BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:

MarkWest Liberty Bluestone, L.L.C.
1515 Arapahoe Street
Tower 1, Suite 1600
Denver, CO 80202

Respondent,

Sarsen Gas Processing Plant
774 Prospect Road
Evans City, PA 16033

Facility.

EPA Docket No. CAA-03-2017-0072

Proceeding under Section 113(d) of the Clean Air Act

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

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

2. Complainant is the United States Environmental Protection Agency, Region III (the "EPA"). On the EPA's behalf, the Director of the Air Protection Division for EPA is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act.

3. Respondent is MarkWest Liberty Bluestone, L.L.C. (MarkWest), a Delaware limited liability company now located at 1515 Arapahoe Street, Tower 1, Suite 1600, Denver, CO, 80202, and doing business in the state of Pennsylvania.

4. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602€

5. Respondent is a corporation engaged in the processing of natural gas, organized under the laws of the State of Delaware as a general entity. Respondent owns and operates a gas processing facility located at 774 Prospect Road, Evans City, Pennsylvania 16033 (the "Sarsen Plant" or "Facility").

6. This Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") address alleged violations by Respondent of requirements found in 40 C.F.R. Part 60, Subpart KKK, the Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011 ("Subpart KKK") and 40 C.F.R. Part 60, Subpart VV, the Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006 (by reference), as described below.

B. GENERAL PROVISIONS

7. Section 113(d) of the Act, 42 U.S.C. § 7413(d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.

8. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this CAFO.

9. Except as provided in Paragraph 8 above, Respondent neither admits nor denies the specific findings of fact and the conclusions of law set forth in this CAFO.

10. Respondent consents to the issuance of this CAFO, agrees to comply with the terms and conditions set forth therein, and consents to the payment of a civil penalty as set forth in this CAFO.

11. Respondent agrees to pay its own costs and attorney fees.

12. Respondent agrees that this CAFO shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors, and assigns.

13. Section 113(d)(1) of the CAA limits the Administrator's authority to matters where the first alleged violation occurred no more than 12 months prior to initiation of an administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

14. The Administrator and the Attorney General, each through their respective delegatees, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

C. FINDINGS OF FACT AND CONCLUSIONS OF LAW

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law.

15. Respondent is a corporation engaged in the processing of natural gas, organized under the laws of the State of Delaware as a general entity. Respondent owns and operates a gas processing facility located at 774 Prospect Road, Evans City, Pennsylvania 16033 (the "Sarsen Plant" or "Facility").

16. Respondent is a "person" as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d), 42 U.S.C. § 7413(d), because it is a corporation. Respondent has been the owner and operator of the Facility since May 29, 2012.

17. The Sarsen Plant began operation on December 1, 2010 under the ownership of Keystone Midstream Services, L.L.C. ("Keystone"), a joint venture between R.E. Gas Development, L.L.C., Stonehenge Energy Resources, L.P., and Summit Discovery Resources II.

18. On May 7, 2012, the Respondent signed an "Agreement and Plan of Merger" (the "Merger"), to acquire Keystone from R.E. Gas Development, L.L.C., Stonehenge Energy Resources, L.P., and Summit Discovery Resources II.

19. Section 1.3 of the Merger states that "[t]he Merger shall have the effects set forth in the [Delaware Limited Liability Company] Act."

20. Section 18-209(g) of the Delaware Limited Liability Company Act states that "all debts, liabilities and duties of each of the said domestic limited liability companies and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited liability company or other business entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it." 6 Del. Code § 18-209(g).

21. Therefore, the Merger attached Keystone's liabilities to the Respondent, as the surviving limited liability company.

22. Kahuna Ventures, L.L.C. ("Kahuna") served as an environmental compliance consultant for the Facility.

40 C.F.R. PART 60, SUBPART KKK VIOLATIONS

23. Section 111 of the Act, 42 U.S.C. § 7411, directs EPA to define categories of stationary sources of air pollutants that "cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." Section 111(b) of the Act, 42 U.S.C. § 7411(b), directs EPA to establish new source performance standards ("NSPS") for new, modified, and reconstructed sources in each stationary source category. NSPS established under the Act must promote use of the best achievable control technology while taking into consideration cost and other non-air quality, health, and environmental impact

and energy requirements. The standards for each source category are set forth in 40 C.F.R. Part 60.

