

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

Civil Action No. 2:22-cv-00225-DBB

United States of America, and  
the State of Utah,

Plaintiffs,

v.

EP Energy E&P Company, L.P.,

Defendant.

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**CONSENT DECREE**

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WHEREAS, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), and the State of Utah, on behalf of the Utah Department of Environmental Quality (“UDEQ”), Utah Division of Air Quality (“UDAQ”) is filing a Complaint concurrently with the lodging of this Consent Decree, pursuant to Section 113(b) of the Clean Air Act (“Act”), 42 U.S.C. § 7413(b). The Complaint alleges that Defendant, EP Energy E&P Company, L.P. (“EP Energy”), from October 1, 2020 to the present, violated requirements of the Act and the Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for Which Construction, Modification, or Reconstruction Commenced After August 23, 2011 and on or before September 18, 2015, 40 C.F.R. part 60, subpart OOOO (“NSPS OOOO”); Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification, or Reconstruction Commenced After September 18, 2015, 40 C.F.R. part 60, subpart OOOOa (“NSPS OOOOa”); and provisions of approval orders (“AOs”) issued by the State of Utah pursuant to an EPA-approved permitting program at Tank Systems that are part of EP Energy’s oil and natural gas production operations in the Uinta Basin in Utah. Separately, the UDAQ alleges violations of the state-enforceable air quality regulations adopted under the authority of the Utah Air Conservation Act (“UACA”), Utah Code §§ 19-2-101 through 19-2-305, entitled General Provisions for the Oil and Gas Industry in Utah Administrative Code (“UAC”) r. R307-501-1 through R307-501-4 (“Utah General Provisions”) and permit-by-rule (“Utah PBR”) provisions in Utah Administrative Code r. R307-505 through R307-511 at facilities under the State of Utah’s jurisdiction.

WHEREAS the Complaint alleges that, in 2018 and 2019, inspectors from the EPA and UDAQ inspected EP Energy’s Well Pads located in the Uinta Basin and, using an optical gas imaging (“OGI”) infrared camera, observed that certain Storage Tanks located at twenty-three

Well Pads were emitting volatile organic compounds (“VOCs”) to the atmosphere at the time of the inspections.

WHEREAS the Complaint alleges that, in 2018 and 2019, inspectors from the EPA and UDAQ inspected EP Energy’s Well Pads located in the Uinta Basin and observed non-operational combustors or visible emissions from control devices located at ten Well Pads.

WHEREAS in response to a 2019 request for information pursuant to Section 114 of the Act, 42 U.S.C. § 7414, EP Energy provided data to the EPA regarding certain Well Pads. This data included associated production data and detailed information about the Vapor Control Systems (“VCS”) at those Well Pads, as well as the analytical results of a representative Pressurized Liquid sample.

WHEREAS on October 3, 2019, EP Energy and certain of its affiliates commenced with the United States Bankruptcy Court for the Southern District of Texas (“Bankruptcy Court”) voluntary cases under chapter 11 of title 11 of the United States Code (“Bankruptcy Cases”). On March 25, 2020, the EPA (for the United States) filed a proof of claim (Claim No. 964) asserting, among other things, a general unsecured claim in the amount of \$1,369,413, for prepetition penalties for alleged violations of the Clean Air Act and related regulations, rules, orders, and on March 31, 2020 and July 13, 2020, UDEQ (for the State of Utah) filed proofs of claim (Claim Nos. 970 and 986) asserting, among other things, general unsecured claims in the amount of \$296,700, for prepetition penalties for alleged violations of the Utah Air Conservation Act and related regulations, rules, and orders. On August 27, 2020, the Court entered the *Proposed [sic] Findings of Fact, Conclusions of Law, and Order (I) Approving Disclosure Statement on a Final Basis, (II) Confirming Modified Fifth Amended Joint Chapter 11 Plan of EP Energy Corporation and Its Affiliated Debtors and (III) Granting Related Relief* (Docket No.

1411) confirming the *Modified Fifth Amended Plan of EP Energy Corporation and its Debtor Affiliates* (Docket No. 1399) (the “Plan”). On October 1, 2020, the Plan became effective.

WHEREAS in anticipation of the December 15, 2021, deadline by which EP Energy was required to file objections, if any, to the proofs of claim filed by the United States and the State of Utah in the Bankruptcy Cases, on December 10, 2021, the Parties executed a Settlement Agreement requiring EP Energy to pay a civil penalty of \$100,000 (split evenly between the United States and the State of Utah ) as part of the rights and obligations under this Consent Decree, and requiring the United States and the State of Utah to withdraw their proofs of claim. EP Energy has paid the civil penalty required under the Settlement Agreement and the United States and Utah have withdrawn their proofs of claim (Docket Nos. 196, 197, and 198). All pre-effective date (October 1, 2020) claims of the United States and the State of Utah under the Clean Air Act and the Utah Air Conservation Act have therefore been resolved.

