



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

August 29, 2013

John C. Mollenkopf  
Chief Operating Officer  
MarkWest Javelina Company, L.L.C.  
1515 Arapahoe Street  
Tower 1, Suite 1600  
Denver, CO 80202

Re: In the Matter of MarkWest Javelina Company, L.L.C.,  
Corpus Christi, Nueces County, Texas, EPA Docket No. CAA-06-2013-3345

Dear Mr. Mollenkopf,

Please find enclosed a copy of the fully-executed Complaint and Consent Agreement and Final Order (CAFO) that was filed today with the Regional Hearing Clerk in EPA Region 6. MarkWest Javelina Company, L.L.C. (MarkWest) will have thirty (30) days from the effective date of the CAFO to pay the civil penalty of Ninety-Seven Thousand and Five Hundred Dollars (\$97,500). MarkWest must also comply with the Additional Terms of Settlement under the timetable described in the document.

Should you have any questions, please feel free to contact Andrea Carrillo, Assistant Regional Counsel, at (214) 665-8144. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins".

John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure

Cc: CT Corporation System  
350 North St. Paul Street  
Suite 2900  
Dallas, TX 75201-4234

Michael De La Cruz  
Air Section Manager, Enforcement Division  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

FILED

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

2013 AUG 29 PM 1:43

REGIONAL HEARING CLERK  
EPA REGION VI

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IN THE MATTER OF:

MARKWEST JAVELINA  
COMPANY, L.L.C.

CORPUS CHRISTI, TEXAS

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EPA DOCKET NO.  
CAA 06-2013-3345

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**COMPLAINT AND  
CONSENT AGREEMENT AND FINAL ORDER**

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency, Region 6 (“Complainant” or “EPA”), and MarkWest Javelina Company, L.L.C. (“Respondent” or “MarkWest”) in the above referenced action, have agreed to resolve this matter through issuance of this Complaint and Consent Agreement and Final Order (“Complaint” or “CAFO”).

**I. PRELIMINARY STATEMENT**

1. This proceeding is for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act, as amended (“CAA” or “the Act”), 42 U.S.C. § 7413(d), and for additional terms of settlement as agreed to by Respondent. This proceeding was instituted by the issuance of a Complaint and Notice of Opportunity for Hearing incorporated herein, and is simultaneously concluded by the issuance of this CAFO against Respondent pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b), and 22.34.

2. The Complaint alleges that Respondent violated regulations promulgated under the CAA at its Javelina Processing Facility, a gas processing facility located in Corpus Christi, Nueces County, Texas ("Facility").

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Complaint; however, Respondent neither admits nor denies the specific factual allegations contained in this Complaint.

4. Respondent has entered into this CAFO to resolve this matter and to avoid the necessity of litigation. Except as provided in Paragraph 3, nothing herein shall be deemed an admission against Respondent in this matter, or for any purpose in any other matter.

5. Respondent consents to the issuance of this CAFO hereinafter recited and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and agrees to perform the additional terms of settlement set forth in Paragraphs 54 through 77 of this CAFO.

6. For purposes of this proceeding, Respondent waives any right to contest the allegations in the CAFO and its right to appeal the Final Order set forth herein, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

7. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

8. Nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other federal, state, or local agencies or departments, to obtain penalties or injunctive relief under other federal, state, or local laws or regulations.

9. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this Complaint.

10. Respondent represents that the party signing this CAFO on behalf of Respondent is duly authorized to legally bind the Respondent to the terms and conditions of this CAFO.

11. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns, including, but not limited to, subsequent purchasers. Nothing in the previous sentence shall adversely affect any right of EPA under applicable law to assert successor or assignee liability against Respondent's successor or assignee, even if not owned in whole or in part, directly or indirectly, by Respondent.

## **II. STATUTORY AND REGULATORY BACKGROUND**

12. Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1), states that the statute is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population.

13. Section 111(b)(1)(A) of the CAA, 42 U.S.C. § 7411(b)(1)(A), requires the Administrator of the United States Environmental Protection Agency to publish a list of categories of stationary sources that in his judgment cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare.

Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), requires EPA to publish standards of performance for new sources (NSPS) within each such category.

14. On October 18, 1983, EPA published NSPS Subpart VV, 40 C.F.R. Part 60, Subpart VV, §§ 60.480-60.489, the Standards of Performance for Equipment Leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006.

15. 40 C.F.R. § 60.480(a)(1) defines that NSPS Subpart VV applies to affected facilities in the SOCMI.

