



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

May 10, 2018

*Via overnight mail*  
Lisa M. Bruderly, Esquire  
Babst Calland  
6 Stanwix St., 6<sup>th</sup> floor  
Two Gateway Center  
Pittsburgh, PA 15222

Re: **In the Matter of Catalyst Energy, Inc. and KC Midstream Solutions, LLC**  
**U.S. EPA Docket No. CWA-03-2018-0072**

Dear Ms. Bruderly,

Enclosed please find a copy of the filed Consent Agreement and Final Order, along with a certificate of service.

Sincerely yours,

A handwritten signature in cursive script that reads "Cynthia T. Weiss".

Cynthia T. Weiss  
Senior Assistant Regional Counsel

Enclosures

cc: Rachel Simkins (3HS61)  
Mark Wejrowski (3HS61)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

**In the Matter of:**

**KC Midstream Solutions, LLC**  
**424 South 27<sup>th</sup> Street, Suite 304**  
**Pittsburgh, PA 15203,**

**Catalyst Energy, Inc.**  
**424 South 27<sup>th</sup> Street, Suite 304**  
**Pittsburgh, PA 15203,**

**Respondents**

**Irishtown Gas Processing Plant**  
**242 Sand Road**  
**Lewis Run, McKean County, PA 16738,**

**Endeavor Gas Processing Plant**  
**101 Queen Pumping Station Road**  
**Tidioute, Forest County, PA 16321,**

**Kane Gas Processing Plant**  
**34 Hardwood Lane**  
**Kane, McKean County, PA 16426,**

**Facilities.**

**Proceeding under Section 311(j) and**  
**311(b)(6)(B)(i) of the Clean Water**  
**Act, 33 U.S.C. § 1321(j) and**  
**1321(b)(6)(B)(i)**

**Docket No. CWA-03-2018-0072**

U.S. EPA-REGION 3-RHC  
FILED-10MAY2018pm12:01

**CONSENT AGREEMENT**

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(i) of the Clean Water Act (“CWA”), as amended, 33 U.S.C. § 1321(b)(6)(B)(i), and under the authority provided by Section 22.13(b) and 22.18(b) of 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. The Administrator has delegated this authority to the Regional Administrator of EPA, Region III, who in turn has delegated it to the Director of the Region’s Hazardous Site Cleanup Division (“Complainant”).
2. The parties agree to the commencement and conclusion of this matter by issuance of this Consent Agreement and Final Order (collectively “CAFO”), as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b) and 22.18(b), and having consented to the entry of this CAFO, agree to comply with the terms of this CAFO.

3. For purposes of this proceeding only, Catalyst Energy, Inc. and KC Midstream Solutions, LLC (“Respondents”) admit to the jurisdictional allegations set forth in this Consent Agreement. Respondents agree not to contest EPA’s jurisdiction with respect to the execution, enforcement, and issuance of this CAFO.
4. Respondents neither admit nor deny the specific factual allegations, findings of fact, and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 3, above.
5. For purposes of this proceeding only, Respondents hereby expressly waive their right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.

### **Statutory and Regulatory Authority**

6. Congress enacted the CWA, 33 U.S.C. §§ 1251 *et seq.*, in 1972. In Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), Congress required the President to promulgate regulations which would, among other things, establish procedures, methods, and other requirements for preventing discharges of oil from onshore facilities into navigable waters and for containing such discharges.
7. By Executive Order 12777, the President delegated the authority to promulgate regulations for preventing discharges of oil from onshore facilities into navigable waters and for containing such discharges under Section 311(j) of the CWA to EPA for non-transportation-related onshore and offshore facilities.
8. Pursuant to its delegated authority under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), EPA promulgated the Oil Pollution Prevention Regulations, codified at 40 C.F.R. Part 112, Subparts A - C.
9. Pursuant to 40 C.F.R. § 112.1, an owner or operator of a non-transportation-related onshore or offshore facility with an above-ground oil storage capacity exceeding 1,320 gallons, engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil or oil products, which, due to its location, could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines is subject to Part 112.
10. According to 40 C.F.R. § 112.3, an owner or operator of an onshore or offshore facility subject to the Oil Pollution Prevention Regulations must prepare in writing and implement a Spill Prevention, Control, and Countermeasure (“SPCC”) plan, in accordance with § 112.7 and any other applicable section, including, but not limited to, § 112.8.
11. For violations of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), EPA has authority, under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), as amended by EPA’s 2016 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701, and the

Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. § 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), to file an Administrative Complaint seeking a civil penalty of \$18,107 per violation, up to a maximum of \$45,268, or seeking a civil penalty of \$18,107 per day for each day during which a violation continues, up to a maximum of \$226,338, for violations occurring from January 9, 2009 through November 2, 2015; and seeking a civil penalty of \$18,477 per violation, up to maximum of \$46,192, or seeking a civil penalty of \$18,477 per day during which a violation continues, up to a maximum of \$230,958, for violations occurring after November 2, 2015 and assessed on or after January 15, 2018.

**Findings of Fact and Conclusions of Law – General**

12. Respondent KC Midstream Solutions, LLC, is a limited liability company organized in the State of Delaware during 2015, with its principal place of business located at 424 South 27th Street, Pittsburgh, Pennsylvania.
13. Respondent Catalyst Energy, Inc., is a corporation formed in the State of Delaware during 1992, with its principal place of business located at 424 South 27th Street, Pittsburgh, Pennsylvania. Respondent KC Midstream Solutions is a wholly-owned subsidiary of Catalyst Energy, Inc.
14. Respondent Catalyst Energy, Inc. is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.
15. Respondent KC Midstream Solutions, LLC, is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.

