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EPA REGION 6

WES Water Holdings LLC  
Docket No. CAA-06-2024-3377

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

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IN THE MATTER OF

WES Water Holdings LLC  
f/k/a DBM Water Services LLC  
The Woodlands, Texas

RESPONDENT

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DOCKET NO. CAA-06-2024-3377

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**CONSENT AGREEMENT**

**A. PRELIMINARY STATEMENT**

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act, (the "CAA" or the "Act"), 42 U.S.C. § 7413(d), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permit ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 ("EPA"). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division, EPA Region 6, has been delegated the authority to settle civil administrative penalty and compliance proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

3. WES Water Holdings LLC ("WES" or "Respondent"), formerly known as DBM Water Services LLC, is a limited liability company doing business in the State of Texas. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

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

#### **B. JURISDICTION**

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

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

7. In satisfaction of the notice requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), on April 21, 2022, and February 1, 2023, EPA issued to Respondent an initial Notice of Violation and Opportunity to Confer (the "NOVOC") and a supplemental NOVOC, respectively, and also provided a copy of the NOVOCs to the State of Texas. In the NOVOCs, EPA provided notice to both Respondent and the State of Texas that EPA found Respondent committed the alleged violations of the Texas State Implementation Plan ("SIP") described in

Section E of this CAFO and provided Respondent an opportunity to confer with EPA regarding each of the two NOVOCS.

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

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

### **C. GOVERNING LAW**

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

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

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

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

maintenance, and enforcement of the NAAQS, and to submit it to the Administrator of EPA for approval.

14. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a permit by rule ("PBR") program, which can be found at 30 Tex. Admin. Code Chapter 106 – Permits by Rule. *See* 40 C.F.R. § 52.2270(c).

15. Subchapter O of Chapter 106 of the Texas Administrative Code regulates permitting by rule for oil and gas facilities that produce more than a de minimis level of emissions. *See* 30 Tex. Admin. Code §§ 106.4(a) and 106.351-59, as applicable. Additional regulations applicable to such facilities are also located in Subchapters A and V of Chapter 106 of the Texas Administrative Code. The permit by rule program includes the following requirements relevant to this CAFO:

a. "The emissions from the facility shall comply with all rules and regulations of the [Texas Commission on Environmental Quality] and with the intent of the Texas Clean Air Act (TCAA), including protection of health and property of the public, and all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility." 30 Tex. Admin. Code § 106.4(c).

b. "All representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration under this section become conditions upon which the facility permitted by rule shall be constructed and operated." 30 Tex. Admin. Code § 106.6(b).

c. "It shall be unlawful for any person to vary from such representation if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless the certified registration is first revised." 30 Tex. Admin. Code § 106.6(c).

d. Salt-water disposal facilities used to handle aqueous liquid wastes from petroleum production operations and water injection facilities are permitted by rule, provided that the conditions of 30 Tex. Admin. Code § 106.351 are met. 30 Tex. Admin. Code § 106.351.

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

16. Respondent owns and/or operates a salt-water disposal, facility listed in Appendix A, which is located in Pecos, Reeves County, Texas (the "Facility").

17. Respondent is the owner and/or operator of the Facility within the meaning of 40 C.F.R. § 51.100(f).

18. At all times relevant to this proceeding, Respondent owned and/or operated units that emit Volatile Organic Compounds ("VOCs") at the Facility.

19. The Facility, listed in Appendix A, is subject to the State of Texas's Permits by Rule program for oil and gas facilities under Subchapter O of Chapter 106 of the Texas Administrative Code.

20. The Texas Commission on Environmental Quality ("TCEQ") issued an air permit to the Respondent, listed in Appendix A, under the SIP-approved Permits by Rule program. The permit covers various emission units in Pecos, Reeves County, Texas Facility, including desanders, gunbarrels, tanks, and flares.

21. Respondent is required to operate in compliance with certain provisions of the Texas SIP and Respondent is required by the Facility's permit identified in Appendix A to control the emission of waste gas streams from the Facility.

