

3. Respondent Resolute Natural Resources Co., LLC (“Respondent”) is a limited liability company doing business in the State of Texas. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

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

B. JURISDICTION

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

6. In satisfaction of the notice requirements of Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), on August 3, 2021, EPA issued to Respondent a Notice of Violation and Opportunity to Confer (the “NOVOC”) and provided a copy of the NOVOC to the State of Texas. In the NOVOC, EPA provided notice to both Respondent and the State of Texas that EPA found Respondent committed the alleged violations of the Texas State Implementation Plan (“SIP”) described in Section E of this CAFO and providing Respondent an opportunity to confer with EPA.

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

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

C. GOVERNING LAW

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

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

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

12. To achieve the objectives of the NAAQS and the CAA, Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each State to adopt a SIP that provides for the implementation, maintenance, and enforcement of the NAAQS, and to submit it to the Administrator of EPA for approval.

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

14. Subchapter O of Chapter 106 of the Texas Administrative Code regulates permitting by rule for oil and gas facilities that produce more than a de minimis level of emissions. *See* 30 Tex. Admin. Code §§ 106.4(a) and 106.351-59. Additional regulations applicable to such facilities are also located in Subchapters A and V of Chapter 106 of the Texas

Administrative Code. The permit by rule program includes the following requirements relevant to this CAFO:

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

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

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

d. 30 Tex. Admin. Code § 106.352(l) applies “to new and modified facilities” and provides that “[a]ny oil or gas production facility, carbon dioxide separation facility, or oil or gas pipeline facility consisting of one or more tanks, separators, dehydration units, free water knockouts, gun barrels, heater treaters, natural gas liquid recovery units, or gas sweetening and other gas conditioning facilities . . . are permitted by rule” for “those facilities named which handle gases and liquids associated with the production, conditioning, processing, and pipeline transfer of fluids found in geologic formations beneath the earth’s surface.”

e. 30 Tex. Admin. Code § 106.352(l)(1) requires flares to “meet the requirements of § 106.492.”

f. 30 Tex. Admin. Code § 106.492(l)(B) states that flares “shall be equipped with a continuously burning pilot or other automatic ignition system that assures gas ignition”

15. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a program for standard permits, which can be found at 30 Tex. Admin. Code Chapter 116, Subchapter F – Standard Permits. *See* 40 C.F.R. § 52.2270(c).

16. Non-rule Standard Permits must comply with applicable requirements under Subchapter F of Chapter 116 of the Texas Administrative Code, which regulates standard permits for air pollution control projects that reduce or maintain authorized emission rates for existing facilities. *See* 30 Tex. Admin. Code § 116.601 – 116.615. Pursuant to 30 Tex. Admin. Code § 116.601(a)(2), the State of Texas issued the Air Quality Standard Permit for Oil and Gas Handling and Production Facilities (“TCEQ Non-Rule Standard Permit for Oil and Gas Facilities”), which includes the following requirements relevant to this CAFO:

a. “All facilities which have the potential to emit air contaminants must be maintained in good working order and operated properly during facility operations.” TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(1).

b. All process equipment and storage facilities individually must meet the requirements of BACT listed in Table 10, and any combination of process equipment and storage facilities with an uncontrolled potential to emit equal to or greater than 25 tons per year of VOC are required to capture and route emissions to a control device with a minimum design control

efficiency of at least 95%. TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(5) and (m) Table 10.

c. All seals and gaskets in VOC or H₂S service must be “installed, checked, and properly maintained to prevent leaking” and tank hatches must “remain closed...except for sampling, gauging, loading, unloading, or planned maintenance activities.” TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(6)(A) and (D).

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

17. At all times relevant to this CAFO, Respondent has owned and/or operated the oil and natural gas production facilities listed in Attachment A, which are located in the Texas Permian Basin (the “Facilities”).

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

19. At all times relevant to this proceeding, Respondent owned and/or operated units that emit Volatile Organic Compounds (“VOCs”) at the Facilities, which produce oil and gas.

20. The Facilities are subject to the State of Texas’s Permits by Rule program for oil and gas facilities under Subchapter O of Chapter 106 of the Texas Administrative Code and to the State of Texas’s Standard Permits program under Subchapter F of Chapter 116 of the Texas Administrative Code.