**Findings of Fact and Conclusions of Law – Irishtown Facility**

16. From September 2001 until November 2015, Respondent Catalyst Energy, Inc., owned and operated a natural gas processing plant located at 242 Sand Road, in Lewis Run, McKean County, Pennsylvania (the “Irishtown Facility”).
17. From November 2015 to the present, Respondent KC Midstream Solutions, LLC, a subsidiary of Respondent Catalyst Energy, Inc., has owned and operated the Irishtown Facility.
18. On November 2, 2016, EPA conducted an SPCC compliance inspection (“Irishtown Inspection”) of the Irishtown Facility.
19. At the time of the Irishtown Inspection and since November 2015, Respondent KC Midstream Solutions, LLC, was the owner and/or operator of the Irishtown Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.

20. From 2010 to November 2015, Respondent Catalyst Energy, Inc, was the owner and/or operator of the Irishtown Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.
21. The Irishtown Facility is an onshore, non-transportation related facility engaged in natural gas liquid extraction operations.
22. At the time of the Irishtown Inspection, the Irishtown Facility stored approximately 39,280 gallons of oil in the following containers: a 4,200-gallon liquid separator tank containing natural gas condensate, two 8,820-gallon natural gas condensate tanks, three 300-gallon compressor oil tanks, three 4,200-gallon natural gas condensate tanks, a 300-gallon motor oil tank, a 1,000-gallon diesel fuel tank, a 55-gallon condensate drum, a 295-gallon heat transfer oil tote, a 300-gallon condensate tank, and approximately eighteen 55-gallon drums storing various oil products.
23. The Irishtown Facility is located approximately 0.5 miles (2,857 feet) to the east of Lewis Run, which is part of the Allegheny River watershed. Lewis Run is a small riverine and tidal/non-tidal environmentally sensitive area. The Irishtown Facility is also located approximately one mile northeast of the Tunungwant Creek, which is a major tributary to the Allegheny River. The Tunungwant Creek has spawning grounds, breeding grounds, and is a nesting area for environmental sensitivity consideration. The overall Allegheny River watershed is a small riverine and tidal/non-tidal environmentally sensitive area.
24. The Allegheny River is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2.
25. The Irishtown Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.
26. Due to its location, the Irishtown Facility could reasonably be expected to discharge oil in harmful quantities, as defined by 40 C.F.R. § 110.3, into or upon navigable waters of the United States or its adjoining shoreline.
27. Pursuant to 40 C.F.R. § 112.1, Respondent Catalyst Energy, Inc., as the owner and operator of the Irishtown Facility from 2010 to November 2015, was subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.
28. Pursuant to 40 C.F.R. § 112.1, Respondent KC Midstream Solutions, LLC, as the owner and operator of the Irishtown Facility from November 2015 to the present, is subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.
29. Pursuant to 40 C.F.R. § 112.3, from 2010 to November 2015, Respondent Catalyst Energy, Inc., was required to prepare in writing and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.

30. Pursuant to 40 C.F.R. § 112.3, as of November 2015, Respondent KC Midstream Solutions, LLC, was required to prepare in writing and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
31. Respondent Catalyst Energy, Inc., on behalf of KC Midstream Solutions, prepared an SPCC Plan for the Irishtown Facility in January 2016 (“Irishtown 2016 SPCC Plan”).
32. Respondent KC Midstream Solutions, LLC, prepared a revised SPCC Plan for the Irishtown Facility in December 2017. This revised SPCC Plan adequately addressed Oil Pollution Prevention Requirements.
33. EPA believes that, Respondents Catalyst Energy, Inc. and KC Midstream Solutions, LLC, failed to adequately implement the Oil Pollution Prevention Regulations, as set forth below.
  - a. Respondents failed to comply with 40 C.F.R. § 112.3(a), which requires the owner or operator of a facility to prepare and implement an SPCC plan. The Irishtown Facility has been in operation, but an SPCC Plan was not prepared for the Irishtown Facility until January 2016.
  - b. Respondents failed to comply with 40 C.F.R. § 112.3(d), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented to have a licensed professional engineer review and certify the plan, with five attestations. The Irishtown 2016 SPCC Plan was not certified by a licensed professional engineer.
  - c. Respondents failed to comply with 40 C.F.R. § 112.7(a)(3), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared to describe in the SPCC plan the physical layout of the facility, including a facility diagram marking the location and contents of each container; the discharge prevention measures; and discharge or drainage controls. The Irishtown 2016 SPCC Plan’s facility diagram did not include numerous containers -- any of the tanks or drums at the new addition of the Irishtown Facility, the drum storage area, loading/unloading area at the diesel fuel tank, 300-gallon motor oil tank, two 300-gallon compressor oil tanks, a 55-gallon condensate drum, and 295-gallon heat transfer oil tote, a 300-gallon heat transfer oil tank, a 4,200-gallon condensate tank, or five 55-gallon motor oil drums in the storage shed -- or adequately discuss discharge prevention measures and discharge or drainage measures associated with each such container.
  - d. Respondents further failed to comply with 40 C.F.R. § 112.7(a)(5), which, in pertinent parts, requires the owner or operator of a facility for which an SPCC plan must be prepared to describe emergency response procedures used when a discharge occurs, as described in 40 C.F.R. § 112.1(b). The Irishtown 2016 SPCC Plan included an emergency coordinator not located at the site.