22. EPA contracted helicopter flyovers of the Permian Basin between August 25, 2020, and September 12, 2020, to assess energy extraction facility emissions using Optical Gas Imaging ("OGI") technology.

23. Flyovers of the Facility at issue in this CAFO were conducted on September 10, 2020. Appendix A identifies EPA's observations of the Facility.

24. On December 14, 2020, EPA sent Respondent OGI video captures showing potentially unauthorized hydrocarbon emissions from process equipment and vapor recovery systems at the Facility. EPA asked Respondent to verify ownership, provide current site-specific permit information, and take any necessary corrective action to address unauthorized hydrocarbon emissions at the Facility. EPA considered information provided by Respondent to determine whether violations occurred at the Facility.

25. On December 31, 2022, Respondent provided information to EPA that corrective actions were completed at the Facility to address the compliance issues observed during the flyovers.

26. More than thirty (30) days before the issuance of this CAFO, Respondent was notified of the violations alleged herein. On April 21, 2022, EPA sent Respondent an initial NOVOC and provided a copy to the State of Texas, in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1). On February 1, 2023, EPA sent Respondent a supplemental NOVOC

and provided a copy to the State of Texas, in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

27. On August 12, 2022, on March 22, 2023, and on various other occasions, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

**E. ALLEGED VIOLATIONS**

28. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the OGI video captures, facility permitted operations, and information provided by Respondent. Based on this review, EPA alleges the following violations for the Facility:

- a. Respondent violated 30 Tex. Admin. Code § 106.4(c) by failing to maintain the Facility's emissions control equipment in good condition and properly operate such equipment.
- b. Respondent violated 30 Tex. Admin. Code § 106.6(e) by failing to timely submit a certification of maximum VOC emission rate by the date of operation to demonstrate that 30 TAC § 122 (addressing Federal Operating Permits Program) did not apply to the Block 2 SWD facility.

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

**a. General**

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

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

- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. consents to the assessment of a civil penalty, as stated below;
- d. consents to the issuance of any specified compliance or corrective action order<sup>1</sup>;
- e. consents to the conditions specified in this CAFO;
- f. consents to any stated Permit Action;
- g. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
- h. waives its rights to appeal the Final Order included in this CAFO.

30. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;
- c. 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 fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);

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

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

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

f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to 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 on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

**b. Penalty Assessment and Collection**

31. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violations, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violations, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$166,635.37 (the "EPA Penalty"). The EPA

Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

32. Respondent agrees to:

- a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO; and
- b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

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

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

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

U.S. Bank  
U.S. Environmental Protection Agency  
Government Lockbox 979078  
3180 Rider Trail S.  
Earth City, MO 63045

Contact: Natalie Pearson  
(314) 418-4087

For wire transfer, payment should be remitted to:

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

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

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

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

Contact: Jesse White  
(301) 887-6548

For Online Payment:

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

PLEASE NOTE: The docket number CAA-06-2024-3377 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number CAA-06-2024-3377. Respondent's adherence to this request will ensure proper credit is given when penalties are received for Region 6. Respondent shall also email a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following email addresses:

Bailey Brown  
U.S. EPA Region 6  
Brown.Bailey@epa.gov

And

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

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

a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).

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

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

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

a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed

penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;

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

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

**c. Conditions of Settlement**

36. Facility Review. Respondent shall perform the following facility review at the Facility, listed in Appendix A:

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

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

c. Within sixty (60) days of Respondent completing the permitting and operations review and site inspections described in subparagraphs (a) and (b) of

Paragraph 36, Respondent shall complete an engineering assessment, in accordance with Section III of Appendix B.