16. 40 C.F.R. § 60.481 defines SOCMI to mean the industry that produces, as intermediates or final products, one or more of the chemicals listed in 40 C.F.R. § 60.489.

17. 40 C.F.R. § 60.480(a)(2) defines affected facility as the group of all equipment, defined in 40 C.F.R. § 60.481 as each pump, compressor, pressure relief device, sampling connector system, open-ended valve or line, valve, and flange or other connector in VOC service and any devices or systems required by Subpart VV, within a process unit.

18. 40 C.F.R. § 60.482-10(d) requires that all flares used to comply with Subpart VV must comply with 40 C.F.R. § 60.18 of NSPS General Provisions, Subpart A.

19. NSPS General Provisions, Subpart A, are set forth at 40 C.F.R. Part 60, Subpart A, §§ 60.1-60.19.

20. On January 21, 1986, EPA published 40 C.F.R. § 60.18 of Subpart A, which sets forth requirements for general control device and work practice, including operation of flares as control devices.

21. 40 C.F.R. § 60.18(c)(3)(ii) requires that steam- or air-assisted flares must maintain the net heating value of the gas being combusted at 11.2 MJ/scm (300 Btu/scf) or greater.

22. 40 C.F.R. § 60.18(c)(1) requires flares to be operated with no visible emissions, except for periods not to exceed 5 minutes during any 2 consecutive hours.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23. Respondent is a Texas limited liability corporation authorized to do business in the State of Texas.

24. Respondent is a “person” as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. §7413(d).

25. At all times relevant to this CAFO, Respondent owned and operated the Facility, a gas processing facility located at 5438 Union Street, Corpus Christi, Texas.

26. Respondent is the owner and operator of the Facility within the meaning of the CAA, Section 111(a)(5), 42 U.S.C. § 7411(a)(5), and 40 C.F.R. § 60.2.

27. The Facility is a “stationary source” as that term is defined at Section 111(a) of the Act, 42 U.S.C. § 7411(a), and 40 C.F.R. § 60.2.

28. Construction of the Facility was completed in 1990.

29. The Facility produces ethane, ethylene, propane, propylene, hydrogen, and butane.

30. The Facility is part of the “SOCMI” industry, as that term is defined in 40 C.F.R. §§ 60.481 and 60.489.

31. The Facility includes “affected facilities” and “equipment” subject to NSPS Subpart VV, 40 C.F.R. Part 60 §§ 60.480-60.489, as those terms are defined in 40 C.F.R. §§ 60.480(a)(1)-(2) and 60.481.

32. The Facility is equipped with one air-assisted flare, which is operated as a pollution control device to comply with NSPS Subpart VV (“Facility Flare”).

33. The Facility Flare is a pollution control device subject to 40 C.F.R. Part 60,

Subpart A, including § 60.18(c)(3)(ii) and § 60.18(c)(1).

34. On January 28, 2013, EPA requested various records concerning the Facility Flare from MarkWest via electronic mail.

35. On February 15, 2013, MarkWest sent EPA the requested records, which included records of the net heating value of the gas being combusted at the Facility Flare and records regarding visible emissions of the Facility Flare.

36. The records MarkWest provided in Paragraph 35 above documented that the Facility Flare did not meet the 300 Btu net heating value of gas being combusted on at least six days, and that the Facility Flare had visible emissions for periods that exceeded 5 minutes during any 2 consecutive hours on at least six days, from September 1, 2012, to January 30, 2013.

37. MarkWest has informed EPA that MarkWest intends to perform and complete piping and other modifications to divert the Air Products hydrogen stream from the Facility Flare by making reasonable efforts to complete this project within nine (9) months of the effective date of the CAFO, but in any event shall complete this project within 12 months of the effective date of the CAFO.

#### **IV. VIOLATIONS**

38. Respondent owns and operates a stationary source with a pollution control device, the Facility Flare, that is regulated under 40 C.F.R. Part 60, Subpart A (General Provisions).

39. The referenced flare must comply with 40 C.F.R. § 60.18(c)(3)(ii).

40. 40 C.F.R. § 60.18(c)(3)(ii) requires that steam- or air-assisted flares must maintain the net heating value of the gas being combusted at 11.2 MJ/scm (300 Btu/scf) or greater.

41. The referenced flare must comply with 40 C.F.R. § 60.18(c)(1).

42. 40 C.F.R. § 60.18(c)(1) requires flares to be operated with no visible emissions, except for periods not to exceed 5 minutes during any 2 consecutive hours.

