

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

2017-11-12 11:38

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**IN THE MATTER OF:** )  
)  
**MarkWest Liberty Midstream** )  
**and Resources LLC** ) **EPA Docket No. CAA-03-2017-0059**  
**4600 J. Barry Street, Suite 500** )  
**Canonsburg, Pennsylvania 15342,** )  
)  
**Respondent.** )  
) **Proceedings Pursuant to Sections 112(r)**  
) **and 113 of the Clean Air Act, 42 U.S.C.**  
**Sherwood Gas Processing Plant** ) **§ 7412, 7413, and 40 C.F.R. § 22.13(b) and**  
**218 Swisher Lane** ) **22.18(b)**  
**West Union, West Virginia 26456,** )  
)  
)  
**Facility.** )

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**CONSENT AGREEMENT**

**STATUTORY AUTHORITY**

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 113(d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7413(d), and under the authority provided by the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits” (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (“Part 22”). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III (“Complainant”).

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as “CAFO”) as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3), and having consented to the entry of this CAFO, agree to comply with the terms of this CAFO.

### **JURISDICTION**

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. § 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. With the exception of Paragraph 3, above, for the purpose of this proceeding, Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth in this Consent Agreement, but expressly waives its right to contest said allegations.

### **LEGISLATIVE AND REGULATORY HISTORY AND DEFINITIONS**

5. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).
6. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator of EPA to promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires the Administrator to set threshold quantities for listed regulated substances. The list of regulated substances and threshold levels can be found in 40 C.F.R. § 68.130.
7. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.
8. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

9. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

10. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as, inter alia, 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.

11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as including an individual, corporation, partnership, association, State, municipality, political subdivision of a State and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

12. The regulations at 40 C.F.R. § 68.3 define “natural gas processing plant (gas plant)” as any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

13. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Tables 1-4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

14. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA in 40 C.F.R. § 68.130.

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

16. As used herein, the term “day” shall mean calendar day.

17. All terms not defined herein shall have the meanings set forth in the CAA.

### **EPA'S FINDINGS OF FACT**

18. MarkWest Liberty Midstream and Resources, LLC (“Respondent”) is a limited liability company organized in the Commonwealth of Pennsylvania, with its principal place of business located at 4800 J. Barry Street, Suite 500, in Canonsburg, Pennsylvania.

19. Respondent has owned the Sherwood Gas Processing Plant, including the truck loading area, located at 218 Swisher Lane in West Union, West Virginia (the “Facility”), since 2011.

20. The Facility is a cryogenic natural gas liquid (“NGL”) facility with capacity to process approximately 1.0 billion cubic feet per day of raw natural gas while recovering around 1.4 gallons per million cubic feet of NGL product in the ethane rejection mode of operation. The Facility consist of a compressor station and gas plant. The compressor station brings in low pressure gas, pushes it through a dehydration process to removes water and naturally occurring condensate, and then compresses the gas prior to entry to the gas plant. The gas plant further dehydrates the gas to remove the remaining water which is then sent to a refrigeration dew point control unit where condensable liquids are extracted from the gas stream.

21. NGL product recovered in the Facility is continuously delivered to downstream NGL fractionation facilities by means of pipeline pumps and a high pressure products pipeline. From time-to-time, the Facility also delivers NGL product by over-the-road trucks. This NGL product is stored in pressurized storage tanks awaiting load-out via truck or pipeline. The truck loading area began operations on or about October 12, 2012.

22. Respondent initially submitted a risk management plan for the Facility to EPA on December 20, 2012, with resubmissions on August 8, 2014, May 4, 2016 and July 12, 2016. The Facility also submitted a correction on April 19, 2015 to include its accident history.

23. On October 9, 2014, a release of approximately 19,000 pounds of NGL occurred at the truck loading area of the Facility (the “Release”).

24. In the aftermath of the Release, EPA conducted an investigation pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, to determine whether Respondent was in compliance with Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the Chemical Accident Prevention Provisions at 40 C.F.R. Part 68. EPA sent four information requests to Respondent, pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, dated December 2, 2014, March 23, 2015, July 21, 2015 and June 6, 2016, respectively, to which Respondent responded with letters dated February 3, 2015, April 10, 2015, June 23, 2015, August 7, 2015 and July 18, 2016.