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

- a. Respondent shall conduct optical gas imaging ("OGI") surveys at the Facility in accordance with Section I of Appendix C (hereinafter "OGI Survey") on a monthly basis, with at least fourteen (14) days between consecutive OGI Surveys, for a period of one (1) year from the Effective Date of this CAFO. The initial OGI Survey shall be conducted within sixty (60) days of the Effective Date of this CAFO.
- b. Within sixty (60) days of the Effective Date of this CAFO, Respondent shall install and operate equipment monitoring, at the Facility, in accordance with Sections II of Appendix C for the period of one (1) year from the Effective Date of this CAFO.
- c. If Respondent fails to perform or has reason to believe that it will fail to perform, any obligation required by Appendix C, Paragraph 6 of Section I (OGI Survey), Respondent shall provide written notice to EPA within five (5) days of when Respondent first becomes aware of its failure to perform the obligation. This notice shall include an explanation for Respondent's failure to perform the obligation, the anticipated date for when Respondent will perform the obligation, and any supporting documentation.

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

Bailey Brown  
Brown.Bailey@epa.gov

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

**d. Additional Terms of Settlement**

40. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 36 through 38 of this CAFO are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

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

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

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

44. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

45. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: Batts.Santana@epa.gov

To Respondent: gpels@lockelord.com

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

47. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [Chalifoux.Jessica@epa.gov](mailto:Chalifoux.Jessica@epa.gov), within 30 days after the Final Order

ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall further:

i notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order per Section H of this CAFO; and

ii provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

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

48. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Sections D and E above.

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

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

51. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 36 through 38 is restitution, remediation, or required to come into compliance with the law.

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

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

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

55. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other applicable federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit. EPA does not, by its consent to the entry of this CAFO, warrant or aver in

any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, or with any other provisions of federal, state, or local laws, regulations, or permits.

56. 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.

#### **H. EFFECTIVE DATE**

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

The foregoing Consent Agreement In the Matter of WES Water Holdings LLC, Docket No. CAA-06-2024-3377, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 09/27/2024

  
\_\_\_\_\_  
Danny Holderman  
SVP & Chief Operating Officer  
WES Water Holdings LLC  
f/k/a DBM Water Services LLC  
9950 Woodloch Forest Drive  
Suite 2800, The Woodlands, TX 77380

FOR COMPLAINANT:

Date: October 1, 2024

  
\_\_\_\_\_  
Digitally signed by CHERYL  
SEAGER  
Date: 2024.10.01 10:28:32  
-05'00'  
Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U.S. EPA, Region 6

APPENDIX A: FACILITY  
WES Water Holdings LLC  
CAA-06-2024-3377

Site Identity	TCEQ Regulated Entity No.	Permit Number	Application Type	Flyover Date	Flyover Video ID	EPA Team Observations of Flyover Video Capture
Block 2 SWD Facility	RN111164810	163744	PBR APD- CERT 106.351	9/10/2020	1017	Tank Hatch Emissions on desanding tank

## **APPENDIX B: FACILITY REVIEW**

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

Respondent shall conduct an air permitting and operations review that consists, at a minimum, of the following requirements:

1. Review current air permit representations (*i.e.*, applications), current equipment inventories, current reported production and emissions data (for all operating scenarios), and all maintenance and operating logs and repair/replacement work orders generated within the eighteen (18) months preceding the Effective Date of this CAFO (including those available from past owners), in order to evaluate and ascertain current or possible recurring non-compliance with the Clean Air Act, its implementing regulations and associated with equipment, and process controls at the Facility.

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

- a. the use of a standard site inspection checklist during regular inspections that requires evaluation of the following: well pad, flares, separators, heater treaters, tank batteries, compressors, fuel skid, well heads, and miscellaneous Facility-wide operations.
- b. a quality control program that ensures the quality, efficiency, and performance of Facility maintenance activities; and
- c. appropriate and regular training for personnel implementing the operation and maintenance procedures.