24. In 1985, EPA promulgated NSPS for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984 and on or Before August 23, 2011, Subpart KKK, which establishes emissions limitations, recordkeeping and reporting requirements, and work practice standards for volatile organic chemicals ("VOCs") emitted from new, modified, and reconstructed sources that process natural gas onshore. 40 C.F.R. § 60.631.

25. 40 C.F.R. § 60.630(a)(1) states that the requirements of Subpart KKK apply to affected facilities in onshore natural gas processing plants.

26. An "affected facility" is defined as a "compressor in VOC service or in wet gas service" or "[t]he group of all equipment except compressors (defined in § 60.631) within a process unit." 40 C.F.R. § 60.630(a).

27. "*In wet gas service* means that a piece of equipment contains or contacts the field gas before the extraction step in the process." 40 C.F.R. § 60.631.

28. "Process unit" is defined as "equipment assembled for the extraction of natural gas liquids from field gas, the fractionation of the liquids into natural gas products, or other operations associated with the processing of natural gas products." 40 C.F.R. § 60.631.

29. "Onshore" is defined as "all facilities except those that are located in the territorial seas or on the outer continental shelf." 40 C.F.R. § 60.631.

30. "Natural gas processing plant" is defined 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." 40 C.F.R. § 60.631.

31. The regulations define "field gas" as "feedstock gas entering the natural gas processing plant." 40 C.F.R. § 60.631.

32. "Natural gas liquids" are defined as "the hydrocarbons, such as ethane, propane, butane, and pentane that are extracted from field gas." 40 C.F.R. § 60.631.

33. Subpart KKK applies to "[a]ny affected facility . . . that commences construction, reconstruction, or modification after January 20, 1984, and on or before August 23, 2011." 40 C.F.R. § 60.630(b).

34. "Construction" is defined as "fabrication, erection, or installation of an affected facility." 40 C.F.R. § 60.2.

35. "Modification" is defined as "any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applied) emitted into the atmosphere by that facility or which results in the emission of any

air pollutant (to which a standard applied) into the atmosphere not previously emitted." 40 C.F.R. § 60.2.

36. On August 17, 2010, the Pennsylvania Department of Environmental Protection ("PADEP") approved Keystone's PADEP Application to upgrade its pre-existing Rex Energy Butler facility and install a cryogenic gas processing facility. The combined facilities became the Facility at issue in this case, the Sarsen Plant.

37. According to a November 3, 2011 letter from Kahuna to PADEP, the Facility began operating on December 1, 2010.

38. The upgrade of the pre-existing Rex Energy Butler facility and the installation of the cryogenic gas processing facility constitute "modifications" for the purposes of 40 C.F.R. Part 60. *See* 40 C.F.R. § 60.2.

39. The Facility has equipment assembled for the extraction of natural gas liquids from field gas, the fractionation of the liquids into natural gas products, or other operations associated with the processing of natural gas products. Because the Facility commenced modification after January 20, 1984, and on or before August 23, 2011, and processes natural gas through equipment and process units as an "affected facility", the Facility is subject to the requirements of Subpart KKK. *See* 40 C.F.R. § 60.630(b).

40. Modified sources under Subpart KKK are required to comply with certain provisions of 40 C.F.R. Part 60, Subpart VV no later than 180 days after initial startup. 40 C.F.R. § 60.632.

41. The Facility began operations as a modified facility on December 1, 2010. Therefore, the Facility was required to comply with the applicable provisions of Subpart VV no later than May 30, 2011 (180 days after startup). *See* 40 C.F.R. § 60.632.

42. On July 25, 2012, the EPA conducted a compliance inspection at the Facility to determine compliance with the Act.

43. Subsequently, the EPA requested further information from the Respondent regarding the Facility via email on August 15, 2012. MarkWest responded via a letter dated August 24, 2012.

44. EPA also sent Respondent a Section 114 Information Request on November 8, 2012. MarkWest responded to this request via letters dated January 11, 2013, January 14, 2013 and February 6, 2013.

45. EPA also issued the Respondent a Notice of Noncompliance and Request to Show Cause letter dated July 15, 2015. MarkWest responded via letter dated August 31, 2015.