A. COUNT 1: Flare Failed to Maintain Required Net Heating Value

43. At the Facility, on at least six days from September 1, 2012, to January 30, 2013, the Facility Flare did not maintain the net heating value of the gas being combusted at 11.2 MJ/scm (300 Btu/scf) or greater.

44. As a result, the Respondent failed to operate the Facility Flare with the required combusted gas net heating value, and has, therefore, violated 40 C.F.R. § 60.18(c)(3)(ii).

B. COUNT 2: Flare Failed to Operate With No Visible Emissions

45. At the Facility, on at least six days from September 1, 2012, and January 30, 2013, the Facility Flare was not operated without visible emissions, visibly smoking for periods that exceeded 5 minutes during any 2 consecutive hours.

46. As a result, the Respondent failed to operate the Facility Flare with the required no visible emissions, except for periods not to exceed 5 minutes during any 2 consecutive hours, and has, therefore, violated 40 C.F.R. § 60.18(c)(1).

**V. CIVIL PENALTY AND TERMS OF SETTLEMENT**

A. Civil Penalty

47. For the reasons set forth above, Respondent has agreed to pay a civil penalty which has been determined in accordance with Sections 113(d) of the Act, 42 U.S.C. § 7413(d), which authorizes EPA to assess a civil penalty of up to twenty-five thousand dollars (\$25,000) per day for each violation of the CAA.<sup>1</sup>

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<sup>1</sup> The Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701 provides for increases in the statutory penalty provisions (\$25,000) cited in the Clean Air Act Stationary Source Civil Penalty Policy dated

48. 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, the violator's full compliance history and good faith efforts to comply, the duration of the violation, whether there were any payments by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, specific facts and equities, litigation risks, and other factors as justice may require, INCLUDING Respondent's agreement to perform the additional terms of settlement set forth below, it is ORDERED that Respondent be assessed a civil penalty in the amount of Ninety-Seven Thousand and Five Hundred Dollars (\$97,500.00).

49. Within thirty (30) days of the effective date of this fully executed CAFO, Respondent shall pay the assessed civil 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: regular U.S. Postal Service mail, to include certified mail; overnight mail; wire transfer; Automated Clearinghouse for receiving US currency; or On Line Payment. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

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

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October 25, 1991 (CAA Penalty Policy). It provides for up to \$25,000 per day of violation for violations occurring on or before January 30, 1997; up to \$27,500 per day for each violation occurring after January 30, 1997 through March 15, 2004; up to \$32,500 per day for each violation occurring after March 15, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring after January 12, 2009.

For overnight mail (non-U.S. Postal Service, e.g. FedEx), the check(s) 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, the 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 On Line Payment:

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

PLEASE NOTE: The docket number CAA 06-2013-3345 shall be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter and shall

reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter below to the following:

Diana Lundelius  
Enforcement Officer (6EN-AA)  
Air Enforcement Section  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue Suite 1200  
Dallas, TX 75202-2733  
lundelius.diana@epa.gov;

Lorena Vaughn  
Region 6 Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

50. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

51. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will 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. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the

Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

52. EPA will also assess a fifteen dollar (\$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 fifteen dollars (\$15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

53. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis, a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

#### B. Additional Terms of Settlement

54. By no later than 12 months after the effective date of the CAFO, and by making all reasonable efforts to complete within 3 months of the effective date of the CAFO, MarkWest shall install all equipment necessary for automation of the Btu controller, and begin operation of the automated Btu controller, on the Facility Flare. The automated Btu controller as installed

shall receive information from the calorimeter, which measures the Btu content of gas flowing into the main flare header, and shall then, as necessary, use purchase gas to adjust the Btu in the flare header to ensure that the net heating value of the gas being combusted at the Facility Flare shall be 300 Btu/scf or greater. MarkWest shall calibrate the calorimeter according to manufacturer specifications.

55. By no later than 12 months after the effective date of the CAFO, MarkWest shall install a Vapor Recovery Unit for the propane refrigeration unit at the Facility.

56. By no later than 12 months after the effective date of the CAFO, and by making all reasonable efforts to complete within 6 months of the effective date of the CAFO, MarkWest shall install redundant shutdown switches on the propane and ethylene refrigeration compressors at the Facility for pressure, temperature, and level.