### **II. Site Inspection**

Respondent shall conduct a site inspection that consists, at a minimum, of the following requirements:

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

- b. Evaluate whether the materials in the Facility's tank systems used are compatible with the gas compositions and whether they will deteriorate at unexpected rates.
  - c. Evaluate whether emergency pressure relief devices are set at the proper pressure set points.
- 2. For all flares and vapor combustion units ("VCUs")
  - a. Evaluate whether flares and VCUs are operating with a continuous pilot flame and that flame arrestors are installed in accordance with the manufacturer's specifications and design requirements.
  - b. Evaluate whether technology upgrades should be made to the flares and VCUs.
  - c. Evaluate whether reconfiguration of flare tips and installation of thermocouples with Supervisory Control and Data Acquisition capability, auto ignitors with pilots, air assist packages, and pressure gauges for flame arrestors would be appropriate.
- 3. Evaluate the operation of tanks, separators, compressors, vapor recovery units/towers, and other operational equipment.
  - a. Inspect and address liquid leaks and staining at the well and production pad site, particularly near well heads, flares, VCUs, storage tanks, and separators.
  - b. Evaluate whether equipment inventories and process operational descriptions for the Facility are current.
  - c. Evaluate whether there are unauthorized emissions during normal operations by conducting an OGI survey in accordance with Section I of Appendix C.

### **III. Engineering Assessment**

Respondent shall conduct an engineering assessment that consists, at a minimum, of the following requirements:

- 1. Performed by a Professional Engineer with experience conducting an engineering and design assessment of oil and gas production facilities.

2. Use relevant process stream condensate and gas samples, equipment inventories, and production rates to perform process flow modeling (e.g., ProMax modeling) and evaluate whether site equipment and design sufficiently address vapor emissions and meet regulatory requirements.
3. Evaluate whether all Facility emissions sources, including process equipment fire tubes, gas aspirated generators, pneumatic pumps, and pneumatically actuated control valves, have been identified and accounted for in determining total emissions.
4. Based on the permitting and operations review, site inspection, and engineering assessment, re-evaluate whether the Facility is properly permitted for air emissions and determine whether Respondent should prepare new air permit applications, revisions, or amendments.
5. Evaluate whether flares are operated and maintained in conformance with their designs, including recommendations and specifications provided by the flare manufacturers, and in a manner consistent with good air pollution control practices for minimizing emissions.
6. Use engineering assessment results to revise the equipment specifications and process configuration to ensure vapor control systems, where required, adequately handle maximum instantaneous vapor emissions, including working, breathing, or flashing losses from the tank batteries.

## APPENDIX C: COMPLIANCE MONITORING

### I. OGI Survey

Respondent shall conduct an OGI camera survey ("OGI Survey") at the Facility, that includes, at a minimum, the following procedures:

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

2. The OGI Survey shall consist of an inspection of all equipment and components at the Facility, including tanks and associated hatches, valves, gaskets, and pressure relief devices; and control devices, compressors, separators, vapor recovery units/tower, and vapor control piping.

#### Conducting the OGI Survey

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

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

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

5. If hydrocarbon emissions (including VOCs) are observed during an OGI survey, at a minimum capture a 10-second video clip of the emissions, including the emitting component and maintain the video clip with the rest of the OGI Survey documentation required by Paragraph 4 of this Section. The emitting component must be identified for repair (unless necessary repairs are completed on the same day as the OGI Survey), and the date, time, and location of the observed emissions must be recorded in the survey log referenced in Paragraph 4 of this Section.

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

Quality Assurance and Quality Control

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

Reporting

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

- a. Survey logs for all OGI Surveys;
- b. All video footage for each OGI Survey, including, but not limited to, all video clips recorded or captured pursuant to Paragraphs 3, 5, and 6 of Section I of Appendix C; and
- c. Record of corrective actions.

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

## **II. Tank Pressure Monitoring**

Respondent shall conduct tank pressure monitoring at the Facility in accordance with the following requirements:

1. Use manufacturer's recommendations to install, calibrate, maintain, and operate an electronic pressure monitor(s) at each tank system (collectively, "Tank Pressure Monitors").