COUNT 1: FAILURE TO CONDUCT LEAK DETECTION AND REPAIR

46. Paragraphs 7 through 45 are incorporated by reference as if fully set forth herein.

47. Except in circumstances not here applicable, "each owner or operator subject to the provisions of [Subpart KKK] shall comply with the requirements of §§ . . . 60.482-2 through 60.482-10." 40 C.F.R. § 60.632(a).

48. 40 C.F.R. § 60.482-2 governs the standards for pumps in light liquid service.

49. 40 C.F.R. § 60.482-2(a)(1) requires that "[e]ach pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.485(b)," except in circumstances not here applicable.

50. Pursuant to 40 C.F.R. § 60.481, "[*i*]*n light liquid service* means that the piece of equipment contains a liquid that meets the conditions specified in § 60.485(e)."

51. 40 C.F.R. § 60.485(e) lists the following conditions that demonstrate that a piece of equipment is in light liquid service: "[t]he vapor pressure of one or more of the organic components is greater than 0.3 kPa at 20℃;" "[t]he total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20℃ . . . is equal to or greater than 20 percent by weight;" and "[t]he fluid is a liquid at operating conditions."

52. At the Facility, Respondent extracts from the Marcellus Shale. Upon information and belief, the Marcellus Shale contains light liquids, as defined by 40 C.F.R. § 60.485(e), but no heavy liquids.

53. The relevant pumps at the Facility are in light liquid service because they contain liquids from the Marcellus Shale, which are light liquids as defined by 40 C.F.R. § 60.485(e). 40 C.F.R. § 60.481.

54. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.482-2. *See* 40 C.F.R. § 60.632(a).

55. As such, the Respondent must conduct monthly monitoring of each of its pumps in light liquid service using the methods specified in 40 C.F.R. § 60.485(b). *See* 40 C.F.R. § 60.482-2(a)(1).

56. According to leak detection and repair records kept by the Respondent and provided to EPA during the inspection and via subsequent requests for information noted in Paragraphs 42-45, the Respondent failed to conduct monthly monitoring for the following pumps in light liquid service during the corresponding months listed below:

    a. Pump 3602A: June 2011, August 2011, September 2011, November 2011, December 2011, February 2012, March 2012, May 2012, June 2012, July 2012, November 2012, December 2012, January 2013, and February 2013;

b. Pump 3602B: June 2011, August 2011, September 2011, November 2011, December 2011, February 2012, March 2012, May 2012, June 2012, July 2012, November 2012, December 2012, January 2013, and February 2013;

c. Pump 3603A: June 2011, August 2011, September 2011, November 2011, December 2011, February 2012, March 2012, May 2012, June 2012, July 2012, November 2012, December 2012, January 2013, and February 2013;

d. Pump 3603B: June 2011, August 2011, September 2011, November 2011, December 2011, February 2012, March 2012, May 2012, June 2012, July 2012, November 2012, December 2012, January 2013, and February 2013;

e. Pump 9601A: February 2012, March 2012, and May 2012;

f. Pump 9601B: February 2012, March 2012, and May 2012;

g. Pump 3604A: February 2012, March 2012, April 2012, May 2012, November 2012, December 2012, January 2013, and February 2013;

h. Pump 3604B: November 2012, December 2012, January 2013, and February 2013;

i. Pump 8601: November 2012, December 2012, January 2013, and February 2013; and

j. Pump 8602: November 2012, December 2012, January 2013, and February 2013.

57. Respondent's failure to conduct monthly monitoring for the above-mentioned pumps in light liquid service constitutes a violation of 40 C.F.R. §§ 60.632(a) and 60.482-2(a)(1) and the Act during the months listed above.

58. 40 C.F.R. § 60.482-4 governs the standards for pressure relief devices in gas/vapor service and in light liquid service.

59. Pursuant to 40 C.F.R. § 60.481, "[i]*n gas/vapor service* means that the piece of equipment contains process fluid that is in the gaseous state at operating conditions."

60. Upon information and belief, the pressure relief valves relevant to this CAFO at the Facility are in gas/vapor service because they contain process fluid from the Marcellus Shale that is in the gaseous state at operating conditions. *See* 40 C.F.R. § 60.481.

61. 40 C.F.R. § 60.482-4(a) requires that "[e]xcept during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined by the methods specified in § 60.485(c)."