21. The Texas Commission on Environmental Quality (“TCEQ”) issued air permits to the Respondent, listed in Attachment A, under the SIP-approved Permits by Rule and/or Non-Rule Standard Permit program. The permits cover various emission units at the Facilities, including tanks, fugitives, and flares.

22. Respondent is required to operate in compliance with certain provisions of the Texas SIP, and Respondent is required by the Facilities' permits identified in Attachment A to this CAFO and/or the permit type to control the emission of waste gas streams from the Facilities.

23. During August 25, 2020 through September 12, 2020, EPA contracted for helicopter flyovers of the Permian Basin area to assess emissions from energy extraction facilities using Optical Gas Imaging ("OGI") technology. Flyovers of the Facilities at issue in this CAFO were conducted on September 10 – September 11, 2020.

24. On December 14, 2020, EPA sent Respondent OGI video captures showing hydrocarbon emissions from process equipment at energy extraction facilities, including the Facilities at issue in this CAFO, that EPA believed to be owned or operated by Respondent. EPA asked Respondent to verify ownership, provide current site-specific information, and take any necessary corrective action to address unauthorized hydrocarbon emissions at each facility. EPA considered information provided by Respondent to determine whether violations occurred at the facilities identified.

25. On January 10, 2021, Respondent provided information to EPA that it had taken certain corrective action measures at the Facilities listed in Attachment A to this CAFO to address the compliance issues observed during the flyovers.

26. On August 3, 2021, EPA sent Respondent and TCEQ the NOVOC, notifying them of alleged violations of the Texas SIP.

27. EPA has conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

28. On August 27, 2021, Respondent submitted information to EPA describing voluntary emission prevention and detection efforts Respondent conducted at the Facilities before and after EPA's flyover, including the period after EPA's flyover and before Respondent's receipt of EPA's December 14, 2020 letter. These voluntary efforts included semiannual emissions detection flyover surveys of Respondent's operated facilities and pipelines in the Permian Basin since 2020 and OGI emissions detection surveys beyond those required by federal regulations and permit requirements. Respondent has conducted a total of 89 OGI surveys from January 1, 2020 through August 30, 2021 at the Facilities.

E. ALLEGED VIOLATIONS

29. EPA has conducted a comprehensive review of information gathered from the helicopter flyovers conducted August 25, 2020 through September 12, 2020, and from Respondent. Based on this review, EPA has made the following findings:

- a. Respondent violated 30 Tex. Admin. Code § 106.4(c) by failing to maintain the Facilities' emissions control equipment in good condition and properly operate such equipment.
- b. Respondent violated 30 Tex. Admin. Code § 106.6(b) by failing to operate equipment consistent with operating procedures in the Facilities' certified registrations.
- c. Respondent violated 30 Tex. Admin. Code § 106.6(c) by varying from representations in the Facilities' certified registrations regarding emissions at the Facilities.
- d. Respondent violated 30 Tex. Admin. Code § 106.352(l)(1) by failing to comply with the requirements of 30 Tex. Admin. Code § 106.492.

e. Respondent violated 30 Tex. Admin. Code § 106.492(1)(B) by failing to equip certain facilities with a continuously burning pilot or automatic ignition system that assures gas ignition.

f. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(1) by failing to ensure that facilities that have the potential to emit air contaminants are maintained in good working order and are operating properly during facility operations; and

g. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(5) by failing to ensure that emissions from tanks are captured and routed to a control device with a minimum design control efficiency as specified in Table 10.

h. Respondent violated TCEQ Non-Rule Standard Permit for Oil and Gas Facilities (e)(6) by not properly maintaining seals and gaskets to prevent leaking and not ensuring that tank hatches remain closed except during sampling, gauging, loading, unloading, or planned maintenance activities.

F. CIVIL PENALTY AND TERMS AND CONDITIONS OF SETTLEMENT

a. General

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

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

b. neither admits nor denies the specific factual allegations contained in the CAFO;

c. consents to the assessment of a civil penalty, as stated below;

- d. consents to the issuance of any specified compliance or corrective action order;
- e. consents to the conditions specified in this CAFO;
- f. consents to any stated Permit Action¹;
- g. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
- h. waives its rights to appeal the Final Order included in this CAFO.

31. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
- d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Western District of Texas;
- e. waives any right it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraph (f) is not applicable to this particular case.

f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to these Facilities, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been resolved pursuant to this CAFO.

b. Penalty Assessment and Collection

32. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violations, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$175,700 (the "EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

33. Respondent agrees to:

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

overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or
(5) Online Payment. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or
U.S. Postal Service express mail, payment should be remitted to:

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

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

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

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

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

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

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

Contact – Jesse White (301) 887-6548

For Online Payment:

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

PLEASE NOTE: The docket number 06-2021-3368 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number 06-2021-3368. Respondent's adherence to this request will ensure proper credit is given when penalties are received for Region 6. Respondent shall also email a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following email addresses:

Prince Nfodzo, Enforcement Officer
U.S. EPA Region 6
Nfodzo.Prince@epa.gov

And

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

34. Respondent agrees to pay the following on any overdue EPA Penalty:
- a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).
 - b. Nonpayment of Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the

penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph (a) of this Paragraph.

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

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

- a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- b. collect the above-referenced debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- c. suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

c. Conditions of Settlement

37. Within thirty (30) days of the Effective Date of this CAFO, Respondent will select an independent third-party auditor (the "Auditor") who satisfies the Auditor Qualifications listed in Section I of Attachment B to perform the Independent Audit described in Paragraph 39.

38. Respondent shall bear all expenses of selecting and retaining the Auditor.

39. The Independent Audit shall consist of the following:

a. Respondent shall: (1) provide the Auditor with a copy of this CAFO and all attachments; (2) grant the Auditor reasonable access to the Facilities; and (3) provide or otherwise make reasonably available necessary personnel, documents, and other resources to enable the Auditor to fully perform all activities required by this CAFO.

b. Respondent shall ensure that within ninety (90) days of the Effective Date of this CAFO, the Auditor completes all permitting and operations reviews at the Facilities in accordance with Section II of Attachment B. The Auditor may conduct additional steps beyond those identified in Section II of Attachment B as part of the permitting and operations review if it determines that such steps are necessary to complete the Audit.

c. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO to assist Auditor so that within ninety (90) days of the Effective Date of this CAFO, the Auditor completes all site inspections at the Facilities in accordance with Section III of Attachment B. The Auditor may conduct additional steps beyond those identified in Section III of Attachment B as part of the site inspections if it determines that such steps are necessary to complete the Audit.

d. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO so that within sixty (60) days of the Auditor completing the

permitting and operations reviews and the site inspections described in subparagraphs (b) and (c) of this Paragraph, the Auditor completes an engineering assessment, in accordance with Section IV of Attachment B at each Facility. The Auditor may conduct additional steps beyond those identified in Section IV of Attachment B as part of the engineering assessment if it determines that such steps are necessary to complete the Audit.

e. Respondent shall work with the Auditor in a commercially reasonable manner consistent with this CAFO so that within sixty (60) days of the Auditor completing the work described in subparagraph (d) of this Paragraph, the Auditor simultaneously provides a report of the Audit (the "Audit Report") to EPA and Respondent which includes, at a minimum, the information identified in Section V of Attachment B.

f. If the Auditor provides a draft of the Audit Report to Respondent, it must simultaneously also provide a copy of the draft to EPA.

g. Respondent shall not assert that any documents reviewed, cited, or relied on by the Auditor and the audit team in undertaking the Audit are privileged as attorney-client communications or attorney work products, even if written for or reviewed by legal staff.

h. As soon as possible, but no later than ninety (90) days of receipt of the Audit Report, Respondent shall send a letter report to EPA ("Letter Report") containing all information identified in Section VI of Attachment B and describing the implementation of any of the examples of best management practices identified in Section VII of Attachment B. The Letter Report shall be emailed to:

Prince Nfodzo, Enforcement Officer
U.S. EPA Region 6
Nfodzo.Prince@epa.gov

40. EPA reserves the right to pursue enforcement of any violations identified as a result of the Audit.

d. Additional Terms of Settlement

41. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 37-39 of this CAFO are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

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

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

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

45. By signing this CAFO, both parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.

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

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

To EPA: tripathi.arati@epa.gov

To Respondent: llandreth@gablelaw.com

48. Respondent specifically waives its right to seek reimbursement of its costs and attorneys' fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 35 of this CAFO, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

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

50. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 37-39 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 37-39, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the CAA, pursuant to contract law, or both.

