



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TX 75270

DEC 31 2019

19 FEB -6 AM 9:30

ENVIRONMENTAL DIV.

VIA E-MAIL AND  
**CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7008 0150 0003 1542 1236**

Rebecca H. Moring  
Senior Counsel Environmental  
Westlake Chemical Corporation  
2801 Post Oak Blvd, Suite 600  
Houston, TX 77056-6105

Re: *In the Matter of Westlake Chemical Corporation* Docket No. CAA-06-2020-3315

Dear Ms. Moring:

Enclosed is a Consent Agreement and Final Order (CAFO) in the matter referenced above for execution by Westlake Chemical Corporation. Please return the signed CAFO to me for signature and filing by the Environmental Protection Agency.

As provided in the CAFO, Westlake Chemical Corporation will have thirty (30) days from the effective date of the CAFO to pay the civil penalty of \$132,020.00 and undertake the Supplemental Environmental Project as prescribe in Paragraph III – Terms of Settlement within one hundred-twenty (120) days from the effective date of this CAFO.

If you have any questions regarding this CAFO, please contact Matthew Trawick by phone at (214) 665-8142 or by email at [Trawick.Matthew@epa.gov](mailto:Trawick.Matthew@epa.gov).

Sincerely,

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

Enclosure

ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

20 FILED  
20 FEB 12 PM 12:05  
REGIONAL HEARING CLERK  
EPA REGION VI

**IN THE MATTER OF:**

**Westlake Vinyls Company, LP**

**Respondent**

**Geismar, Louisiana**

**CONSENT AGREEMENT AND FINAL  
ORDER**

**EPA DOCKET NO. CAA-06-2020-3315**

**CONSENT AGREEMENT AND FINAL ORDER**

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency ("EPA"), Region 6 ("Complainant") and Westlake Vinyls Company, LP ("Westlake Vinyls" or "Respondent") in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order ("CAFO").

**I. PRELIMINARY STATEMENT**

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

2. For the purposes of this proceeding, Respondent admits the jurisdictional allegations contained herein; however, Respondent neither admits nor denies the specific factual allegations or conclusions of law contained in this CAFO.

3. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth therein, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for civil penalties for those violations and facts alleged herein.

5. Respondent consents to the issuance of the CAFO, to the assessment and payment of the civil penalty in the amount and by the method set forth in this CAFO, and the conditions specified in the CAFO.

6. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

7. This CAFO shall apply to and be binding upon Respondent and its successors and assigns.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

### A. PRELIMINARY ALLEGATIONS

8. Respondent is a Delaware corporation authorized to do business in the State of Louisiana.

9. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency of the United States and any officer, agent, or employee thereof."

10. Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

11. Respondent owns and operates a petrochemical facility located at 36045 Highway 30, Geismar, Ascension Parish, Louisiana 70669.

12. "Stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3 as meaning:

any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

13. Respondent's facility identified in Paragraph 11 is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

14. Respondent is the owner and/or operator of the stationary source identified in Paragraph 11.

15. Hydrogen chloride (anhydrous) [hydrochloric acid], chlorine, propylene, and vinyl chloride are each a "regulated substance", as set forth in 40 C.F.R. § 68.130.

16. "Process" is defined in 40 C.F.R. § 68.3 as meaning:

any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of activities. For the purpose of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

17. Respondent has the following processes at the stationary source identified in Paragraph 11:

- A. Plastics Material and Resin Manufacturing;
- B. Petrochemical Manufacturing; and
- C. Other Basic Inorganic Chemical Manufacturing.

18. 40 C.F.R. § 68.130 specifies the following threshold quantities for the regulated substances listed below:

- A. Hydrogen chloride (anhydrous) [hydrochloric acid] – 5,000 pounds;
- B. Chlorine – 2,500 pounds;
- C. Propylene – 10,000 pounds; and
- D. Vinyl Chloride – 10,000 pounds.