62. 40 C.F.R. § 60.482-4(b)(2) requires that pressure relief devices must be monitored "[n]o later than 5 calendar days after [a] pressure release . . . to confirm the conditions of no detectable emissions, as indicated by . . . the methods specified in § 60.845(c)."

63. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.482-4. *See* 40 C.F.R. § 60.632(a) and (b)(2).

64. As such, within five calendar days of a pressure release, the Respondent is required to monitor each of its pressure relief devices in gas/vapor service using the methods specified in 40 C.F.R. § 60.485(c) to ensure the pressure relief devices are operating with no detectable emissions. *See* 40 C.F.R. § 60.482-4(a).

65. Kahuna notified PADEP that leak detection and repair ("LDAR") monitoring, including the monitoring of pressure relief devices in gas/vapor service, would begin at the Facility on May 29, 2011.

66. During the EPA compliance inspection described in Paragraph 42, EPA inspectors observed that 3 pressure relief valves (identified in this paragraph) were not equipped with monitoring tags. EPA inspectors confirmed with Respondent's employees at the Facility that equipment without tags are not and were not monitored by Respondent with an instrument reading using the methods specified in 40 C.F.R. § 60.485(c). These 3 pressure relief valves were in gas/vapor service at the Facility without LDAR monitoring from May 29, 2011 through at least the EPA inspection on July 25, 2012. Because the Respondent was not monitoring the 3 pressure relief valves with an instrument reading using the methods specified in 40 C.F.R. § 60.485(c), Respondent failed to ensure the 3 pressure relief valves in gas/vapor service were operated with no detectable emissions from May 29, 2011, when LDAR monitoring began, through at least the EPA inspection on July 25, 2012:

    a. Connected to inlet pipe P1303: 1 pressure relief valve; and

    b. Connected to inlet pipe P1301: 2 pressure relief valves.

67. Respondent's failure to monitor the 3 pressure relief valves in gas/vapor service using instruments and methods per 40 C.F.R. § 60.485(c) to ensure no detectable emissions between May 29, 2011 and July 25, 2012 constitutes a violation of 40 C.F.R. §§ 60.632(a) and 60.482-4(a) and the Act.

68. 40 C.F.R. § 60.482-7 governs the standards for valves in gas/vapor service and in light liquid service.

69. The valves relevant to this CAFO at the Facility are in gas/vapor service because they contain process fluid from the Marcellus Shale that is in the gaseous state at operating conditions. *See* 40 C.F.R. § 60.481 and Paragraph 60.

70. 40 C.F.R. § 60.482-7(a)(1) requires that "[e]ach valve shall be monitored monthly to detect leaks by the methods specified in § 60.485(b)," except in circumstances not here applicable.

71. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.482-7(a)(1). *See* 40 C.F.R. § 60.632(a).

72. As such, the Respondent must conduct monthly monitoring of each of its valves in light liquid service using the methods specified in 40 C.F.R. § 60.485(b). *See* 40 C.F.R. § 60.482-7(a)(1).

73. Kahuna notified PADEP that LDAR monitoring, including the monitoring of valves in light liquid service, would begin at the Facility on May 29, 2011.

74. During the EPA compliance inspection described in Paragraph 42, EPA inspectors observed that 21 valves were not equipped with monitoring tags. EPA inspectors confirmed with Respondent's employees at the Facility that equipment without tags are not monitored. Therefore, the Respondent failed to conduct monthly monitoring for the following valves in gas/vapor or light liquid service from May 29, 2011, when LDAR monitoring began, through the EPA inspection on July 25, 2012:

    a. Connected to inlet pipe P1302: 2 valves;

    b. Connected to inlet pipe P1301 along the inlet area: 1 ball valve and 2 valves;

    c. Connected to inlet pipe P1301 in sight glass housing: 13 valves; and

    d. Connected to inlet pipe P1301 in line to 3 phase separator: 3 valves.

75. Respondent's failure to conduct monthly monitoring for the above-mentioned valves in light liquid service between May 29, 2011 and July 25, 2012 constitutes a violation of 40 C.F.R. §§ 60.632(a) and 60.482-7(a)(1) and the Act.

76. 40 C.F.R. § 60.482-7(c)(2) requires that "[i]f a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months."

77. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.482-7(c)(2). *See* 40 C.F.R. § 60.632(a).