- e. Respondents failed to comply with 40 C.F.R. § 112.7, which, in pertinent part, requires the owner or operator of a facility to prepare an SPCC plan that follows the sequence of the Oil Pollution Prevention Regulations or contain a cross-reference to regulatory requirements. The Irishtown 2016 SPCC Plan did not follow the sequence of the Oil Pollution Prevention Regulations or contain cross-references to the regulatory requirements.
- f. Respondents failed to comply with 40 C.F.R. § 112.7(b), which requires the owner or operator of a facility required to prepare an SPCC plan to predict the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each major type of equipment failure. The Irishtown 2016 SPCC Plan did not include all major types of equipment failures, including, but not limited to, scenarios for the 4,200-gallon and 8,820-gallon condensate tanks or the diesel fuel loading/unloading area.
- g. Respondents failed to comply with 40 C.F.R. § 112.7(e), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to conduct inspections and tests in accordance with written procedures developed for the facility. Respondents failed to conduct inspections in accordance with the written procedures, as inspection records indicated that the items being checked were not related to SPCC requirements, and to conduct inspections other than from January 2015 to April 2016.
- h. Respondents failed to comply with 40 C.F.R. § 112.7(f), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to provide complete discussions and/or implement requirements pertaining to personnel, training and discharge prevention procedures. Among other things, personnel must be trained in oil pollution prevention equipment, discharge procedure protocols, pollution control laws and regulations and the SPCC plan; and facilities must schedule and conduct discharge prevention briefings at least once a year. The Irishtown 2016 SPCC Plan did not discuss training in pollution control laws and regulations or discharge prevention briefings. Further, Respondents failed to conduct SPCC training or annual discharge prevention briefings prior to the Irishtown Inspection.
- i. Respondents failed to comply with 40 C.F.R. § 112.7(g), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to provide complete discussions and/or implement requirements pertaining to security. The SPCC plan must address how the facility secures and controls access to oil handling, processing and storage areas; secures master flow and drain valves; prevents unauthorized access to starter controls on oil pumps; secures out-of-service and loading/unloading connections of oil pipelines; and addresses the appropriateness of security lighting to prevent acts of vandalism and assist in the discovery of oil discharges. The Irishtown 2016 SPCC Plan did not discuss the means to secure access to all oil handling and storage areas, master flow and drain valves or starter controls on oil pumps. Further, Respondents failed to fully implement these security requirements.



- j. Respondents failed to comply with 40 C.F.R. § 112.7(j), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to provide a complete discussion of conformance with all other applicable discharge prevention and containment requirements, or any applicable more stringent State rules, regulations and guidelines in the SPCC plan. The Irishtown 2016 SPCC Plan did not discuss conformance with all other applicable discharge prevention requirements.
- k. Respondents failed to comply with 40 C.F.R. § 112.8(b), which requires the owner or operator of an on-shore facility required to prepare and implement an SPCC plan to provide a complete discussion of facility drainage. The drainage discussion must address drainage from diked storage areas by valves or manually activated pumps or ejectors to prevent an oil discharge or excessive leakage; the use of manual, open-and-close design valves for the drainage of diked areas; the drainage from undiked areas, which is required to flow into ponds, lagoons, or catchment basins that are not subject to flooding and designed to retain oil or return it to the facility; and the equipping of all in-plant ditches or final discharges with a diversion system that would, in the event of an uncontrolled discharge, retain oil in the facility. The Irishtown 2016 SPCC Plan did not discuss drainage from diked and undiked areas of the Irishtown Facility
- l. Respondents failed to comply with 40 C.F.R. § 112.8(c)(2), which requires the owner or operator of an on-shore facility required to implement an SPCC plan to implement requirements pertaining to bulk storage containers. The facility must provide sufficiently impervious secondary containment for the largest single containers in all container installations plus sufficient free board to allow for precipitation. At the time of the Irishtown Inspection, the Irishtown Facility had no secondary containment for three 300-gallon compressor oil tanks, a 300-gallon motor oil tank, or the 1,000-gallon diesel fuel tank (listed as double-walled but no method of inspecting interstitial space).
- m. Respondents failed to comply with 40 C.F.R. § 112.8(c)(3), which requires the owner or operator of an on-shore facility required to prepare and implement an SPCC plan to implement requirements pertaining to bulk storage containers. The facility must drain rainwater from diked areas, when bypassing treatment, by, among other things, keeping bypass valves closed, and maintain records of bypass and drainage events. At the time of Irishtown Inspection, the Irishtown Facility had an open valve at a diked area, and no drainage records.
- n. Respondents failed to comply with 40 C.F.R. § 112.8(c)(6), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented to test or inspect each aboveground container for integrity on a regular schedule and whenever material repairs are made. The owner or operator must determine, in accordance with industry standards, the appropriate qualifications for personnel performing tests and inspections, the frequency and type of testing and inspections, which account for container size, configuration, and design. The owner or operator must keep comparison records and inspect the

container's supports and foundations and frequently inspect the outside of the container for signs of deterioration, discharges, or accumulation of oil inside diked areas. At the time of Irishtown Inspection, Respondents could not produce records of integrity testing for any of the tanks at the Irishtown Facility. Moreover, the Irishtown 2016 SPCC Plan indicated that visual inspections are performed but did not specify the standard to which they are performed. Further, facility personnel were not properly performing visual inspections, as indicated by the lack of inspection records.