19. Respondent has exceeded the threshold quantity for one or more of the following regulated substances at the processes identified in Paragraph 17:

- A. Hydrogen chloride (anhydrous) [hydrochloric acid];
- B. Chlorine;
- C. Propylene; or
- D. Vinyl Chloride.

20. "Covered process" is defined in 40 C.F.R. § 68.3 as meaning "a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115."

21. Each process identified in Paragraph 17 is a "covered process" as that term is defined by 40 C.F.R. § 68.3.

22. The covered processes identified in Paragraph 17 are subject to the "Program 3" requirements of the Risk Management Program ("RMP") regulations and must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D.

23. On or about July 25-27, 2017, EPA and the Louisiana Department of Environmental Quality (LDEQ) inspectors conducted an inspection of Respondent's facility (hereinafter "the Inspection") to determine compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, Chemical Accident Prevention Provisions.

24. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), authorizes EPA to bring an administrative action when penalties exceed \$369,532<sup>1</sup> or when the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action if the

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<sup>1</sup> The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased by the Civil Monetary Penalty Inflation Adjustment Rule of January 10, 2018 (83 Fed. Reg. 1190, 1193), codified at 40 C.F.R. Part 19, to \$369,532 for violations occurring after November 2, 2015, where penalties are assessed on or after January 15, 2018.

Administrator and the United States Attorney General jointly determine that the matter is appropriate for administrative action.

25. EPA and the U.S. Department of Justice have jointly determined that the Complainant can administratively assess a civil penalty even though the penalty might exceed the statutory amount and the alleged violations have occurred more than twelve (12) months prior to the initiation of the administrative action.

## **B. VIOLATIONS**

### **Count One. Failure to Certify Operating Procedures. 40 C.F.R. § 68.69(c).**

26. Pursuant to 40 C.F.R. § 68.69(c), an owner or operator shall ensure that operating procedures are reviewed as often as necessary to assure that they reflect current operating practice, and must certify annually that their operating procedures are current and accurate.

27. In preparation for the Inspection, the inspector requested that Respondent provide its annual operating procedure certification statements for three covered processes for years 2014-17.

28. One of the annual certifications for one of the periods requested was completed late – approximately four months later than required.

29. Respondent completed the annual certification immediately upon discovering that it was late, three months prior to the Inspection.

30. Respondent's failure to annually certify that its operating procedures were current and accurate constitutes a violation of 40 C.F.R. § 68.69(c).

### **Count Two – Mechanical Integrity**

31. 40 C.F.R. § 68.73(d)(3) requires that owners or operators must inspect and test process equipment with a frequency that is consistent with applicable manufacturers'

recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

32. Respondent owns and operates three bulk chlorine storage pressure vessels, identified as: V-7620 A, V-7620 B, and V-7620 C.

33. In its mechanical integrity procedure for pressure vessels, Respondent specifies that inspection frequencies for external visual inspection, on-stream inspection, and internal visual inspection "shall be conducted [...] in accordance with API Standard 510 and Chlorine Institute Pamphlet 5 (when applicable)."

34. The mechanical integrity procedure also states that "[s]ubsequent [inspections] shall be conducted at a frequency in accordance with the [Recommended Maximum Inspection and Testing Intervals] table below," or at one-half of the calculated remaining life of the vessel, whichever is less.

35. The Recommended Maximum Inspection and Testing Intervals table states that chlorine bulk storage pressure vessels are subject to the standard set in Chlorine Institute Pamphlet 5.

36. Chlorine Institute Pamphlet 5 states that chlorine bulk storage tanks should undergo a visual exterior inspection for corrosion or signs of leakage every two years, and that tank wall thickness should be checked at predesignated areas and logged every two years.

37. Respondent's Recommended Maximum Inspection and Testing Intervals table indicates that chlorine bulk storage tanks should receive an external visual inspection and an on-stream thickness survey every two years. It also requires internal visual inspection every six years.

38. Respondent installed the chlorine bullet tanks in July 2013.

39. Respondent failed to conduct a subsequent external visual inspection until over three years later, in September 2016.

