissions   | Section II   |

## **APPENDIX B: FACILITY REVIEW**

### **I. Permitting and Operations Review**

Respondents shall conduct a permitting and operations review, which shall consist, at a minimum, of the following:

1. For all the Facilities, review current permit representations (*i.e.*, applications), current equipment inventories, current reported production and emissions data (for all operating scenarios), and all maintenance and operating logs and repair/replacement work orders generated within the eighteen (18) months preceding the Effective Date (including those available from past owners), in order to evaluate and ascertain current or possible recurring non-compliance issues associated with equipment and process controls at the Facilities.

2. For all the Facilities, review operation and maintenance procedures for inspecting process equipment at each of the Facilities, and update the procedures, as necessary, to ensure that problems are timely identified and addressed to minimize emissions from process equipment. If Respondents does not have such procedures, Respondents shall create such procedures. Respondents shall ensure these procedures include, at a minimum, the following:

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

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

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

### **II. Site Inspections**

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

1. For all tanks

a. Inspect and evaluate oil and water storage tanks and associated hatches, valves, gaskets, and pressure relief devices.

b. Evaluate whether the materials used are compatible with the gas compositions and whether they will deteriorate at unexpected rates.

c. Evaluate whether emergency pressure relief devices are set at the proper pressure set points.

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

### **III. Engineering Assessment**

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

1. Performed by a Professional Engineer with experience conducting an engineering and design assessment of oil and natural gas handling and processing facilities.
2. Use condensate and gas samples, equipment inventories, and volume throughput rates to perform process flow modeling (e.g., ProMax modeling) and evaluate whether site equipment and design sufficiently address vapor emissions and meet regulatory requirements.
3. Evaluate whether all emissions sources, including process equipment fire tubes, gas aspirated generators, pneumatic pumps, and pneumatically actuated control valves, have been identified and accounted for in determining total emissions.
4. Based on the preliminary compliance review and site inspections, re-evaluate whether the Facilities are properly permitted and determine whether Respondents should prepare permit applications or revisions.
5. Evaluate whether flares are operated and maintained in conformance with their designs, including recommendations and specifications provided by the flare manufacturers, and in a manner consistent with good air pollution control practices for minimizing emissions.

6. Use engineering assessment results to revise the equipment specifications and process configuration to ensure vapor control systems, where required, adequately handle maximum instantaneous vapor emissions, including working, breathing, or flashing losses from the tank batteries.

7. Based on preliminary compliance review, site inspections, and engineering assessments, evaluate the sufficiency of each Facility's spill containment adequacy and retention capacity.

## APPENDIX C: COMPLIANCE MONITORING

### I. OGI Survey

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

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

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

- a. The OGI Survey at the Pecos Bend Gas Processing Plant shall consist of an inspection of all equipment and components associated with all flares and tank batteries and associated closed vent systems.

#### Conducting the OGI Survey

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

4. For all OGI Surveys, maintain a survey log electronically in an Excel spreadsheet<sup>2</sup> that includes, at a minimum, the following:

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

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<sup>2</sup> EPA will provide a template spreadsheet for the survey log.



5. If a leak or defect is found, at a minimum capture a 10-second video clip of the leaking or defective component and keep the video clip with the rest of the OGI Survey documentation. The leaking or defective component must be tagged for repair, and the date, time, and location of the leak or defect must be recorded in the survey log referenced in Paragraph 4 of this Section.

6. A leak or defect shall be repaired as soon as practicable, but no later than fifteen (15) days after initial observation. Any absence of pilot flame at a control device, or other indication of improper operation, shall be corrected and the control device returned to proper operation as soon as practicable. All corrective actions must be verified using an OGI Survey. The date and description of the corrective action, as well as the date of corrective action verification using an OGI Survey, must be recorded in the survey log referenced in Paragraph 4 of this Section.

a. If a Respondent fails to perform, or has reason to believe that it will fail to perform, any obligation of Appendix C, Paragraph 6 of Section I (OGI Survey), Respondent shall provide written notice to EPA within five (5) days of when Respondent first becomes aware of its failure to perform the obligation. This notice shall include an explanation for Respondent's failure to perform the obligation, the anticipated date for when Respondent will perform the obligation, and any supporting documentation.

#### Quality Assurance and Quality Control

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

#### Reporting

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

- a. Survey logs for all OGI Surveys;
- b. All video footage for each OGI Survey;
- c. Verification video for each monitoring day; and
- d. Record of corrective actions.

9. Upload all required records in Paragraph 8 of this Section to an electronic folder provided by EPA. Respondents shall contact the enforcement officer identified in Paragraph 38 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