- o. Respondents failed to comply with 40 C.F.R. § 112.8(d), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented to provide complete discussions and/or implement requirements pertaining to facility transfer operations, pumping and in-plant processes. The Irishtown 2016 SPCC plan contained no discussion of facility piping.
34. For purposes of this CAFO, the duration of the SPCC violations at the Irishtown Facility for Respondent Catalyst Energy, Inc. runs from March 2013 to November 2015.
35. For purposes of this CAFO, the duration of the SPCC violations at the Irishtown Facility for Respondent KC Midstream Solutions, LLC runs from November 2015 to December 2017.

**Findings of Fact and Conclusions of Law – Endeavor Facility**

36. From July 2008 until November 2015, Respondent Catalyst Energy, Inc., owned and operated a natural gas processing plant located 101 Queen Pumping Station Road, in Tidioute, Forest County, Pennsylvania (the "Endeavor Facility").
37. From November 2015 to the present, Respondent KC Midstream Solutions, LLC, has owned and operated the Endeavor Facility.
38. On November 2, 2016, EPA conducted an SPCC compliance inspection ("Endeavor Inspection") of the Endeavor Facility.
39. At the time of the Endeavor Inspection and since November 2015, Respondent KC Midstream Solutions, LLC, was the owner and/or operator of the Endeavor Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.
40. From July 2008 to November 2015, Respondent Catalyst Energy, Inc, was the owner and/or operator of the Endeavor Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.
41. The Endeavor Facility is an onshore, non-transportation related facility engaged in natural gas liquid extraction operations.

42. At the time of the Endeavor Inspection, the Endeavor Facility stored approximately 2,755 gallons of oil, in one 2,100-gallon condensate tank, two 300-gallon compressor oil tanks, and one 55-gallon motor oil drum.
43. The Endeavor Facility is located approximately 410 feet to the north of Queen Creek, which flows west for approximately 0.7 miles before joining East Hickory Creek, which in turn flows south for approximately 2.26 miles and then west for approximately 1.87 miles before joining the Allegheny River. East Hickory Creek and Queen Creek are both small riverine and tidal/non-tidal environmentally sensitive areas. The overall Allegheny River watershed is a small riverine and tidal/non-tidal environmentally sensitive area.
44. The Allegheny River is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2.
45. The Endeavor Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.
46. Due to its location, the Endeavor Facility could reasonably be expected to discharge oil in harmful quantities, as defined by 40 C.F.R. § 110.3, into or upon navigable waters of the United States or its adjoining shoreline.
47. Pursuant to 40 C.F.R. § 112.1, Respondent Catalyst Energy, Inc., as the owner and operator of the Endeavor Facility from 2009 to November 2015, was subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.
48. Pursuant to 40 C.F.R. § 112.1, Respondent KC Midstream Solutions, LLC, as the owner and operator of the Endeavor Facility from November 2015 to the present, is subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.
49. Pursuant to 40 C.F.R. § 112.3, from 2009 to November 2015, Respondent Catalyst Energy, Inc., was required to prepare in writing and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
50. Pursuant to 40 C.F.R. § 112.3, as of November 2015, Respondent KC Midstream Solutions, LLC, was required to prepare in writing and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
51. Respondent Catalyst Energy, Inc. prepared an SPCC Plan for the Endeavor Facility in November 2015 (“Endeavor 2015 SPCC Plan”). The Endeavor 2015 SPCC Plan was prepared for the Endeavor Facility as a Tier 1 Qualified Facility plan, in accordance with 40 C.F.R. § 112.6(a). The Endeavor Facility constitutes a Tier I Qualified Facility because it has no individual aboveground container with a capacity greater than 5,000 gallons, less than 10,000 gallons of total oil storage, and no disqualifying discharges. 40 C.F.R. § 112.3(g).

