

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

ENFID: 408036

In The Matter Of:

MarkWest Liberty Midstream	:	Violations of 25 Pa Code §§ 122.3 & 123.41
& Resources, L.L.C.	:	
121 Point Pleasant Rd.	:	
Bulger, PA 15019	:	

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 5th day of October 2022, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and MarkWest Liberty Midstream & Resources, L.L.C. (“MarkWest”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119 (1959), *as amended*, 35 P.S. §§ 4001-4015 (“Air Pollution Control Act”); and the rules and regulations (“Regulations”) promulgated thereunder.

B. MarkWest is a Delaware Limited Liability Company that maintains a business address 1515 Arapahoe Street, Tower 1, Suite 1600, Denver, CO 80202. MarkWest is a “person” as that term is defined in Section 3 of the Air Pollution Control Act, 35 P.S. § 4003.

C. MarkWest owns and operates the Harmon Creek Gas Plant located in Smith Township, Washington County at 121 Point Pleasant Road, Bulger, PA 15019 (“Site”) subject to the terms and conditions of General Permit 5, GP5-63-01011A (“Permit”). The Site includes, *inter alia*, the 8,134 MMBtu/hr plant flare (“Flare”).

D. The Harmon Creek Gas Plant, including the plant flare, is subject to New Source Performance Standards (NSPS). Condition #023 of the Permit states, in relevant part, “Nothing in this General Permit relieves the facility owner or operator from the obligation to comply with all applicable Federal, state and local laws and regulations including 25 Pa. Code, Subpart C, Article III (relating to air resources). Applicable Federal regulations include, but are not limited to, the following New Source Performance Standards codified at 40 CFR Part 60 (incorporated by reference in 25 Pa. Code §122.3).”

E. 40 C.F.R. § 60.18(c)(1) prohibits the operation of a flare with visible emissions for periods exceeding a total of 5 minutes during any 2 consecutive hours.

F. On April 20, 2021, a Department representative conducted two 1-hour US EPA Method 9 observations of the main plant flare at the MarkWest Harmon Creek Gas Plant.

G. From 1045 to 1145 hours, visible emissions from the main plant flare had opacity of greater than or equal to 20% for a period aggregating 23.25 minutes and opacity of greater than or equal to 60% for a period of 1 minute. From 1310 to 1410 hours, visible emissions from the main plant flare had opacity of greater than or equal to 20% for a period aggregating 32 minutes and opacity of greater than or equal to 60% for a period of 0.5 minutes.

H. 25 Pa. Code § 122.3 adopts the NSPS in its entirety. Additionally, 25 Pa. Code § 123.41, states in relevant part:

A person may not permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following:

(1) Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour.

(2) Equal to or greater than 60% at any time.

I. MarkWest violated 25 Pa. Code §§ 122.3 and 123.41 by permitting visible

emissions from the main plant flare in exceedance of the aforementioned limits.

J. A Notice of Violation identifying the violations set forth in Paragraph I, above, was sent to MarkWest on April 23, 2021.

K. The violations identified in Paragraph I, above, constitute unlawful conduct under Section 8 of the Air Pollution Control Act, 35 P.S. § 4008, and a public nuisance under Section 13 of the Air Pollution Control Act, 35 P.S. § 4013, and subjects MarkWest to a claim for civil penalties under Section 9.1 of the Air Pollution Control Act, 35 P.S. § 4009.1.

After full and complete negotiations of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by MarkWest as follows:

1. Assessment. In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 9.1 of the Air Pollution Control Act, 35 P.S. § 4009.1, the Department hereby assesses a civil penalty of Five Thousand Four Hundred Dollars (\$5,400.00), which MarkWest hereby agrees to pay.

2. Civil Penalty Settlement. MarkWest consents to the assessment of the civil penalty assessed in Paragraph 1, which shall be paid in full upon signing this CACP. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraph I, above. The payment shall be by corporate check or the like, made payable to "Commonwealth of Pennsylvania, Clean Air Fund" and sent to the Air Quality Program Manager, Department of Environmental Protection, 400 Waterfront Drive Pittsburgh, PA 15222-4745.

3. Findings.

a. MarkWest agrees that the findings in Paragraphs A through K are true and correct and, in any matter or proceeding involving MarkWest and the Department, MarkWest shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.

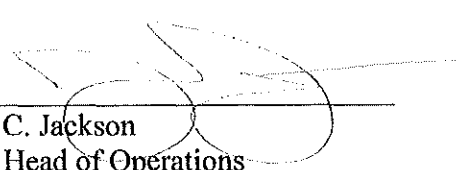
4. Reservation of Rights. The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. MarkWest reserves the right to challenge any action which the Department may take but waives the right to challenge the content or validity of this CACP.

5. Execution of Agreement. This CACP may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument and may be transmitted electronically via portable document format (.pdf).


IN WITNESS WHEREOF, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of MarkWest certify, under penalty of law, as provided by 18 Pa. C. S. § 4904, that they are authorized to execute this CACP on behalf of MarkWest, that MarkWest consents to the entry of this CACP as an ASSESSMENT of the Department; that MarkWest hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that MarkWest knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law. Signature by MarkWest's attorney certifies only that the agreement has been signed after consulting with counsel.

MarkWest Liberty
Midstream & Resources, L.L.C.:

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



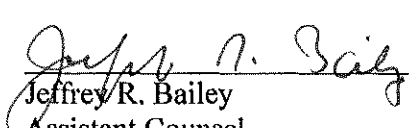
Jonathan C. Jackson
VP G&P Head of Operations



Mark R. Gorog, P.E.
Regional Manager, Air Quality Program

/s/ Jonathan M. Allen

Jonathan M. Allen
Attorney for MarkWest Liberty Midstream
& Resources, L.L.C.



Jeffrey R. Bailey
Assistant Counsel