

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

In the Matter of: :
: :
MarkWest Liberty Bluestone, L.L.C. : U.S. EPA Docket No. CAA-03-2020-0111
1515 Arapahoe Street : :
Tower 1, Suite 1600 : Proceeding under Section 113(d) of the Clean
Denver, CO 80202-3150 : Air Act, 42 U.S.C. § 7413(d)
: :
Respondent. : :
: :
Sarsen Natural Gas Processing Plant : :
774 Prospect Road : :
Evans City, Pennsylvania 16033 : :
: :
Facility. : :

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and MarkWest Liberty Bluestone, L.L.C. (“Respondent”) (collectively the “Parties”), pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under the Clean Air Act (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
11. Pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Respondent is a limited liability company registered in the State of Delaware.
14. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
15. At all times relevant to the violations alleged herein, Respondent owned and operated the Sarsen natural gas processing plant located at 774 Prospect Road in Evans City, Pennsylvania ("Sarsen Facility").

16. On March 23, 2017, the United States Environmental Protection Agency, Region III issued an administrative compliance order to Respondent under the authority of Section 113(a) of the Act, 42 U.S.C. § 7413(a), for violations of regulations promulgated at 40 C.F.R. Part 60, Subpart KKK and the Act at Respondent's Sarsen Facility, Docket No: CAA-03-2017-0071DA ("ACO").
17. The ACO is an order issued under the Act as described in Section 113(d)(1)(B) of the Act, 42 U.S.C. § 7413(d)(1)(B).
18. Pursuant to Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), and Paragraphs 108 and 110 of the ACO, the ACO was effective from March 23, 2017 through March 23, 2018.
19. At the time the ACO was issued, Respondent's Sarsen Facility was not operating.
20. Respondent restarted operations at the Sarsen Facility on or about August 24, 2017.

Count I

Failure to Conduct Timely Leak Detection and Repair Audit

21. The allegations of Paragraphs 1 through 20 of this Consent Agreement are incorporated herein by reference.
22. Paragraph 95 of the ACO provides that Respondent shall conduct a third-party leak detection and repair ("LDAR") audit by no later than one hundred and eighty days of the effective date of the ACO, or restarting operations at the Sarsen Facility, whichever is later.
23. Paragraph 95 of the ACO required Respondent to conduct the third-party LDAR audit by September 19, 2017 (i.e., one hundred and eighty days from the ACO's March 23, 2017 effective date).
24. Respondent failed to conduct the third-party LDAR audit until December 18-19, 2019.
25. Respondent's acts or omissions described in Paragraph 24 constitute a violation of Paragraph 95 of the ACO for which penalties may be assessed under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

Count II

Failure to Timely Comply with 40 CFR Part 60, Subpart OOOO

26. The allegations of Paragraphs 1 through 25 of this Consent Agreement are incorporated herein by reference.

27. Paragraph 98.a. of the ACO provides that Respondent shall comply with the provisions of 40 C.F.R. Part 60, Subpart OOOO¹ within sixty days of the effective date of the ACO, or restarting operations at the Sarsen Facility, whichever is later.
28. Paragraph 98.a. of the ACO required Respondent to be in compliance with the provisions of 40 C.F.R. Part 60, Subpart OOOO on August 24, 2017 (i.e., the date Respondent restarted operations at the Sarsen Facility).
29. Although Respondent undertook significant monitoring activities for the purpose of detecting and repairing leaks of equipment at the Sarsen Facility, Respondent failed to comply with certain provisions of 40 C.F.R. Part 60, Subpart OOOO, including provisions set forth at 40 C.F.R. §§60.5400 and 60.482-11(a) for monitoring 5,582 connectors at the Sarsen Facility, during the time period between August 24, 2017 and March 23, 2018.
30. Respondent's acts or omissions described in Paragraph 29 constitute a violation of Paragraph 98.a. of the ACO for which penalties may be assessed under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

Count III

Failure to Timely Apply to Incorporate 40 CFR Part 60, Subpart OOOO into Permit

31. The allegations of Paragraphs 1 through 30 of this Consent Agreement are incorporated herein by reference.
32. Paragraph 98.b. of the ACO provides that Respondent shall apply to the Pennsylvania Department of Environmental Protection to incorporate the requirements for any controls, monitoring equipment, emission limits, monitoring requirements or other standards required by 40 C.F.R. Part 60, Subpart OOOO into a new or existing federally enforceable state construction or operating permit within sixty days of the effective date of the ACO (i.e., by May 22, 2017).
33. Respondent failed to apply to incorporate the requirements of 40 C.F.R. Part 60, Subpart OOOO into a federally enforceable state issued permit until August 14, 2019.
34. Respondent's acts or omissions described in Paragraph 33 constitute a violation of Paragraph 98.b. of the ACO for which penalties may be assessed under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

CIVIL PENALTY

35. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of ONE HUNDRED AND FIFTY THOUSAND AND TWENTY FIVE dollars (\$150,025), which Respondent shall be liable to pay in accordance with the terms set forth below.