52. The owner or operator of a Tier I Qualified Facility must prepare and implement an SPCC plan that complies with the requirements for Tier I Qualified Facilities, at 40 C.F.R. § 112.6(a)(3), for Tier II Qualified Facilities, at 40 C.F.R. § 112.6(b), or prepare and implement a plan meeting the requirements of 40 C.F.R. § 112.7 and applicable requirements of subparts B and C. Respondents elected to prepare and implement an SPCC plan for the Endeavor Facility as a Tier I Qualified Facility.
53. Respondent KC Midstream Solutions, LLC, prepared a revised SPCC Plan for the Endeavor Facility in December 2017. This revised SPCC Plan adequately addressed Oil Pollution Prevention Requirements.
54. EPA believes that, Respondents Catalyst Energy, Inc. and KC Midstream Solutions, LLC, failed to adequately implement the Oil Pollution Prevention Regulations, as set forth below.
- a. Respondents failed to comply with 40 C.F.R. § 112.3(a), which requires the owner or operator of a facility to prepare and implement an SPCC plan. The Endeavor Facility has been in operation since 2009, but an SPCC plan was not prepared for the Endeavor Facility until November 2015, and the Endeavor 2015 SPCC Plan was not fully implemented at the Endeavor Facility.
  - b. The owner or operator of a Tier I Qualified Facility may either self-certify its SPCC plan, 40 C.F.R. § 112.3(g), or have the SPCC plan certified by a professional engineer, 40 C.F.R. § 112.3(d). Respondents did not have the Endeavor 2015 SPCC Plan certified by a professional engineer. Respondents failed to comply requirements for self-certification at 40 C.F.R. § 112.6(a)(1), which, in pertinent part, requires the owner or operator of a Tier I Qualified Facility for which an SPCC plan must be prepared in writing and implemented to have a certification statement with eight attestations. The Endeavor 2015 SPCC Plan was not properly self-certified because it did not contain the required eight attestations.
  - c. Respondents failed to comply with 40 C.F.R. § 112.6(a)(3), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared to describe in the SPCC plan a failure analysis (including direction of flow), bulk storage secondary containment, and overflow prevention. The Endeavor 2015 SPCC Plan's discussion of tank failure scenarios does not include the direction of flow to the on-site detention basin. The Endeavor 2015 SPCC Plan does not describe secondary containment for two 300-gallon compressor oil tanks. Further, the Endeavor 2015 SPCC Plan does not discuss overflow prevention procedures.
  - d. Respondents failed to comply with 40 C.F.R. § 112.7(a)(3)(i), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared to describe the type of oil in each container and its storage capacity. The Endeavor 2015 SPCC plan did not discuss a 55-gallon motor oil drum.
  - e. Respondents failed to comply with 40 C.F.R. § 112.7(e), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to conduct

inspections and tests in accordance with written procedures developed for the facility. The Endeavor 2015 SPCC plan required monthly inspections. Respondents failed to conduct inspections in accordance with the written procedures, as only daily and not monthly inspections were being conducted, and records were not retained for the inspections.

- f. Respondents failed to comply with 40 C.F.R. § 112.7(f), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to train personnel in oil pollution prevention equipment, discharge procedure protocols, pollution control laws and regulations and the SPCC Plan; and to schedule and conduct discharge prevention briefings at least once a year. The Endeavor 2015 SPCC Plan did not discuss training in pollution control laws and regulations or discharge prevention briefings. Further, Respondents failed to conduct SPCC training for oil handling personnel prior to the Endeavor Inspection.
- g. Respondents failed to comply with 40 C.F.R. § 112.7(g), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to provide complete discussions and/or implement requirements pertaining to security. The SPCC plan must address how the facility secures and controls access to oil handling, processing and storage areas; secures master flow and drain valves; prevents unauthorized access to starter controls on oil pumps; secures out-of-service and loading/unloading connections of oil pipelines; and addresses the appropriateness of security lighting to prevent acts of vandalism and assist in the discovery of oil discharges. The Endeavor 2015 SPCC Plan did not adequately discuss security measures. Further, Respondents failed to fully implement these security requirements.
- h. Respondents failed to comply with 40 C.F.R. § 112.8(b), which requires the owner or operator of an on-shore facility required to prepare and implement an SPCC plan to provide a complete discussion of facility drainage. The drainage discussion must address drainage from diked storage areas by valves or manually activated pumps or ejectors to prevent an oil discharge or excessive leakage; and the use of manual, open-and-close design valves for the drainage of diked areas. The Endeavor 2015 SPCC Plan did not discuss drainage from diked areas of the Endeavor Facility.
- i. Respondents failed to comply with 40 C.F.R. § 112.8(c)(1), which requires the owner or operator of an on-shore facility required to implement an SPCC plan to discuss and/or implement requirements pertaining to bulk storage containers. The facility must ensure that containers are compatible with the material stored and the conditions of storage. The Endeavor 2015 SPCC Plan does not discuss whether container material and construction is compatible with stored material and storage conditions for the waste condensate.
- j. Respondents failed to comply with 40 C.F.R. § 112.8(c)(6), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented to test or inspect each aboveground container for integrity on a regular schedule and whenever material repairs are made. The owner

or operator must determine, in accordance with industry standards, the appropriate qualifications for personnel performing tests and inspections, the frequency and type of testing and inspections, which account for container size, configuration, and design. The owner or operator must keep comparison records and inspect the container's supports and foundations and frequently inspect the outside of the container for signs of deterioration, discharges, or accumulation of oil inside diked areas. At the time of Endeavor Inspection, Respondents could not produce records of integrity testing for any of the tanks at the facility. Further, facility personnel were not properly performing monthly visual inspections in accordance with the Endeavor 2015 SPCC Plan, as evidenced by the lack of inspection records.

- k. Respondents failed to comply with 40 C.F.R. § 112.8(d)(4), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented to provide complete discussions and/or implement requirements pertaining to inspections of aboveground and buried piping and associated equipment. The Endeavor 2015 SPCC Plan contained no discussion of inspections of facility piping.
55. For purposes of this CAFO, the duration of the SPCC violations at the Endeavor Facility for Respondent Catalyst Energy, Inc. runs from March 2013 to November 2015.
56. For purposes of this CAFO, the duration of the SPCC violations at the Endeavor Facility for Respondent KC Midstream Solutions, LLC runs from November 2015 to December 2017.