40. Respondent violated 40 C.F.R. § 68.73(d)(3) by failing to perform external testing every two years as consistent with manufacturing recommendations and good engineering practices.

**Count Three – Process Hazard Analysis**

41. 40 C.F.R. § 68.67 requires owners and operators to perform a process hazard analysis on covered process, and requires that the process hazard shall address the consequences of failure of engineering and administrative controls.

42. On July 7, 2016, Facility operators installed a replacement emergency power generator.

43. After installation, the mechanic initiated a test of the emergency power generator transfer switch, causing a loss of power supply.

44. The Uninterruptable Power Supply (UPS), a backup battery meant to keep power available to the distributed control system stations and servers (DCS), failed to keep power available to the DCS.

45. Respondent later determined that the batteries in the UPS had failed.

46. Respondent had no preventative maintenance program in place for its UPS.

47. When the DCS lost power, the DCS falsely indicated a total power failure.

48. The false power failure indication triggered a shutdown of the cooling water pumps, which caused a runaway reaction in a reactor, over-pressurization, and ultimately led to the venting of vinyl chloride through a pressure relief valve into the atmosphere.

49. Respondent's failure to address the consequences of the failure of an



administrative or engineering control and failure to take action to implement operating and maintenance procedures constitute a violation of 40 C.F.R. § 68.67.

**Count Four – Operating Procedures**

50. 40 C.F.R. § 68.69(a) requires that an owner or operator must develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and that address each enumerated element under subparagraph a.

51. On January 8, 2017, contrary to Respondent's written operating procedures, an employee overfilled a degas tank, which caused an accidental release of 124 pounds of vinyl chloride to the atmosphere.

52. Respondent's failure to implement its existing written operating procedures in such a way so as to ensure that employees previously trained on such procedures would never take actions contrary thereto constitutes a violation of 40 C.F.R. § 68.69(a).

**Count Five – Contractors**

53. 40 C.F.R. § 68.87(b)(2) requires that the owner or operator shall inform contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.

54. On March 31, 2017, contractors were moving wires at the substation and failed to follow both facility's and the contract company's operating procedures, which resulted in a tripped breaker.

55. The tripped breaker in turn caused an accidental vinyl chloride release to the atmosphere.

56. Respondent violated 40 C.F.R. § 68.87(c)(4) by failing to inform contract owner

or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process as required by § 68.69(d).

**Count Six – Operating Procedures**

57. 40 C.F.R. § 68.69(a) requires that an owner or operator must develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process.

58. On May 18, 2017, the Geismar VCM Unit encountered a process upset while workers were connecting a new DCS control network to the existing network.

59. During the installation process workers deviated from the written operating procedures, and communication with 175 field devices was lost.

60. A cascade of events led to a release of vinyl chloride, ethylene, ethylene dichloride, and chloroform.

61. Respondent's failure to implement its existing written operating procedures in such a way so as to ensure that employees previously trained on such procedures would never take actions contrary thereto constitutes a violation of 40 C.F.R. § 68.69(a).

**III. TERMS OF SETTLEMENT**

**A. Supplemental Environmental Project.**

62. Respondent shall undertake the following Supplemental Environmental Project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvement.

63. Respondent will purchase emergency response equipment, as set forth below. The emergency response equipment will include a Mobile Command System that will provide a combination of software, hardware, and communications technologies that support

interoperability for multi-agency needs and response to man-made and natural disasters, and shall be composed of:

- a. A 2019 Ford F-450 Chassis Cab XL Regular Cab Truck;
- b. CM Truck Beds SK Steel Flat Bed Truck Bed; and
- c. A Mobile Command Trailer capable of functioning as an onsite command center.

64. Respondent will purchase the Emergency Response Equipment and donate it to the Ascension Parish Office of Homeland Security and Emergency Preparedness.

65. Respondent shall complete its purchase and donation of emergency response equipment within 120 days from the effective date of this CAFO.