25. Based on the information obtained in Respondent’s responses to the information requests, EPA determined that the truck loading area includes four 70,000-gallon NGL storage tanks and two NGL truck loading skids which consists of pumps, piping and instrumentation. The NGL consists of a mixture of highly flammable liquids. The flammable mixture consists of at least 1% each of propane, pentane, isobutane, butane, isopentane, methane and ethane. All of these chemicals comprising the NGL constitute regulated substances pursuant to Section

112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Table 3. The weight of the liquids in each 70,000-gallon storage tank containing NGL is greater than 10,000 pounds, at approximately 1,166,200 to 1,526,060 pounds.

26. Based on the information obtained in Respondent's responses to the information requests, the Release began at approximately 5:00 a.m. on October 9, 2014, when a 6-inch steel braided flex hose ruptured during loading of NGL, releasing approximately 19,000 pounds of NGLs causing a vapor cloud. The truck loading area was immediately shutdown. The vapor cloud was monitored until it dissipated and emergency response personnel made full checks to ensure public and employee safety. Operations re-commenced at 11:00 a.m. However, the truck loading area remained out of service.

#### *Process Safety Requirements*

27. The Chemical Accident Prevention Provisions require an owner or operator to comply with process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2), *i.e.* to compile process safety information pertaining to the equipment in the process including design codes and standards employed and to document that the equipment in the process complies with recognized and generally accepted good engineering practices.

28. The relevant industry design code and standard for the Facility, which is a "design code and standard" and a "recognized and generally accepted good engineering practice," is the American Petroleum Institute Standard 2510, *Design and Construction of Liquefied Petroleum Gas (LPG) Installations* (8<sup>th</sup> Edition, May 2001) ("API 2510"). API 2510 provides "minimum requirements for the design and construction of liquefied petroleum gas (LPG) installations at marine and pipeline terminals, natural gas processing plants, refineries, petrochemical plants, and tank farms." API 2510, Foreword. It contains the following provision: "A hose for product transfer "shall be designed for a minimum working pressure of 350 pounds per square inch ("psig") and a minimum bursting pressure of 1750 psig." API 2510, § 9.5.1.3.1.

29. Based on the information received in the responses to the information requests, EPA made the following observation about the equipment at the Facility: Respondent had not provided a properly rated flex hose for product transfer on the truck loading skid, consistent with the protection provided by API 2510. The hose at the Facility at the time of the Release had a maximum working pressure of 165 psig and minimal burst pressure of 660 psig. These pressures are far below the minimums set forth in API 2510. According to API 2510, the required minimum working pressure for a hose is 350 psig and the minimum bursting pressure is 1750 psig.

30. On or about August 28, 2015, Respondent placed the truck loading area back in service and included a new truck loading skid which utilizes a steel pipe spool and not a flexible hose. For purposes of this Settlement Agreement, it is assumed that Respondent had a noncompliant hose at least from the time the truck loading area went into service, on October 12, 2012, until the date of the Release, on October 9, 2014, when the truck loading area was shut down.

31. After the incident, Respondent assessed all other truck loading skids at the Facility and its other natural gas processing plants and confirmed that none utilize the flexible hose that had been used at the Facility.

*Mechanical Integrity Requirements: Inspections and Tests*

32. The Chemical Accident Prevention Provisions require an owner or operator to perform inspections and tests on process equipment as part of its mechanical integrity obligations. 40 C.F.R. § 68.73(d). The “frequency of inspections and tests shall be consistent with applicable manufacturers’ recommendations and good engineering practices”. 40 C.F.R. § 68.73(d)(3).

33. API 2510 contains good engineering practices relevant to testing procedures for hoses. It contains the following provision: “Hose assemblies shall be tested at least annually at whichever is greater, the maximum pump discharge pressure or the relief valve setting.” API 2510, § 9.5.1.3.3.

34. Based on the information received in the responses to the information requests, EPA made the following observations about the equipment at the Facility: Respondent had not conducted annual testing of the flex hose at the Facility, consistent with the protection provided by API 2510. The hose went into service on October 12, 2012, but the hose was not tested one year from that date, on October 12, 2013. The first inspection of the hose occurred on October 9, 2014, after the Release. As a result, the hose was not protected from damage or defect.