**Findings of Fact and Conclusions of Law – Kane Facility**

57. From February 2009 until November 2015, Respondent Catalyst Energy, Inc., owned and operated a natural gas processing plant located at 34 Hardwood Lane, in Kane, McKean County, Pennsylvania (the "Kane Facility").
58. From November 2015 to March 2017, Respondent KC Solutions, LLC, owned and operated the Kane Facility.
59. On November 2, 2016, EPA conducted an SPCC compliance inspection ("Kane Inspection") of the Kane Facility.
60. The Kane Facility was an onshore, non-transportation related facility engaged in natural gas liquid extraction operations until January 2016. The tanks of the Kane Facility were closed and decommissioned in March 2017.
61. During its period of operation, the Kane Facility stored approximately 4,500 gallons of oil, in the following containers: two 2,100-gallon waste oil tanks, and lube oil in a 300-gallon day tank.
62. The Kane Facility is located less than 500 feet from the unnamed tributary of the East Branch of Tionesta Creek, which is ten miles from the Main Branch of Tionesta Creek.

63. The Tionesta Creek is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2.
64. The Kane Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.
65. Due to its location, the Kane Facility could reasonably be expected to discharge oil in harmful quantities, as defined by 40 C.F.R. § 110.3, into or upon navigable waters of the United States or its adjoining shoreline.
66. Pursuant to 40 C.F.R. § 112.1, Respondent Catalyst Energy, Inc., as the owner and operator of the Kane Facility from 2009 to November 2015, was subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.
67. Pursuant to 40 C.F.R. § 112.1, Respondent KC Midstream Solutions, LLC, was the owner and operator of the Endeavor Facility from November 2015 to March 2017, is subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.
68. Pursuant to 40 C.F.R. § 112.3, from 2009 to November 2015, Respondent Catalyst Energy, Inc., was required to prepare in writing and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
69. Pursuant to 40 C.F.R. § 112.3, as of November 2015, Respondent KC Midstream Solutions, LLC, was required to prepare in writing and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
70. Respondent Catalyst Energy, Inc., on behalf of KC Midstream Solutions, LLC, prepared an SPCC Plan for the Kane Facility in January 2016 (“Kane 2016 SPCC Plan”). The Kane 2016 SPCC Plan was prepared for the Kane Facility as a Tier 1 Qualified Facility plan, in accordance with 40 C.F.R. § 112.6(a). The Kane Facility constitutes a Tier I Qualified Facility because it has no individual aboveground container with a capacity greater than 5,000 gallons, less than 10,000 gallons total oil storage, and no disqualifying discharges. 40 C.F.R. § 112.3(g). Respondents elected to prepare and implement an SPCC plan for the Kane Facility as a Tier I Qualified Facility.
71. EPA believes that, Respondents Catalyst Energy, Inc. and KC Midstream Solutions, LLC, failed to adequately implement the Oil Pollution Prevention Regulations, as set forth below.
  - a. Respondents failed to comply with 40 C.F.R. § 112.3(a), which requires the owner or operator of a facility to prepare and implement an SPCC plan. The Kane Facility has been in operation since 2009, but an SPCC plan was not prepared for the Kane Facility until January 2016, and the Kane 2016 SPCC Plan was not fully implemented at the Kane Facility.

- b. The owner or operator of a Tier I Qualified Facility may either self-certify its SPCC plan, 40 C.F.R. § 112.3(g), or have the SPCC plan certified by a professional engineer, 40 C.F.R. § 112.3(d). Respondents did not have the Kane 2016 SPCC plan certified by a professional engineer. Respondents failed to comply requirements for self-certification at 40 C.F.R. § 112.6(a)(1), which, in pertinent part, requires the owner or operator of a Tier I Qualified Facility for which an SPCC plan must be prepared in writing and implemented to have a certification statement with eight attestations. The Kane 2016 SPCC Plan was not properly self-certified because it was missing two of the required eight attestations, namely that the manager who certified the plan had visited and examined the Kane Facility.
- c. Respondents failed to comply with 40 C.F.R. § 112.6(a)(3)(i)-(iii), which, in pertinent parts, requires the owner or operator of a facility for which an SPCC plan must be prepared to describe in the SPCC plan a failure analysis (including direction of flow), bulk storage secondary containment, and overfill prevention. The Kane 2016 SPCC Plan did not predict the direction and total quantity of oil which could be discharged from the Kane Facility as a result of each type of major equipment failure. The Kane 2016 SPCC Plan also did not discuss secondary containment for the 300-gallon compressor building day tank or overfill prevention procedures.
- d. Respondents failed to comply with 40 C.F.R. § 112.7(a)(3), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared to describe in the SPCC plan the physical layout of the facility, including a facility diagram marking the location and contents of each container. The Kane 2016 SPCC Plan did not discuss one 2,100-gallon waste oil tank.
- e. Respondents failed to comply with 40 C.F.R. § 112.7(e), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to conduct inspections and tests in accordance with written procedures developed for the facility. Respondents failed to conduct inspections in accordance with the written procedures, as monthly inspections were not conducted prior to the Kane Inspection.
- f. Respondents failed to comply with 40 C.F.R. § 112.7(f), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to train personnel in oil pollution prevention equipment, discharge procedure protocols, pollution control laws and regulations and the SPCC Plan; designate a person responsible for oil discharge prevention; and schedule discharge prevention briefings at least once a year. The Kane 2016 SPCC Plan did not discuss training in pollution control laws and regulations or discharge prevention briefings, and did not identify any person responsible for discharge prevention. Further, Respondents failed to conduct SPCC training for oil handling personnel prior to the Kane Inspection.
- g. Respondents failed to comply with 40 C.F.R. § 112.7(g), which requires the owner or operator of a facility required to prepare and implement an SPCC plan to provide complete discussions and/or implement requirements pertaining to security. The SPCC plan must address how the facility secures and controls access to oil handling, processing and storage areas; secures master flow and drain valves; prevents