¹ NOTE: The ACO's citation to 40 C.F.R. Part 63, Subpart OOOO (versus 40 C.F.R. Part 60, Subpart OOOO) is a typographical error.

36. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), including, the following: the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation and such other factors as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 25, 1991 Clean Air Act Stationary Source Civil Penalty Policy which reflects the statutory penalty criteria and factors set forth in in Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), the appropriate *Adjustment of Civil*

Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

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

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, Docket No. CAA-03-2020-0111;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

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

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

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

Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC30)

1650 Arch Street
Philadelphia, PA 19103-2029
Abramson.Jennifer@epa.gov

38. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
39. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
40. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
41. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case 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 payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
42. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
43. If Respondent fails to make a full and complete payment of the civil penalty in accordance with this Consent Agreement and Final Order, the entire unpaid balance of the penalty shall become immediately due and owing. Failure by Respondent to pay the CAA civil penalty assessed by the Final Order in full in accordance with this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In

any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

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

GENERAL SETTLEMENT CONDITIONS

45. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
46. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

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

OTHER APPLICABLE LAWS

48. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Act, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

49. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and

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

EXECUTION /PARTIES BOUND

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

EFFECTIVE DATE

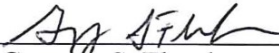
51. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the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

ENTIRE AGREEMENT

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

For Respondent: MarkWest Liberty Bluestone, L.L.C.

Date: August 13, 2020

By: 
Gregory S. Floerke
Executive Vice President
Gathering & Processing

For the Complainant:

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

Date: 8/27/20

By: **KAREN
MELVIN** Digitally signed by
KAREN MELVIN
Date: 2020.08.27
13:47:54 -04'00'

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 8/19/20

By: **JENNIFER
ABRAMSON** Digitally signed by
JENNIFER
ABRAMSON
Date: 2020.08.19
10:05:13 -04'00'

Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. EPA – Region III

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

In the Matter of:	:
	:
MarkWest Liberty Bluestone, LLC	: U.S. EPA Docket No. CAA-03-2020-0111
1515 Arapahoe Street 2	:
Denver, CO 80202-3150	:
	: FINAL ORDER
Respondent.	:
	: Proceeding under Section 113(d) of the Clean
Sarsen Natural Gas Processing Plant	: Air Act, 42 U.S.C. § 7413(d)
774 Prospect Road	:
Evans City, Pennsylvania 16033	:
	:
Facility.	:

FINAL ORDER

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

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October 25, 1991 Clean Air Act Stationary Source Civil Penalty Policy, and the statutory factors set forth in Section 113(e)(1) of the Clean Air Act, 42 U.S.C. § 7413(e)(1).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ONE HUNDRED AND FIFTY THOUSAND AND TWENTY FIVE dollars (\$150,025), in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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

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

8/28/20

Date

JOSEPH LISA

Digitally signed by JOSEPH

LISA

Date: 2020.08.28 08:52:52

-04'00'

Joseph J. Lisa

Regional Judicial and Presiding Officer

U.S. EPA Region III

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

In the Matter of: :
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MarkWest Liberty Bluestone, L.L.C. : U.S. EPA Docket No. CAA-03-2020-0111
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: :
Respondent. : :
: :
Sarsen Natural Gas Processing Plant :
774 Prospect Road :
Evans City, Pennsylvania 16033 :
: :
Facility. :

CERTIFICATE OF SERVICE

I certify that on August 28, 2020, the original and one (1) copy of foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via Electronic Mail, to:

Jonathan M. Allen – Senior Attorney
MPLX, G&P Law
1515 Arapahoe Street
Tower 1, Suite 1600
Denver, CO 80202
JMAllen2@marathonpetroleum.com

Jennifer M. Abramson
Senior Assistant Regional Counsel
Office of Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Abramson.Jennifer@epa.gov

BEVIN ESPOSITO Digitally signed by BEVIN ESPOSITO
Date: 2020.08.28 10:00:57 -04'00'

Dated: August 28, 2020

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III