57. By no later than 12 months after the effective date of the CAFO, and by making all reasonable efforts to complete within 6 months of the effective date of the CAFO, MarkWest shall install a machinery protection and condition monitoring system upgrade at the Facility, which will provide continuous, on-line monitoring of vibration and temperatures on the propane and ethylene refrigeration compressors. This upgrade shall include a new monitoring system, software, cables and probes.

58. By no later than 12 months after the effective date of the CAFO, and by making all reasonable efforts to complete within 6 months of the effective date of the CAFO, MarkWest shall install a flow detection monitoring system throughout the flare header system at the Facility Flare to detect emissions entering the flare header.

59. By no later than 3 months after the effective date of the CAFO, MarkWest shall identify and compile additional management practices for the operations of the sulfur recovery

unit (“SRU”) and the incinerator at the Facility, and shall incorporate these additional management practices into standard operating practices (“SOPs”) for the operations of the SRU and the incinerator at the Facility, which may include improvements such as sampling, washing, and tuning requirements.

60. MarkWest shall engage a third party contractor as part of MarkWest’s evaluation of the Facility’s SRU and incinerator. By no later than 90 days after the effective date of the CAFO, MarkWest shall provide the third party contractor’s Final Report to EPA. In the event that MarkWest cannot provide the third party contractor’s Final Report to EPA by the date required in this paragraph due to circumstances beyond MarkWest’s control, MarkWest shall:

- a. provide a written explanation to EPA of such circumstances, and shall provide a revised date of submittal, if possible, to EPA consistent with such circumstances; and
- b. provide an oral briefing to EPA summarizing the third party contractor’s work to date.

61. By no later than 120 days after the effective date of the CAFO, MarkWest shall provide a Proposed Facility SRU/Incinerator Improvements Plan to EPA, which shall include only projects that: 1) shall increase reliability of the SRU and/or incinerator, and 2) shall not increase emissions from the Facility.

62. By no later than 12 months after the effective date of the CAFO, MarkWest shall spend at least \$650,000 to improve the reliability of the SRU and/or the incinerator at the Facility, and/or to reduce or eliminate flaring associated with the Facility’s SRU. MarkWest ensures that the completed projects performed under this section by MarkWest shall increase the reliability of the SRU and/or the incinerator, and ensures that the completed projects shall not

increase the emissions from the Facility. At all times, MarkWest shall also comply with all applicable local, state, and federal statutory and regulatory requirements, including permitting requirements.

63. Of the \$650,000 to be spent by MarkWest under Paragraph 62 above, at least \$600,000 shall be spent on the following types of costs and expenses at the Facility: physical equipment, hardware, third party labor, and/or construction-related costs and expenses. “Construction-related costs and expenses” shall not include the following types of costs and expenses: third party contractor costs associated with contractor work referenced in Paragraph 60 above, permit costs, attorney costs, or MarkWest’s internal costs.

64. By no later than 12 months after the effective date of the CAFO, MarkWest shall submit to EPA a report accounting for the \$650,000 spent according to Paragraph 62 above. Respondent certifies that the signing representative will be fully authorized by Respondent to certify that the money was spent as detailed in the report submitted pursuant to this paragraph, and that the report shall include the following statement:

- a. I certify under penalty of law that I have examined and am familiar with the information submitted in this document and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

65. The report and certification required by Paragraph 64 above shall be sent to:

Diana Lundelius  
Enforcement Officer (6EN-AA)  
Air Enforcement Section  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733  
lundelius.diana@epa.gov

66. By no later than 12 months after the effective date of the CAFO, and by making all reasonable efforts to complete within 6 months of the effective date of the CAFO, MarkWest shall install an additional infrared (“IR”) camera at the Facility Flare.

67. By no later than 3 months after the effective date of the CAFO, MarkWest shall adopt SOPs for the Facility’s IR cameras and flare pilot system that shall include the following, or substantively equivalent, requirements:

- a. Install visual and audible alarms at the operator control panel that will provide immediate notification if the IR camera or cameras detect that the flare pilot flame(s) goes out. The alarm notifications will be separate from, and in addition to, any routine visual observations that are made by operations personnel.
- b. Update the manufacturer’s manual of instruction for the IR cameras with additional information on the visual and audible alarms, a diagram of the locations and configuration of the cameras in relation to the pilot flames, and the location where the data is displayed.
- c. Provide updated operator training on monitoring and inspection of the flare pilot flames and IR camera system.