unauthorized access to starter controls on oil pumps; secures out-of-service and loading/unloading connections of oil pipelines; and addresses the appropriateness of security lighting to prevent acts of vandalism and assist in the discovery of oil discharges. The Kane 2016 SPCC Plan did not discuss security measures. Further, Respondents failed to implement security measures to secure and control access to oil storage areas.

- h. Respondents failed to comply with 40 C.F.R. § 112.8(c)(6), which, in pertinent part, requires the owner or operator of a facility for which an SPCC plan must be prepared in writing and implemented to test or inspect each aboveground container for integrity on a regular schedule and whenever material repairs are made. The Kane 2016 SPCC Plan indicated that monthly visual inspections would be used. At the time of Endeavor Inspection, Respondents admitted monthly visual inspections were not being conducted.

- 72. For purposes of this CAFO, the duration of the SPCC violations at the Kane Facility for Respondent Catalyst Energy, Inc., runs from March 2013 to November 2015.
- 73. For purposes of this CAFO, the duration of the SPCC violations at the Kane Facility for Respondent KC Midstream Solutions, LLC, runs from November 2015 to March 2017.

#### **Penalty**

- 74. In settlement of Complainant's claims for civil penalties for the foregoing violations alleged in this Consent Agreement, Respondents agree to pay a civil penalty of \$42,806.
- 75. The penalty was calculated after consideration of the applicable statutory penalty factors in Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), including the allegations regarding the seriousness of the violation; the economic benefit to the violator, if any; the degree of culpability; history of prior violations, if any; any other penalty for the same incident; the nature, extent, and degree of success of the violator's mitigation efforts; the economic impact of the penalty on the violator; and other matters as justice may require. The applicable statutory factors were applied in accordance with EPA's Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act (August 1998).
- 76. The Civil Penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent agrees to pay the civil penalty of \$42,806 ("Civil Penalty") for the SPCC violations in six (6) installments with interest on the outstanding principal balance in accordance with the following schedule, with each and every payment identified with "EPA Docket No. CWA-03-2018-0072" and using one of the methods identified in Paragraph 77, below:
  - a. 1st Payment: The first payment in the amount of \$7,149.20, consisting of a principal payment of \$1,7149.20 and an interest payment of \$0, shall be paid within thirty (30) days of the Effective Date of this Agreement;

- b. 2<sup>nd</sup> Payment: The second payment in the amount of \$7,149.20, consisting of a principal payment of \$7,119.49 and an interest payment of \$29.71, shall be paid within sixty (60) days of the Effective Date of this Agreement;
- c. 3<sup>rd</sup> Payment: The third payment in the amount of \$7,149.20, consisting of a principal payment of \$7,125.42 and an interest payment of \$23.78, shall be paid within ninety (90) days of the Effective Date of this Agreement;
- d. 4<sup>th</sup> Payment: The fourth payment in the amount of \$7,149.20, consisting of a principal payment of \$7,131.36 and an interest payment of \$17.84, shall be paid within one hundred twenty (120) days of the Effective Date of this Agreement;
- e. 5<sup>th</sup> Payment: The fifth payment in the amount of \$7,149.20, consisting of a principal payment of \$7,137.30 and an interest payment of \$11.90, shall be paid within one hundred fifty (150) days of the Effective Date of this Agreement; and
- f. 6<sup>th</sup> Payment: The sixth payment in the amount of \$7,149.20, consisting of a principal payment of \$7,143.23 and an interest payment of \$5.97, shall be paid within one hundred (180) days of the Effective Date of this Agreement.

77. All payments shall be made by a cashier's or certified check, by an electronic funds transfer ("EFT"), or by online payment, as set forth below:

- a. If paying by check, Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF-311." If paying by check, Respondent shall note on the check the title and docket number (CWA-03-2018-0072) of this case.
- b. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

- c. If Respondent sends payment by a private delivery service, the payment shall be addressed to:

U.S. Environmental Protection Agency  
1005 Convention Plaza  
SL-MO-C2GL  
St. Louis, MO 63101  
Contact: (314) 418-1028

- d. If paying by EFT, the Respondent shall make the transfer to:

Federal Reserve Bank of New York  
ABA 021030004  
Account 68010727  
33 Liberty Street  
New York, NY 10045

- e. If paying by EFT, field tag 4200 of the Fedwire message shall read: “(D 68010727 Environmental Protection Agency).” In the case of an international transfer of funds, the Respondent shall use SWIFT address FRNYUS33.
- f. If paying by check or EFT transfer, please provide a copy of the check or EFT confirmation page to the following individuals within five (5) days of the date the payment was submitted:

Regional Hearing Clerk  
U.S. EPA, Region III  
1650 Arch Street (3RC00)  
Philadelphia, PA 19103-2029  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov)

Cynthia T. Weiss  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency – Region III  
1650 Arch Street (3RC42)  
Philadelphia, PA 19103-2029  
[Weiss.Cynthia@epa.gov](mailto:Weiss.Cynthia@epa.gov)

- g. If paying through the Department of Treasury’s Online Payment system, please access “[www.pay.gov](http://www.pay.gov),” and enter sfo 1.1 in the search field. Open the form and complete the required fields and make payments. Note that the type of payment is “civil penalty,” the docket number “CWA-03-2018-0072 should be included in the “Court Order # or Bill #” field, and “3” should be included as the Region number.