78. As such, the Respondent must conduct monthly monitoring of each valve in gas/vapor or light liquid service where a leak is detected until a leak is not detected for 2 successive months. *See* 40 C.F.R. § 60.482-7(c)(2).

79. Upon review of the records Respondent provided EPA in response to EPA's Notice of Noncompliance and Request to Show Cause Letter referenced in Paragraph 45, EPA inspectors discovered that several valves in gas/vapor or light liquid service were not monitored for two consecutive months after a leak was discovered by Respondent:

    a. Tags 1431 and 1449: leaked in July 2012, but were not monitored in August 2012;

    b. Tag FCV5701B: leaked in July 2012, but was not monitored in August 2012 or September 2012; and

    c. Tag PCV4302D: leaked in May 2011, but was not monitored in June 2011.

80. Respondent's failure to conduct monthly monitoring for the above-mentioned valves for two consecutive months after a leak is detected constitutes a violation of 40 C.F.R. §§ 60.632(a) and 60.482-7(c)(2) and the Act for the times specified in Paragraph 79.

81. For valves in gas/vapor service and in light liquid service, 40 C.F.R. § 60.482-7(d)(1) requires that "[w]hen a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.482-9."

82. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.482-7(d)(1). *See* 40 C.F.R. § 60.632(a).

83. 40 C.F.R. § 60.482-9 governs the standards for delay of repair.

84. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.482-9. *See* 40 C.F.R. § 60.632(a).

85. 40 C.F.R. § 60.482-9(a) states that "[d]elay of repair of equipment for which leaks have been detected will be allowed if repair within 15 days is technically infeasible without a process unit shutdown."

86. As such, within 15 calendar days of detecting a leaking valve, the Respondent must repair the valve, or place the valve on "delay of repair" if it qualifies. *See* 40 C.F.R. §§ 60.482-7(d)(1) and 60.482-9(a).

87. Upon review of the records Respondent provided EPA in response to EPA's Notice of Noncompliance and Request to Show Cause Letter referenced in Paragraph 45, EPA inspectors discovered that several valves were not repaired or placed on delay of repair within 15 days of leak detection:

    a. Tag 1498 (leak on April 24, 2012): The valve was not repaired or placed on "delay of repair" by May 9, 2012, 15 calendar days after the leak. The valve was placed on "delay of repair" on May 31, 2012.

    b. Tag 1764 (leak on April 12, 2011): The valve was not repaired or placed on "delay of repair" by April 27, 2011, 15 calendar days after the leak. The valve was repaired on May 26, 2011.

    c. Tag 1764 (leak on June 28, 2011): There is no record that the valve was repaired within 15 days, and it was not placed on "delay of repair."

    d. Tag PCV4302D (leak on May 2, 2011): There is no record that the valve was repaired within 15 days, and it was not placed on "delay of repair."

88. Respondent's failures to repair the above-mentioned valves or place on "delay of repair" within 15 calendar days after a leak is detected constitute violations of 40 C.F.R. §§ 60.632(a) and 60.482-7(d)(1) and the Act for the times mentioned in Paragraph 87.

89. Except in circumstances not here applicable, "each owner or operator subject to the provisions of [Subpart KKK] shall comply with the provisions of § 60.486 . . . of this subpart." 40 C.F.R. § 60.632(e).

90. 40 C.F.R. § 60.486 provides recordkeeping requirements.

91. 40 C.F.R. § 60.486 requires that owners and operators keep a log that includes, *inter alia*, "[a] list of identification numbers for equipment subject to the requirements of this subpart," "a list of identification numbers for equipment that are designated for no detectable emissions," "the designation of equipment as subject to the requirements of § 60.482-2(e), § 60.482-3(i) or § 60.482-7(f)," a list of identification numbers for pressure relief devices required to comply with § 60.482-4 and for equipment in vacuum service, and a log identifying leaking equipment. 40 C.F.R. § 60.486(c) and (e).

92. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.486(e). *See* 40 C.F.R. § 60.632(e).

93. As such, the Respondent must keep a log containing the identification numbers of all equipment subject to Subpart VV and a log identifying leaking equipment. *See* 40 C.F.R. § 60.486(c) and (e)(1).