- d. Establish a consistent recordkeeping system for noting the absence of the flare pilot flames. If the IR camera or cameras detect pilot flame failure, operations personnel will investigate/visually inspect to determine if pilot flame failure exists or if the detection is due to IR camera failure. Operators will document their findings in the shift supervisor's log and on the daily flare inspection form. If the IR cameras or an IR camera fail or require maintenance attention, operations personnel will write a work order to make necessary repairs/replacement. If flare pilot(s) are found to be not operating, operations personnel will begin the process to relight the flare pilot(s), and will notify MarkWest Incident Command, the Plant Manager, Operations Manager, Maintenance Manager, and Safety and Health Coordinators. Operations personnel shall record in the shift supervisor's log and the daily flare inspection form dates/times when the absence of a pilot flame was detected, the time duration that the pilot flame was absent, and the actions taken in response to an IR camera detection of potential pilot flame failure. The daily flare inspection forms shall be prepared by the operator conducting the visual observation, and shall be reviewed and approved by either a supervisor or manager.
- e. Establish an electronic database system for inspection, maintenance and recordkeeping for the IR cameras and the flare pilot system. Inspection and maintenance work orders shall be managed in the electronic database system, which allows work orders to be written on an episodic basis, and which identifies and retains records of work order progression, maintenance details, work order

tracking and the history of prevention, maintenance, repairs and upgrades on the IR cameras and flare pilot system.

- f. The electronic database system's maintenance for the IR cameras shall be performed on a monthly basis, and shall consist of the following, or a substantially equivalent set of, requirements:
- i. Notify Operations to obtain a Work Permit;
  - ii. Visually inspect lens to assure that it is free of dirt or debris (Clean if necessary);
  - iii. Visually inspect wiring and check for loose connections;
  - iv. Cover the optics with any non-reflecting object to prevent reflections from the sun;
  - v. Measure both voltage/current and record readings;
  - vi. Zero the amplifier board according to steps outlined in the IR camera's pilot monitor calibration procedures;
  - vii. Verify the 4-20 milliamp ("ma") output from the monitor to the control room while monitor is covered to assure the operator receives a "Flame Out" alarm in the Data Control System ("DCS") alarm summary and 4-20 ma output is "0.00";
  - viii. Remove cover and verify 4-20 ma signal to the DCS (Target is 100%);
  - ix. Document "as found" and "as left" readings and any calibration adjustments made; and
  - x. Return IR monitor back in service and return permits to Operations.

68. MarkWest shall meet with Corpus Christi community representatives in an open public meeting on a quarterly basis during the year after the effective date of the CAFO.

69. By no later than 3 months after the effective date of the CAFO, MarkWest shall establish a dedicated phone number to answer community questions regarding flare events at the Facility. The number shall be staffed by non-operator personnel 24 hours a day, 7 days a week, 365 days a year. To the extent that the person assigned to answer the calls cannot answer a question immediately, he or she shall commit to respond by telephone to the caller within a reasonable specified time communicated to the caller.

70. By no later than 12 months after the effective date of the CAFO, MarkWest shall provide a total payment of no less than \$15,000 towards the costs of the Reverse Alert Notification Mass Notification system of the City of Corpus Christi/Nueces County Local Emergency Planning Committee ("LEPC"), and/or to the costs of the Blueprint Survey of the LEPC.

71. By no later than 12 months after the effective date of the CAFO, MarkWest shall submit to EPA a report accounting for the \$15,000 spent according to Paragraph 70 above. Respondent certifies that the signing representative will be fully authorized by Respondent to certify that the money was spent as detailed in the report submitted pursuant to this paragraph, and that the report shall include the following statement:

- a. I certify under penalty of law that I have examined and am familiar with the information submitted in this document and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is, to the best of my knowledge, true, accurate, and complete. I

am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

72. The report and certification required by Paragraph 71 above shall be sent to:

Diana Lundelius  
Enforcement Officer (6EN-AA)  
Air Enforcement Section  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733  
[lundelius.diana@epa.gov](mailto:lundelius.diana@epa.gov)

73. By no later than 12 months after the effective date of the CAFO, MarkWest shall provide a total payment of \$15,000 towards the costs of hazardous materials training for the Corpus Christi Fire Department.