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

79. In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this

CAFO will begin to accrue on the date that a copy of this fully executed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest on the portion of a civil penalty not paid within such thirty (30) calendar day period will be assessed at the rate of the U.S. Treasury Tax and Loan Rate in accordance with 40 C.F.R. § 13.11(a).

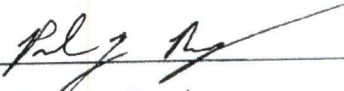
80. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative 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.
81. A penalty charge of six percent per year will be assessed monthly on any portion of a payment 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).
82. To avoid the assessment of administrative costs for overdue debts, as described above, Respondent must remit payment for the civil penalty in accordance with the payment deadline set forth above.
83. Failure by Respondent to pay the penalty assessed by the Final Order in full in accordance with this CAFO may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

#### **General Provisions**

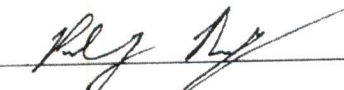
84. The undersigned officer of Respondent represents and warrants that he or she has the authority to bind the Respondent and its successors or assigns to the terms of this Consent Agreement.
85. The provisions of this Consent Agreement and the Final Order, if issued, shall be binding upon Respondent and Respondent's successors or assigns.
86. This Consent Agreement and the accompanying Final Order resolve only the civil penalty claims for the specific violations alleged in 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 Consent Agreement and the accompanying Final Order 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 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 CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

**For the Respondent, Catalyst Energy, Inc.**

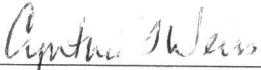
Date: 4/26/18 By:   
Paul Rodgers (print name)  
CEO (title)

**For the Respondent, KC Midstream Solutions, LLC**

Date: 4/26/18 By:   
Paul Rodgers (print name)  
CEO (title) (title)


**For the Complainant, U.S. Environmental Protection Agency, Region III**

Date: 4/30/18

By:   
Cynthia T. Weiss  
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director of the Hazardous Site Cleanup Division, EPA Region III, recommends that the Regional Judicial Officer issue the Final Order attached hereto.

Date: MAY 8 2018

By:   
Karen Melvin, Director  
Hazardous Site Cleanup Division  
EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

In the Matter of:

KC Midstream Solutions, LLC  
424 South 27<sup>th</sup> Street, Suite 304  
Pittsburgh, PA 15203,

Catalyst Energy, Inc.  
424 South 27<sup>th</sup> Street, Suite 304  
Pittsburgh, PA 15203,

**Respondents**

Irishtown Gas Processing Plant  
242 Sand Road  
Lewis Run, McKean County, PA 16738,

Endeavor Gas Processing Plant  
101 Queen Pumping Station Road  
Tidioute, Forest County, PA 16321,

Kane Gas Processing Plant  
34 Hardwood Lane  
Kane, McKean County, PA 16426,

**Facilities.**

Proceeding under Section 311(j) and  
311(b)(6)(B)(i) of the Clean Water  
Act, 33 U.S.C. § 1321(j) and  
1321(b)(6)(B)(i)

Docket No. CWA-03-2018-0072

**FINAL ORDER**

Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondents, Catalyst Energy, Inc., and Kc Midstream Solutions, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, with specific references to Section 22.13(b), 22.18(b)(2) and (3), and 22.50(a)(1) and (b). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.




Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory penalty factors in Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), which were applied in accordance with EPA's *Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act* (August 1998).

NOW, THEREFORE, PURSUANT TO Section 311(b)(6)(B)(i) of the CWA, as amended, and the Consolidated Rules of Practice, IT IS HEREBY ORDERED that Respondent pay a civil penalty of FORTY-TWO THOUSAND EIGHT HUNDRED SIX DOLLARS (\$42,806), plus any applicable interest, 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.

Date: May 10, 2018

  
\_\_\_\_\_  
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:

KC Midstream Solutions, LLC  
424 South 27<sup>th</sup> Street, Suite 304  
Pittsburgh, PA 15203,

Catalyst Energy, Inc.  
424 South 27<sup>th</sup> Street, Suite 304  
Pittsburgh, PA 15203,

Respondents.

Irishtown Gas Processing Plant  
242 Sand Road  
Lewis Run, McKean County, PA 16738,

Endeavor Gas Processing Plant  
101 Queen Pumping Station Road  
Tidioute, Forest County, PA 16321,

Kane Gas Processing Plant  
34 Hardwood Lane  
Kane, McKean County, PA 16426,

Facilities.

Docket No. CWA-03-2018-0072


CERTIFICATE OF SERVICE

U.S. EPA-REGION 3-RHC  
FILED-10MAY2018pm12:01

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

Lisa M. Bruderly, Esquire  
Babst Calland  
Two Gateway Center  
6 Stanwix St., 6<sup>th</sup> floor  
Pittsburgh, PA 15222

May 10, 2018

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