94. Upon evaluation of the data supplied by the Respondent in response to EPA's requests for information described in Paragraphs 43-45, EPA inspectors discovered multiple instances of information entered in Respondent's log which did not address requirements in 40 C.F.R. § 60.486(e) for several identification numbers. Specifically, the log kept by Respondent did not contain "a list of identification numbers for equipment" subject to Subpart VV, as required by 40 C.F.R. § 60.486(e)(1), because from January 2011 through January 2012, certain identification numbers were used to track more than one piece of equipment, such that the required "list" was inaccurate and therefore was not usable for the purposes of determining compliance with the record keeping requirements of 40 C.F.R. § 60.486(e). The specific identification numbers assigned to more than one piece of equipment subject to Subpart VV include: 28, 424, 456, 473, 475, 475.1, 480, 481, 483, 483.1, 484, 490, 491, 499, 503, 500, 507, 519, 592, 696, 703, 704, 707, 713, 715, 735, 751, 823, 1383, 1507, 1550, 1551, 1552, 1553, 1649, 1673, 1674, 1676, 1677, 1684, 1687, 1694, 1923, 1923.1, 1923.2, PCV1401A, SDV3206, and sv3206.

95. Respondent's failure to have a log which identified a list of identification numbers for equipment subject to the requirements of Subpart VV for the time periods mentioned in Paragraph 94 due to the failures identified in Paragraph 94 constitutes a violation of 40 C.F.R. §§ 60.632(e) and 60.486(e).

COUNT 2: FAILURE TO OPERATE A VAPOR RECOVERY SYSTEM AND CONTROL DEVICE TO REDUCE VOC EMISSIONS BY 95% OR 20 PPM

96. Paragraphs 7 through 45 are incorporated by reference as if fully set forth herein.

97. 40 C.F.R. § 60.482-10 governs the standards for closed vent systems and control devices.

98. 40 C.F.R. § 60.482-10(b) requires that "[v]apor recovery systems . . . shall be designed and operated to recover the VOC emissions vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 parts per million ["ppm"] by volume, whichever is less stringent."

99. As an owner and operator subject to the provisions of Subpart KKK, Respondent is required to comply with the requirements of 40 C.F.R. § 60.482-10. *See* 40 C.F.R. § 60.632(a).

100. As such, the Respondent must operate its vapor recovery systems to recover VOC emissions with an efficiency of 95 percent or greater, or to an exit concentration of 20 ppm by volume, whichever is less stringent. *See* 40 C.F.R. § 60.482-10(b).

101. The Facility uses a JATCO BTEX Eliminator as its vapor recovery system. "BTEX" stands for benzene, toluene, ethylbenzene, and xylene, all of which are VOCs.

102. During the EPA compliance inspection on July 25, 2012 described in Paragraph 42, EPA inspectors used a FLIR infrared camera and a Toxic Vapor Analyzer ("TVA") 1000 to observe the JATCO BTEX Eliminator and detect VOC emissions. The inspectors observed that emissions inside the building that housed the JATCO BTEX Eliminator were so substantial that they could not be monitored, as the TVA 1000 would not stay lit inside. This indicates that the JATCO BTEX Eliminator was not operating properly, and that emissions exceeded the TVA 1000's threshold of 10,000 ppm. Therefore, upon information and belief, the JATCO BTEX eliminator was not operating to recover VOC emissions with an efficiency of 95 percent or greater, or to an exit concentration of 20 ppm by volume, whichever is less stringent, between July 25, 2012 and August 15, 2012.

103. According to field reports provided by the Respondent, repairs were conducted on August 15, 2012 to remedy this emissions issue.

104. Respondent's failure to operate a vapor recovery system to recover VOC emissions with an efficiency of 95 percent or greater or to an exit concentration of 20 ppm by volume, whichever is less stringent, constitutes a violation of 40 C.F.R. §§ 60.632(a) and 60.482-10(b) and the Act from July 25, 2012 until August 15, 2012.

D. SETTLEMENT RECITATION, SETTLEMENT CONDITIONS, AND CIVIL PENALTY

105. Complainant and Respondent enter into this Consent Agreement and the accompanying Final Order in order to settle the violations specifically set forth in Section C of this Consent Agreement.

106. In settlement of the alleged violations enumerated above in Section C of this Consent Agreement, Respondent consents to the assessment and agrees to pay a civil penalty in the amount of $95,000.00 within the time and manner specified herein.