66. Respondent is responsible for the satisfactory completion of the SEP. The total expenditure for the SEP shall be no less than \$116,225.00. Eligible SEP costs do not include inventory on hand, overhead, additional employee time and salary, administrative expenses, legal fees, and oversight of a contractor. The Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

67. The Respondent hereby certifies that, as of the date of this CAFO, the Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is the Respondent required to perform or develop the SEP by any other agreement, grant, or as injunctive relief in this or any other case. The Respondent further certifies that the SEP was not a project that the Respondent was planning or intending to construct, perform, or implement other than in settlement of this action. Finally, the Respondent certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for this SEP.

68. The Respondent's signatory to this CAFO, by signing the CAFO, makes the

following additional certification:

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

69. For federal income tax purposes, the Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

#### **SEP Completion Report**

70. Respondent shall submit a SEP Completion Report to EPA within thirty (30) days after completion of the SEP. The SEP Completion Report shall contain the following information:

- A. A detailed description of the SEP as implemented;
- B. A description of any operating or logistical problems encountered and the solutions thereto;
- C. Itemized final costs with copies of receipts for all expenditures;
- D. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
- E. A description of the environmental, emergency preparedness, and/or public health benefits resulting from implementation of this SEP.

71. Respondent agrees that failure to timely submit the final SEP Completion Report

shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 77.

72. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

73. Respondent shall submit the following certification in the SEP Completion Report, signed by a responsible corporate official:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

74. After receipt of the SEP Completion Report described in Paragraph 70 above, EPA will notify the Respondent, in writing, regarding: (a) any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or (b) indicate that EPA concludes that the project has been completed satisfactorily; or (c) determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with Paragraph 75 below.

75. If EPA elects to exercise option (a) in Paragraph 74 above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy

of SEP completion itself, EPA shall permit the Respondent the opportunity to object in writing to the notification of deficiency given pursuant to Paragraph 74 within ten (10) days of receipt of such notification. EPA and the Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon the Respondent. The Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CAFO. In the event the SEP is not completed as reasonably contemplated herein, as determined by EPA, a stipulated penalty shall be due and payable by Respondent to EPA in accordance with Paragraph 77 herein.

**B. CIVIL PENALTY**

76. For the reasons set forth above, Respondent has agreed to pay a civil penalty of **One hundred thirty two thousand twenty dollars (\$132,020)**.

77. If Respondent fails to adequately perform the SEP as described above, Respondent agrees to pay a stipulated penalty of \$125,000.

78. The EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

79. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service

express mail, the check should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 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" with  
phone number (412) 234-4381.

**PLEASE NOTE: Docket Number CAA-06-2020-3315 shall be clearly typed on the check or other method of payment to ensure proper credit.** If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference Respondent's name and address, the case name, and docket number of the CAFO. Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the

following:

Justin McDowell  
Enforcement Officer  
Chemical Accident Enforcement Section (6ECDAC)  
U.S. EPA, Region 6  
1201 Elm Street  
Dallas, TX 75270

Lorena Vaughn  
Regional Hearing Clerk (6ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270

Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

80. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

81. If Respondent fails to submit payment within thirty (30) days of the effective date of this Order, Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges and nonpayment penalties as set forth below.

82. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly



throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

83. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

84. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such Respondent's outstanding penalties as set forth in Paragraphs 76 and 77 and nonpayment penalties, accrued as of the beginning of each quarter.

This CAFO is considered an "enforcement response" for the purpose of demonstrating a "history of noncompliance" under the CAA Stationary Source Penalty Policy, and the Combined Enforcement Policy for CAA Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 (June 2012).

### C. NOTIFICATION

85. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to

another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other party that another individual has been designated to receive the communication:

**Complainant:**

Justin McDowell  
Enforcement Officer  
Chemical Accident Enforcement Section (6ECDAC)  
U.S. EPA, Region 6, Suite 500  
1201 Elm Street  
Dallas, TX 75270

**Respondent:**

Rebecca H. Moring  
Senior Counsel Environmental  
Westlake Chemical Corporation  
2801 Post Oak Blvd, Suite 600  
Houston, TX 77056-6105

**D. COMPLIANCE**

86. Respondent hereby certifies that, as of the date of the execution of this CAFO, the facility identified in Paragraph 11 has corrected the violations alleged herein.