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

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

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

54. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$102,638 per day of violation, or both, as provided in Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

55. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

56. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

57. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 37-39 is restitution, remediation, or required to come into compliance with the law.

H. EFFECTIVE DATE

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

The foregoing Consent Agreement In the Matter of Resolute Natural Resources Co., LLC,
Docket No. 06-2021-3368, is Hereby Stipulated, Agreed, and Approved for Entry.

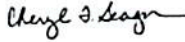
FOR RESPONDENT:

Date : 9/8/2021



Stuart A. Wittenbach
Director of Environmental Safety & Health
Resolute Natural Resources Co., LLC

FOR COMPLAINANT:



Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
em=CHERYL.SEAGER,
o=92542192003001001146001003651793
Date: 2021.09.08 15:11:15 -0500

Cheryl T. Scager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

Attachment A

Facilities

Site Identity	TCEQ Regulated Entity No.	Permit Number
PBTX430-Capote CTB	RN110635539	156558
PBTX430-Ranger Battery	RN109822049	161470
PBTX430-North Mitre/Goat (AKA South Appaloosa)	RN109761296	146509
PBTX430-Boucher/Uinta Battery	RN109985804	160979
PBTX430-Boucher Vertical Battery	N/A	N/A
PBTX430-Renegade/Queen City/Steamworks Battery	RN111042131	161363

Attachment B

I. Auditor Qualifications

The Auditor shall satisfy the following independence requirements:

1. The Auditor shall be impartial and independent in conducting all third-party audit activities.
2. The Auditor shall receive no compensation or financial benefit from the outcome of the audit, apart from payment for auditing services.
3. The Auditor shall be:
 - a. Knowledgeable about all regulatory requirements and technical elements related to oil and gas production facilities.
 - b. Experienced with oil and gas production facilities and with all applicable and generally accepted good engineering practices.
 - c. Trained or certified in proper auditing techniques.
4. If the Auditor has performed work for Respondent within the last two (2) years as of the effective date of the contract or agreement between Respondent and the Auditor (the phrase "performed work" shall not include being an auditor in an independent third-party audit that meets the requirements of independence described in this Consent Order), the Auditor may not perform elements of the Independent Audit on the same equipment or processes.
5. Respondent may not hire, as either employees or contractors, the Auditor or audit team members for a period of two (2) years following the submission of the final audit report from the Auditor to Respondent (the phrase "hire" shall not include being an auditor in an independent third-party audit that meets the requirements of independence described in this CAFO).
6. The Auditor and audit team members shall each sign and date a conflict of interest statement verifying that they are eligible to perform the audit under the terms of this CAFO.
7. Retired employees who otherwise satisfy the requirements of independence may qualify as independent if their sole continuing financial attachment to Respondent are employer-financed or managed retirement and/or health plans.

II. Permitting and Operations Review

The permitting and operations review shall consist, at a minimum, of the following:

1. For any Facilities acquired in the six (6) months prior to the flyover, obtain and review appropriate historical environmental compliance documentation for each site to ascertain potential on-going compliance issues for all equipment and process controls at the Facilities. Records to review may include, but are not limited to the following: permit applications by former owners, equipment inventories provided by former owners or completed as part of the new acquisition, excess emissions reports, flare operation records, leak detection and repair (“LDAR”) survey reports, federal rule reporting and exemption status (e.g., New Source Performance Standards (“NSPS”) Subparts OOOO and OOOOa reporting, etc.), spill and emergency response plans and records, well-completion information, and other information necessary to confirm the compliance status of all Facility operations. Ensure that appropriate documentation, such as the Change of Name/Ownership Form, have been submitted to the Texas Commission on Environmental Quality (“TCEQ”).

2. For all the Facilities, review current permit representations (i.e., applications), current equipment inventories, current reported production and emissions data (for all operating scenarios), and all maintenance and operating logs and repair/replacement work orders generated within the eighteen (18) months preceding the Effective Date (including those available from past owners), in order to evaluate and ascertain current or possible recurring non-compliance issues associated with equipment and process controls at the Facilities.