107. The settlement amount of $95,000.00 is based upon Complainant's consideration of and application of the statutory penalty factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for the same violation, the seriousness of the violation and such other matters as justice may require, and EPA's Clean Air Act

Stationary Source Civil Penalty Policy (dated October 25, 1991) as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall resolve the violations set forth in Section C of this Consent Agreement.

108. Respondent shall pay the civil penalty of $95,000.00 no later than thirty (30) days after the effective date of this CAFO in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO.

109. 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 or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

110. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this executed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty 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).

111. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 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 payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

112. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent for 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).

113. Thus, in accordance with the above provisions, to avoid the assessment of interest, late payment penalties, and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this CAFO.

114. Payment of the penalty in Paragraph 108 shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an online, internet payment as specified below. All payments are payable to "Treasurer, United States of America" and shall reference the above case caption and docket number – CAA-03-2017-0072.

115. Instructions for submitting payment of the penalty using the methods, or combination of methods, described above are provided at the following EPA website addresses:

http://www2.epa.gov/financial/additional-instructions-making-payments-epa
http://www2.epa.gov/financial/makepayment

116. Any payment made by any method must reference the above case caption and docket number, CAA-03-2017-0072. Within 24 hours of payment of any penalty amount, Respondent shall send copies of any corresponding check, or written notification confirming any electric transfer through wire transfer, ACH, or interest payment, to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and to Donna L. Mastro, Esq., Air Branch Chief (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

117. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to this CAFO.

118. This Consent Agreement and Final Order shall constitute satisfaction of all civil claims for penalties for the specific violations alleged in Section C of this Consent Agreement. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.

119. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this CAFO in the appropriate United States District Court, in accordance with Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5).

E. RESERVATION OF RIGHTS

120. This CAFO resolves only the civil penalty claims for the specific violations alleged in Section C of this Consent Agreement. 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. Nor shall anything in this CAFO be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

F. EFFECTIVE DATE

121. The effective date of this CAFO is the date on which the CAFO is filed with the Regional Hearing Clerk of EPA Region III.

G. WAIVER OF HEARING

122. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), with respect to any issue of law or fact set forth in this CAFO. Respondent also waives its right to appeal the accompanying Final Order.

H. ENTIRE AGREEMENT

123. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO. Nothing in this CAFO shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this CAFO.

I. EXECUTION

124. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this CAFO.

FOR RESPONDENT:

3 · 8 · 17 _____ _____

Date Title

FOR COMPLAINANT:

March 15, 2017
Date

Donna L. Mastro
Air Branch Chief, Office of Regional Counsel
U.S. Environmental Protection Agency, Region III

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of EPA Region III or his designee, the Regional Judicial Officer, ratify this Consent Agreement and issue the accompanying Final Order (CAA-03-2017-0072). The amount of the recommended civil penalty assessment is $95,000.00.

03/23/17
Date

Cristina Fernandez, Director
Air Protection Division
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of: **MarkWest Liberty Bluestone, L.L.C.** **1515 Arapahoe Street** **Tower 1, Suite 1600** **Denver, CO 80202** **Respondent,** **Sarsen Gas Processing Plant** **774 Prospect Road** **Evans City, PA 16033** **Facility.**	**EPA Docket No. CAA-03-2017-0072** **FINAL ORDER** **Proceeding under Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. § 7413(d)**

FINAL ORDER

Complainant, the Director of the Air Protection Division, U.S. Environmental Protection Agency, Region III, and Respondent, MarkWest Liberty Bluestone, L.L.C., 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 accented by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

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

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 of **NINETY-FIVE THOUSAND DOLLARS ($95,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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.

March 28, 2017
Date

Joseph Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

CERTIFICATION OF SERVICE

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of MarkWest Liberty Bluestone, L.L.C., Docket No. CAA-03-2017-0072, were filed and copies of the same were mailed to the parties as indicated below.

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

MarkWest Liberty Bluestone, L.L.C.
1515 Arapahoe Street
Tower 1, Suite 1600
Denver, CO 80202

Via Hand-Delivery

Regional Hearing Clerk
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

3/28/17
Date

Donna L. Mastro
Air Branch Chief, Office of Regional Counsel
U.S. Environmental Protection Agency, Region III