**E. MODIFICATION**

87. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

**F. RETENTION OF ENFORCEMENT RIGHTS**

88. EPA does not waive any rights or remedies available to EPA for any other violations by Respondent of federal or State laws, regulations, or permitting conditions.

89. Nothing in this CAFO shall relieve Respondent of the duty to comply with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

90. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from Respondent's facility whether related to the violations addressed in this CAFO or otherwise. Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of other federal, State, or local agencies or departments to obtain penalties or injunctive relief under federal, State, or local laws or regulations.

91. Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. In any such action to enforce the provisions of this CAFO, Respondent shall not assert, and may not maintain, any defense of laches, statute of limitations, or any other equitable defense based on the passage of time. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the CAA or its implementing regulations, or under federal or State laws, regulations, or permit conditions.

92. In any subsequent administrative or judicial proceeding initiated by Complainant or the United States for injunctive relief, civil penalties, to enforce the provisions of this CAFO, or other appropriate relief relating to this Facility, Respondent 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 upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims

for civil penalties that have been specifically resolved pursuant to this CAFO.

93. Respondent waives any right it may possess at law or in equity to challenge the authority of the EPA or the United States 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 agrees that federal law shall govern in any such civil action. Respondent also consents to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District Court.

94. Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of law or fact 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).

95. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. Complainant does not warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the CAA or with any other provisions of federal, State, or local laws, regulations, or permits.

#### **G. COSTS**

96. Each party shall bear its own costs and attorney's fees.

#### **H. TERMINATION**

97. This CAFO shall terminate when all actions required to be taken by this CAFO

have been completed, and Respondent has notified EPA in writing that this CAFO has been satisfied. This CAFO is deemed terminated ninety (90) days after EPA's receipt of Respondent's written notification unless EPA objects in writing within the ninety (90) days.

**I. EFFECTIVE DATE**

98. This CAFO and any subsequent modifications become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:**

**FOR THE RESPONDENT:**

Date: 29 June 2020

  
\_\_\_\_\_  
John Scroggins  
Plant Manager  
Westlake Vinyls Company, LP

**FOR THE COMPLAINANT:**

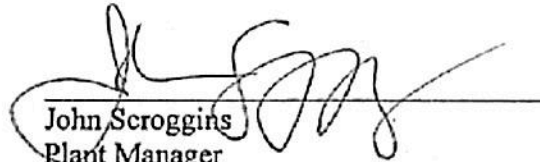
Date: \_\_\_\_\_

\_\_\_\_\_  
Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT  
AGREEMENT AND FINAL ORDER:**

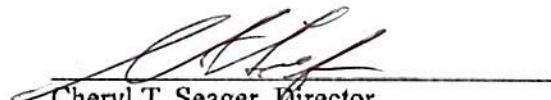
**FOR THE RESPONDENT:**

Date: 29 Jan 2020

  
John Scroggins  
Plant Manager  
Westlake Vinyls Company, LP

**FOR THE COMPLAINANT:**


Date: 2-10-2020

  
Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

**FINAL ORDER**

Pursuant to the Section 113 of the CAA, 42 U.S.C. § 7413, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive relief or other equitable relief for criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or their officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 2-12-2020

  
\_\_\_\_\_  
Thomas Rucki  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

I hereby certify that on February 12, 2020, the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Dallas, Texas 75270, and that a true and correct copy of the CAFO was sent to the following by certified mail, return receipt requested:

Rebecca H. Moring  
Senior Counsel Environmental  
Westlake Chemical Corporation  
2801 Post Oak Blvd, Suite 600  
Houston, TX 77056-6105

7014 0150 0000 2404 8374

Gari Jackson  
EPA Region 6 Paralegal