**EPA’S CONCLUSIONS OF LAW RELATED TO THE  
ALLEGED VIOLATIONS OF SECTION 112(r)(7) OF THE CLEAN AIR ACT**

35. The findings of fact contained in Paragraphs 5 through 34 of this CAFO are incorporated by reference herein as though fully set forth at length.

36. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

37. At all times relevant to this CAFO, Respondent has been an owner of the Facility.

38. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

39. The Facility constitutes a natural gas processing plant, as defined at 40 C.F.R. § 68.3.

40. The constituents of the NGL in the storage tanks at the Facility are “regulated substances” for purposes of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), because they are listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130, Table 3, as regulated flammable substances.

41. The threshold quantity for a mixture of flammable substances containing the regulated substances propane, pentane, isobutane, butane, isopentane, methane and ethane at a concentration greater than one percent each is 10,000 pounds, pursuant to 40 C.F.R. § 68.115(b)(2) and 68.130, Table 3.

42. The total quantity of the NGL at the Facility is counted when determining whether more than a threshold quantity of a regulated substance is present in a process, pursuant to 40 C.F.R. § 68.115(b)(2). The estimated total quantity of NGL in the four 70,000-gallon storage tanks is approximately 1,166,200 to 1,526,060 pounds.

43. At all times relevant to this Consent Agreement, more than a threshold quantity of a regulated substance has been present in a process at the Facility.

44. The storage and handling of the NGL in the storage tanks at the Facility constitutes a process within the meaning of Section 68.3 of the Chemical Accident Prevention Provisions, 40 C.F.R. § 68.3.

45. The Facility is a Program 3 Facility under the Chemical Accident Prevention Provisions, in accordance with 40 C.F.R. § 68.10(d).

46. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, at the Facility because Respondent is an owner of a stationary source that has more than a threshold quantity of a regulated substance in a process.

47. Based on the information provided by Respondent to EPA in the responses to the information requests, Respondent had not documented that its equipment at the Facility as described above was designed consistently with industry standards and guidance.

48. Based on the information provided by Respondent to EPA in the responses to the information requests, Respondent had not provided equipment inspection and testing in accordance with recognized and generally accepted good engineering practices.

### **COUNT 1 – HOSE DESIGN AT THE FACILITY**

49. The findings of fact contained in Paragraphs 5 through 48 of this CAFO are incorporated by reference herein as though fully set forth at length.

50. Respondent failed to comply with the process safety information requirements at 40 C.F.R. § 68.65(d)(2) at the Facility, *i.e.*, to document that the equipment in the process complies with recognized and generally accepted good engineering practices, because the hose at the Facility did not provide protection consistent with the recognized and generally accepted good engineering practice identified in Section 9.5.1.3.1 of API 2510.

51. Complainant further alleges that Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

**COUNT 2 – ANNUAL TESTING OF HOSE ASSEMBLY AT THE FACILITY**

52. The findings of fact contained in Paragraphs 5 through 51 of this CAFO are incorporated by reference herein as though fully set forth at length.

53. Respondent failed to comply with the mechanical integrity requirements at 40 C.F.R. § 68.73(d) and (d)(3) at the Facility, *i.e.*, to perform inspections and tests on process equipment, and to do so at a frequency consistent with applicable manufacturers’ recommendations and good engineering practices, because Respondent did not annually test the hose, to provide protection consistent with that provided by Section 9.5.1.3.3 of API 2510.

54. Complainant further alleges that Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

**SETTLEMENT**

55. In accordance with 40 C.F.R. § 22.18(c), and in full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of Law set forth above, and in full satisfaction of any and all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violations of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), set forth above, in the amount of \$42,893 (“CAA Penalty”).

**PAYMENT TERMS**

56. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the CAA Penalty of \$42,893 no later than thirty (30) days after the effective date of the Final Order (the “Final Due Date”) by either cashier’s checks, certified checks, or electronic wire transfer, as set forth in the following paragraphs.