2. Tank Pressure Monitors shall record data at least once every minute with a data transmission at least every hour to a central monitoring station.

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

4. After the Tank Pressure Monitors are installed pursuant to Paragraph 1 of this Section, Respondent shall evaluate calibration and optimize the Tank Pressure Monitors to ensure that the data produced by the Tank Pressure Monitors are accurate.

5. After the Tank Pressure Monitors are calibrated and optimized pursuant to Paragraph 4 of this Section, Respondent shall:

a. conduct an OGI Survey during a pressure test to determine the leak point of each tank system. During the pressure test, Respondent shall pressurize the tank system up to the highest point at which the pressure relief devices are not emitting for each tank ("leak point"). The leak point for each tank shall be no greater than the lowest set point of any pressure relief device on that tank; and

b. determine the trigger point, which shall be no more than 90% of the leak point as determined in Paragraph 5(a) of this Section.

6. Respondent shall set inlet controls programmed off the pressure transmitter on the first tank receiving product within the tank system(s). If the pressure reading of that first tank exceeds a trigger point for a period of 120 seconds, the facility inlet control valve shall

begin reducing inlet flow to the tank system. If the pressure readings continue to exceed the trigger point for a period of 60 seconds after reducing inlet flow, the inlet control valve shall automatically cease inlet flow to the tank system ("Shut-In"). Inlet flow to the Shut-In tank system shall resume when the pressure reading of that first tank system decreases below the trigger point.

7. At any time after the completion of Paragraph 5 of this Section, if (a) any Tank Pressure Monitor records two (2) or more measurements in a 48-hour period that exceed the trigger point for a duration exceeding 120 seconds or (b) a measurement exceeds the trigger point continuously for a duration of three (3) minutes or longer, such record shall require a site investigation using an OGI camera. Respondent shall record all dates, locations, durations, and causes of each instance when a Tank Pressure Monitor records a measurement that exceeds the trigger point as referenced in (a) and (b) of this paragraph. Each site investigation shall be documented with a record that includes the results of the site investigation, any observation of VOC emissions observed, and any corrective actions taken to address observations of VOC emissions or any instances of malfunction of the Tank Pressure Monitors.

8. The Facility must submit all records made pursuant to Paragraphs 3 and 7 of this Section to EPA on a monthly basis within twenty-one (21) days of the end of each month. The Facility must upload the records to an electronic folder provided by EPA. Respondent shall contact the enforcement officer identified in Paragraph 38 of Section F (Conditions of Settlement) to make arrangements to upload the required records.

## APPENDIX D

### I. Letter Report Requirements

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

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

- e. The addition, upgrading, or replacement of spill containment capability.
- 8. An estimation of the total emission reductions for specific actions taken or improvements made or planned to be made.
- 9. Confirmation that there are no unauthorized emissions during normal operations for newly installed equipment based upon the conduct of an OGI Camera Survey of such equipment within thirty (30) days of installation.

FILED

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REGIONAL HEARING CLERK  
EPA REGION 6

WES Water Holdings LLC

Docket No. CAA-06-2024-3377

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

IN THE MATTER OF

WES Water Holdings LLC  
f/k/a DBM Water Services LLC  
The Woodlands, Texas

RESPONDENT

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DOCKET NO. CAA-06-2024-3377

**FINAL ORDER**

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, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

WES Water Holdings LLC is ORDERED to comply with all terms of the Consent Agreement.

In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated \_\_\_\_\_

THOMAS  
RUCKI

Digitally signed by THOMAS  
RUCKI  
Date: 2024.10.01 13:18:29  
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Thomas Rucki  
Regional Judicial Officer  
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

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

Copy via Email to Complainant - READ RECEIPT REQUESTED

Batts.Santana@epa.gov

Copy via Email to Respondent - READ RECEIPT REQUESTED

Danny Holderman  
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Office of Regional Counsel  
U.S. EPA, Region 6  
Dallas, Texas