74. By no later than 12 months after the effective date of the CAFO, MarkWest shall submit to EPA a report accounting for the \$15,000 spent according to Paragraph 73 above. Respondent certifies that the signing representative will be fully authorized by Respondent to certify that the money was spent as detailed in the report submitted pursuant to this paragraph, and the report shall include the following statement:

- a. I certify under penalty of law that I have examined and am familiar with the information submitted in this document and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

75. The report and certification required by Paragraph 74 above shall be sent to:

Diana Lundelius  
Enforcement Officer (6EN-AA)  
Air Enforcement Section  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733  
[lundelius.diana@epa.gov](mailto:lundelius.diana@epa.gov)

76. By no later than one year after the effective date of this CAFO, Respondent shall certify to EPA completion of the additional terms of settlement in Paragraphs 54-75 above. Respondent represents that the signing representative will be fully authorized by Respondent to certify that the terms and conditions of this CAFO have been met. The certification should include the following statement:

- a. I certify under penalty of law that I have examined and am familiar with the information submitted in this document and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

77. The certification required by Paragraph 76 above shall be sent to:

Diana Lundelius  
Enforcement Officer (6EN-AA)  
Air Enforcement Section  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733  
[lundelius.diana@epa.gov](mailto:lundelius.diana@epa.gov)

78. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of the Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for the Respondent's violation of any applicable provision of law.

79. This CAFO shall not relieve the Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of any equipment or technology installed by the Respondent in connection with any additional settlement terms undertaken pursuant to this CAFO. Nothing in this CAFO shall be construed to prohibit or prevent the federal, state, or local government from developing, implementing, and enforcing more stringent standards through rulemaking, the permit process, or as otherwise authorized or required.

80. This document is a "Final Order" as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of "prior such violations."

#### **VI. RETENTION OF ENFORCEMENT RIGHTS**

81. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of Federal laws, regulations, statutes, or permitting programs.

82. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

#### **VII. COSTS**

83. Each party shall bear its own costs and attorneys fees.

U.S. EPA v. MarkWest Javelina Company, L.L.C.  
DOCKET NO. CAA 06-2013-3345

IT IS SO AGREED:

FOR THE RESPONDENT:

Date:

8/21/13



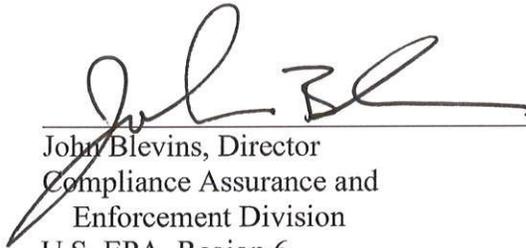
\_\_\_\_\_  
John C. Mollenkopf  
Chief Operating Officer  
Javelina Processing Facility  
MarkWest Javelina Company, L.L.C.



FOR THE COMPLAINANT:

Date:

8/28/13

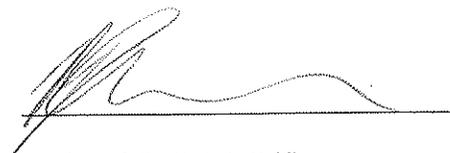


\_\_\_\_\_  
John Blevins, Director  
Compliance Assurance and  
Enforcement Division  
U.S. EPA, Region 6

**FINAL ORDER**

Pursuant to Section 113(d) of the Clean Air Act (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 foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. The successful completion of the additional terms of settlement set forth in Paragraphs 54 through 77 to this CAFO are conditions pursuant to Section 113(d)(2)(B) to the resolution of the claims set forth in Paragraphs 38 through 46 of this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as they relate to the assessment of civil penalties as set forth in the CAFO. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 8/29/13

  
Regional Judicial Officer  
U.S. EPA, Region 6

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29 day of August, 2013, the original and one copy of the foregoing Complaint and Consent Agreement and Final Order ("Complaint and CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

John C. Mollenkopf  
Chief Operating Officer  
MarkWest Javelina Company, L.L.C.  
1515 Arapahoe Street  
Tower 1, Suite 1600  
Denver, CO 80202

7007 0710 0002 1385 2450

CT Corporation System  
350 North St. Paul Street  
Suite 2900  
Dallas, TX 75201-4234

7007 0710 0002 1385 2467

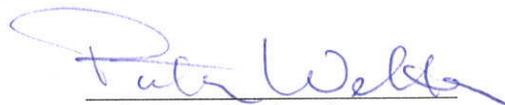
Michael De La Cruz  
Air Section Manager, Enforcement Division  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

7007 0710 0002 1385 2474

**ELECTRONIC COPY**

Donald Patterson  
Principal  
Beveridge & Diamond, P.C.

Rosario Torres  
Air Section Manager  
Corpus Christi Regional Office, TCEQ



U.S. EPA Region 6  
Dallas, Texas