## II. Tank Pressure Monitoring

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

1. By the applicable deadline in subparagraph b of Paragraph 37 of Section F (Conditions of Settlement):
  - a. Use manufacturer's recommendation to install, calibrate, maintain, and operate an electronic pressure monitor(s) at each tank system (collectively, "Tank Pressure Monitors").
  - b. Tank Pressure Monitors shall record data at least once every sixty (60) seconds with a data transmission at least every hour to a central monitoring station.
  - c. Tank Pressure Monitors must be operated and function continuously except during instances of planned or unplanned maintenance or malfunction of the Tank Pressure Monitors. If a Tank Pressure Monitor is identified as malfunctioning, Respondents shall complete the repair within five (5) days. Respondents shall record all dates, locations, durations, and causes of Tank Pressure Monitor malfunctions.
2. Within thirty (30) days after the Tank Pressure Monitors are installed pursuant to Paragraph 1 of this Section, Respondents shall:
  - a. evaluate calibration and optimize the Tank Pressure Monitors to ensure that the data produced by the Tank Pressure Monitors are accurate;
  - b. conduct an OGI Survey during a pressure test to determine the leak point of each tank system. During the pressure test, Respondents shall pressurize the tank system up to the highest point at which the pressure relief devices are not emitting ("leak point"). The leak point shall be no greater than the lowest set point of any pressure relief device; and
  - c. determine the trigger point, which must be at least two ounces per square inch below the lowest set point of any pressure relief device in the tank system and less than the leak point (e.g., if a tank is equipped with a thief hatch with a set point of 16 oz/in<sup>2</sup> and a pressure relief valve ("PRV") with a set point of 14 oz/in<sup>2</sup>, the trigger point can be no greater than 12 oz/in<sup>2</sup>).
3. At any time after thirty (30) days after the Tank Pressure Monitors are installed at a tank system pursuant to Paragraph 1 of this Section, if: (a) the Tank Pressure Monitor records two (2) or more measurements in a 24-hour period that exceed the trigger point, or (b) a measurement exceeds the trigger point continuously for a duration of five (5) minutes or longer, such record shall require a site investigation using an OGI camera. Respondents shall record all dates, locations, durations, and causes of each instance when the Tank Pressure Monitor records a measurement that exceeds the trigger point. Each site investigation shall be documented with a

record that includes the results of the site investigation, any observation of VOC emissions observed, and any corrective actions taken to address observations of VOC emissions or any instances of malfunction of the Tank Pressure Monitors.

4. The Facility must submit all records made pursuant to subparagraph c of Paragraph 1 and Paragraph 3 of this Section to EPA on a monthly basis within twenty-one (21) days of the end of each month. The Facility must upload the records to an electronic folder provided by EPA. Respondents shall contact the enforcement officer identified in Paragraph 38 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

### **III. Combustion Control Device Monitoring**

By the applicable deadline in subparagraph b of Paragraph 37 of Section F (Conditions of Settlement), Respondents shall conduct combustion control device monitoring at the Facility identified in Appendix A, in accordance with the following requirements:

1. Use manufacturer's recommendations to install, calibrate, maintain, and operate, for each combustion control device at each Facility, a thermocouple or equivalent device to detect the presence of a flame for each combustion control device (collectively, "Pilot Monitors").

2. Pilot Monitors shall record data at least once every five (5) minutes and, whenever the monitor fails to detect the presence of a flame, the monitors shall transmit data reporting such event to a central monitoring station within one (1) hour.

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

4. Respondents shall record all dates, locations, durations and causes of each instance when the Pilot Monitor failed to detect the presence of a flame.

5. The Facility must submit all records made pursuant to Paragraphs 3 and 4 of this Section to EPA on a monthly basis within twenty-one (21) days of the end of each month. The Facility must upload the records to an electronic folder provided by EPA. Respondents shall contact the enforcement officer identified in Paragraph 38 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

## APPENDIX D

### I. Letter Report Requirements

Respondents shall provide a Letter Report to EPA containing the following:

1. Explain the scope of the Facility Review, provide a summary of the Facility Review process, and explain any obstacles encountered.
2. State the period of time covered by the Facility Review and list the date(s) any on-site portion of the Facility Review was conducted.
3. Identify the Facility Review team members, including names, titles, and summaries of qualifications.
4. Identify any representatives of EPA or Respondents who observed any portion of the Facility Review.
5. Include a copy of the results of the Engineering Assessment conducted pursuant to Section III of Appendix B. Include documentation of the condensate and gas samples used to perform process flow modeling, as well as the results of the process flow modeling, pursuant to Paragraph 2 of Section III of Appendix B and the results of quality assurance and quality control analyses conducted for the condensate and gas samples.
6. Include a written explanation of the instances of non-compliance noted during the Facility Review, and the areas of concern identified during the course of the Facility Review, regardless of whether they require corrective action or merit further review or evaluation for potential environmental or regulatory impacts.
7. A statement of whether Respondents are applying for, or will apply for, new or modified permits, repairing or replacing any equipment in accordance with the Facility Review.
8. A description of the following steps that Respondents have taken or will take:
  - a. A schedule for promptly addressing deficiencies identified in the Facility Review and Compliance Monitoring.
  - b. A list of new equipment and piping to be procured, including flares, combustors, vapor recovery units/towers, tank hatches, pressure relief valves, piping, and gaskets.
  - c. The repair, replacement, upgrading, and/or installation of equipment, including vapor recovery units/towers, flares, combustors, tank pressure relief valves, tank hatches and gaskets, and compressors.
  - d. The replacement of any piping, valves, flame arrestors, or other equipment that is inadequately sized for the flow of condensate and volume of emissions.

- e. The addition, upgrading, or replacement of spill containment capability.
- 9. An estimation of the total emission reductions for specific actions taken or improvements made or planned to be made.
- 10. Confirmation that there are no unauthorized emissions during normal operations for newly installed equipment (e.g., conduct OGI Camera Surveys to detect and correct any visible emissions).



CERTIFICATE OF SERVICE

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

EMAIL - READ RECEIPT REQUESTED

[mwall@kinetik.com](mailto:mwall@kinetik.com)  
303 Veterans Airpark Lane, Suite 2000  
Midland, TX 79705

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U.S. EPA, Region 6  
Dallas, Texas