III. Site Inspections

The site inspections shall consist, at a minimum, of the following at each Facility:

1. For all tanks:
 - a. Inspect and evaluate oil and water storage tanks and associated hatches, valves, gaskets, and pressure relief devices.
 - b. Evaluate whether the materials used are compatible with the gas compositions and whether they will deteriorate at unexpected rates.
 - c. Evaluate whether emergency pressure relief devices are set at the proper pressure set points.
2. For all flares and vapor combustion units (“VCUs”)
 - a. Evaluate whether flares and VCUs are operating with a continuous pilot flame and that flame arrestors are properly installed.
 - b. Evaluate whether technology upgrades should be made to the flares and VCUs.

c. Evaluate whether reconfiguration of flare tips and installation of thermocouples with Supervisory Control and Data Acquisition capability, auto ignitors with pilots, air assist packages, and pressure gauges for flame arrestors would be appropriate.

3. Evaluate the operation of tanks, separators, compressors, vapor recovery units/towers, and other operational equipment.

4. Inspect and address liquid leaks and staining at the well and production pad site, particularly near well heads, flares, VCUs, storage tanks, and separators.

5. Evaluate whether equipment inventories and process operational descriptions for each site are current.

6. Evaluate whether there are unauthorized emissions during normal operations (e.g., conduct optical gas imaging survey to detect and correct any gas leaks or fugitive emissions).

IV. Engineering Assessment

The engineering assessment shall consist, at a minimum, of the following at the Facilities:

1. Use condensate and gas samples, equipment inventories, and production rates to perform process flow modeling (e.g., ProMax modeling) and evaluate whether site equipment and design sufficiently address vapor emissions and meet regulatory requirements.

2. Evaluate whether all emissions sources, including process equipment fire tubes, gas aspirated generators, pneumatic pumps, and pneumatically actuated control valves, have been identified and accounted for in determining total emissions.

3. Based on the preliminary compliance review and site inspections, re-evaluate whether the Facilities are properly permitted and determine whether Respondent should prepare permit applications or revisions.

4. Evaluate whether flares are operated and maintained in conformance with their designs, including recommendations and specifications provided by the flare manufacturers, and in a manner consistent with good air pollution control practices for minimizing emissions.

5. Use engineering assessment results to revise the equipment specifications and process configuration to ensure vapor control systems, where required, adequately handle maximum instantaneous vapor emissions, including working, breathing, or flashing losses from the tank batteries.

6. Based on preliminary compliance review, site inspections, and engineering assessments, evaluate the sufficiency of each Facility's spill containment adequacy and retention capacity.

V. Audit Report Requirements

The Audit Report shall, at a minimum, comply with the following:

1. Explain the audit scope, provide a summary of the audit process, and explain any obstacles encountered.
2. State the period of time covered by the Audit and list the date(s) any on-site portion of the audit was conducted.
3. Identify the audit team members, including names, titles, and summaries of qualifications.
4. Identify any representatives of EPA or Respondent who observed any portion of the Audit.
5. Identify the recipients of the Audit Report.
6. Include a written explanation of the instances of non-compliance noted during the Audit, and the areas of concern identified during the course of the audit, regardless of whether, in the Auditor's judgement, they require corrective action or merit further review or evaluation for potential environmental or regulatory impacts ("Audit Findings").
7. Contain an explanation of the basis for each of the Audit Findings.
8. Include any necessary corrective actions for Respondent to take in order to address the Audit Findings and to improve its programs, procedures, or policies so that they are consistent with the EPA EMS Guidance and improve environmental performance.
9. Include a summary of Respondent's comments on, and identify any adjustments made by the Auditor to, any draft of the Audit Report provided by the Auditor to Respondent for review and comment.
10. Identify any Audit Findings corrected during the Audit, including a description of the corrective measures and when they were implemented.
11. Include, if possible, an estimate of the total emission reductions for each corrective action or improvement that should be taken by Respondent.

12. Include the following certification, signed and dated by the Auditor or supervising manager for the Audit:

I certify that this compliance audit report was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted, and this report was prepared, pursuant to all applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.