57. Payment of the CAA Penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent’s name and address, and the Docket Number of this action, **CAA-03-2017-0059**;
- b. All checks shall be made payable to **United States Treasury**;
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Contact: Heather Russell (513-487-2044)



- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

U.S. EPA  
Cincinnati Finance Center  
26 W. Martin Luther King Drive, MS-002  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed 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

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX /Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Contact: Randolph Maxwell 202-874-3720  
or REX, 1-866-234-5681

## h. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

## i. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/financeservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/financeservices/make_a_payment.htm)

## j. Respondent shall submit copies of the checks, or verification of wire transfers or ACH, to the following persons:

Lydia Guy (3RC00)  
Regional Hearing Clerk  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Cynthia T. Weiss (3RC42)  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

58. The CAA Penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012).

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

60. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will waive interest on any amount of the civil penalty that is paid by the Final 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).

61. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the Final Due Date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

62. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

### **GENERAL PROVISIONS**

63. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).

64. The provisions of the CAFO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

65. This CAFO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CAFO shall be construed to limit the United States' authority to pursue criminal sanctions.

66. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

67. By signing this Consent Agreement, all parties agree that each party's obligations under this Consent Agreement and accompanying Final Order constitute sufficient consideration for the other party's obligations.

68. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

69. Each party to this action shall bear its own costs and attorney's fees.

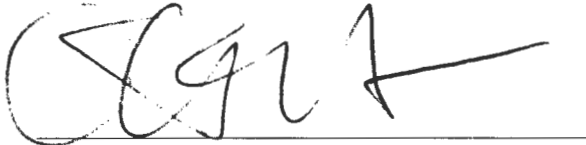
70. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

71. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA, and other federal, state, or local laws or

statutes, nor shall it restrict the 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.

72. Nothing herein shall be construed to limit the power of 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, nor, in such case, shall this Consent Agreement be construed so as to limit any defense that Respondent may have under the CAA or otherwise.

FOR RESPONDENT MARKWEST LIBERTY MIDSTREAM AND RESOURCES, LLC:



Christopher L. Rimkus  
Managing Counsel

1 . 2 . 17  
Date

FOR COMPLAINANT:



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Karen Melvin, Director  
Hazardous Site Cleanup Division  
U.S. Environmental Protection Agency, Region 3

**JAN 9 2017**

\_\_\_\_\_  
Date

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

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<b>IN THE MATTER OF:</b>	)	
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<b>MarkWest Liberty Midstream and Resources, LLC</b>	)	<b>EPA Docket No. CAA-03-2017-0059</b>
<b>4600 J. Barry Street, Suite 500</b>	)	
<b>Canonsburg, Pennsylvania 15342,</b>	)	
	)	
<b>Respondent.</b>	)	<b>Proceedings Pursuant to Sections 112(r)</b>
	)	<b>and 113 of the Clean Air Act, 42 U.S.C.</b>
<b>Sherwood Gas Processing Plant</b>	)	<b>§ 7412, 7413, and 40 C.F.R. § 22.13(b) and</b>
<b>218 Swisher Lane</b>	)	<b>22.18(b)</b>
<b>West Union, West Virginia 26456,</b>	)	
	)	
	)	
<b>Facility.</b>	)	

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**FINAL ORDER**

Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, MarkWest Liberty Midstream and Resources, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific references to Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

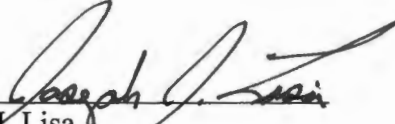
Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to herein is consistent with 40 C.F.R. Part 19, and is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e).



**NOW, THEREFORE, PURSUANT TO** Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **FORTY-TWO THOUSAND EIGHT HUNDRED AND NINETY-THREE DOLLARS (\$42,893)**, plus any applicable interest, and comply with the terms and conditions of the Consent Agreement.

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

Date: Jan. 12, 2017

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA, Region III



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

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218 Swisher Lane )  
West Union, West Virginia 26456, )  
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Facility. )  
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I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent to:

Via overnight mail

Christopher Rimkus, Esquire  
MarkWest Liberty Midstream & Resources, LLC  
1515 Arapahoe Street, Tower 1, Suite 1600  
Denver, Colorado 80202

1/12/2017  
Date

Cynthia T. Weiss  
Cynthia T. Weiss (3RC42)  
Senior Assistant Regional Counsel