VI. Letter Report Requirements

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

1. A copy of the final Audit Report.
2. An appropriate response to each of the Audit Findings.
3. A description of the following steps that Respondent has taken or will take in response to the Audit Findings:
 - a. A schedule for promptly addressing deficiencies.
 - b. A list of new equipment and piping to be procured, including flares, combustors, vapor recovery units/towers, tank hatches, pressure relief valves, piping, and gaskets.
 - c. The repair, replacement, upgrading, and/or installation of equipment, including vapor recovery units/towers, flares, combustors, tank pressure relief valves, tank hatches and gaskets, and compressors.
 - d. The replacement of any piping, valves, flame arrestors, or other equipment that is inadequately sized for the flow of condensate and volume of emissions.
 - e. The addition, upgrading, or replacement of spill containment capability.
4. Confirmation that there are no unauthorized emissions during normal operations for newly installed equipment (e.g., conduct optical gas imaging survey to detect and correct any gas leaks or fugitive emissions).

5. A statement of whether Respondent is applying for, or will apply for, new or modified permits, repairing or replacing any equipment in accordance the Audit Findings, and implementing any of the examples of best management practices identified in Section VII of Attachment B.

6. An estimation of the total emission reductions for specific actions taken or improvements made or planned to be made.

7. A certification, signed and dated by a senior corporate officer or other officer in an equivalent position of Respondent (who may be Respondent's Director of Environmental Safety & Health), stating:

I certify under penalty of law that that the attached compliance audit report was received, reviewed, and responded to under my direction or supervision by qualified personnel. I further certify that appropriate responses to the findings have been identified and deficiencies were corrected, or are being corrected, as documented herein. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.

VII. Examples of Best Management Practices

1. Integrate newly acquired facilities into Respondent's environmental compliance management system that includes some or all of the following:

a. Ensure all NSPS and National Emission Standards for Hazardous Air Pollutants ("NESHAP") regulated units are identified in, and integrated into, the new owner's compliance management system.

b. Ensure all facilities are integrated into the new owner's programs for managing solid waste and naturally-occurring radioactive material ("NORM").

c. Ensure all spill and emergency response plans conform to regulatory requirements for such programs.

d. Confirm that operator responsibilities and priorities, facility inspection and repair protocols, and other best practices manuals and checklists are being utilized at the newly-acquired facilities.

2. Implement an emission surveillance program that includes some or all of the following:

a. Develop a standard program for inspecting well sites and equipment with optical gas imaging cameras to confirm that each site has adequate vapor control systems.

b. Perform regular surveys with optical gas imaging cameras to detect leaks and fugitive emissions; ensure surveys and survey frequency comply with federal and state requirements.

c. Regularly inspect flares to ensure proper ignition and burning of emissions; ensure flare inspections and inspection frequency comply with federal and state requirements.

d. Ensure proper functioning of flares and the presence of a pilot flame.

3. Implement an operation and maintenance program that includes some or all of the following to maintain compliance:

a. Conduct training to ensure immediate and long-term compliance with environmental laws and regulations.

b. Establish document generation and retention protocols, personnel roles and responsibilities, safety protocols, and work order systems to ensure problems are timely identified and addressed.

c. Conduct regular inspections with standard site inspection checklist that includes evaluation of: well pad, flares, separators, heater treaters, tank batteries, compressors, fuel skid, well heads, spill containment, solid waste and chemical storage, and miscellaneous facility-wide operations.

d. Consider system re-designs as changes in operating conditions occur.

e. Implement a quality control program that addresses the quality, efficiency, and performance of facility maintenance activities.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

Resolute Natural Resources Co., LLC
Tulsa, Oklahoma

RESPONDENT

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DOCKET NO. 06-2021-3368

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

Resolute Natural Resources Co., LLC is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

THOMAS
RUCKI

Digitally signed by THOMAS RUCKI
DN: cn=US, o=U.S. Government,
ou=Environmental Protection Agency,
email=THOMAS.RUCKI,
c=US
Date: 2021.09.28.16:35:46 -0500

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that, on the date in the electronic signature below, an electronic copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and a true and correct copy was delivered to the following individual by the method indicated below:

EMAIL - READ RECEIPT REQUESTED

Resolute Natural Resources Co., LLC
Attn: Lloyd Landreth
100 West 5th Street
Tulsa, OK 74103-4217
llandreth@gablelaw.com

ARATI
TRIPATHI

Digitally signed by ARATI TRIPATHI
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=ARATI TRIPATHI,
0 9 2342.19200.300.100.1.1+68001003655634
Date: 2021.09.08.17.05.18 -0500

U.S. EPA, Region 6
Dallas, Texas