WHEREAS the United States’ and State of Utah’s Complaint alleges continuing violations of the Clean Air Act and Utah Air Conservation Act and related rules, regulations, and orders from October 1, 2020 (the effective date of the Plan) to the present.

WHEREAS EP Energy does not admit any liability to the United States and the State of Utah arising out of the transactions or occurrences alleged in the Complaint.

WHEREAS the United States, the State of Utah, and EP Energy (the “Parties”) recognize, and the Court by entering this Decree finds, that this Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section II (Jurisdiction and Venue),

and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

## I. BACKGROUND

1. Storage Tanks located on Well Pads store Produced Oil (i.e., hydrocarbon liquids) and Produced Water (i.e., water that is produced with oil and gas that contains residual hydrocarbon liquid impurities) until the liquids can be transported by pipelines or tanker trucks to downstream processing operations for sale, reuse, or disposal. Produced Oil and Produced Water are separated from natural gas near the wellhead in devices known as “Separators” or “Heater-Treaters.” After separation, the Produced Oil and Produced Water, also known as “Pressurized Liquids,” are emptied into Storage Tanks kept at or near atmospheric pressure. As Pressurized Liquids are transferred into Storage Tanks, the pressure of the fluids decreases, and vapors, which include VOCs, are released or “flashed” into a gaseous state. Such vapors are known as “flash gas.” Additional vapors are released from the Produced Oil and Produced Water due to temperature fluctuations and liquid level changes. These are known as “standing” or “breathing” losses and “working” losses.

2. Well Pads are equipped with systems, often referred to as VCS or a closed vent system, to route vapors from the Produced Oil and Produced Water Storage Tanks by vent lines to emission control devices.

3. Owners or Operators of a “storage vessel affected facility” subject to NSPS OOOO or NSPS OOOOa must “design and operate a closed vent system with no detectable emissions as determined using olfactory, visual, and auditory [“OVA” or “AVO”] inspections.” 40 C.F.R. §§ 60.5411 and 60.5411a.

4. All “well production facilities” subject to Utah General Provisions must be “designed, operated, and maintained so as to minimize emission of volatile organic compounds to the atmosphere to the extent reasonably practicable.” UAC r. R307-501-4(1)(a). Additionally, under Utah Air Quality Regulations (UAC r. R307-101 through R307-842), all potential sources of air pollution must submit a notice of intent and receive an AO from the State prior to construction, modification, or relocation, unless an exemption applies. UAC r. R307-401. The EPA approved the AO requirements into Utah’s State Implementation Plan (“SIP”) and therefore, the AOs are federally enforceable. 40 C.F.R. § 52.23. Tank Systems subject to AOs in this Consent Decree are required to route all exhaust/vapors/gases/fumes from oil Storage Tanks to an operating control device at all times after the startup of production. Certain Tank Systems subject to AOs in this Consent Decree are required to also route all exhaust/vapors/gases/fumes from Produced Water Storage Tanks to an operating control device after the startup of production.

## **II. JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 113(b) of the Act, 42 U.S.C. § 7413(b), and over the Parties. Venue is proper in this judicial district pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because the violations alleged in the Complaint are alleged to have occurred in this judicial district, and EP Energy conducts business in this judicial district. For purposes of this Decree, or any action to enforce this Decree, EP Energy consents to the following: (1) the Court’s jurisdiction over this Decree and any such enforcement action; (2) the Court’s jurisdiction over the Defendant; and (3) venue in this judicial district.

6. For purposes of this Consent Decree, EP Energy agrees that the Complaint states claims upon which relief may be granted pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b).

7. The State of Utah has actual notice of the commencement of this action in accordance with the requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1).

### **III. APPLICABILITY**

8. The obligations of this Consent Decree apply to and are binding upon the United States, the State of Utah, and upon EP Energy and any successors, assigns, or other entities or persons otherwise bound by law, consistent with the Sales or Transfers of Operations provisions in Section XVII. Unless otherwise noted, the obligations of this Decree shall become enforceable on its Effective Date as provided in Section XIX (Effective Date).

9. EP Energy shall: (1) provide a copy of this Consent Decree to its President, Vice Presidents, General Counsel, Environmental Manager, and other managers or field supervisors who will be responsible for implementing the terms of this Consent Decree, and shall ensure that any employees and contractors whose duties might reasonably include compliance with any provision of this Consent Decree are made aware of this Consent Decree and made specifically aware of the requirements of this Consent Decree that fall within such person's duties; and (2) place an electronic version of the Consent Decree on its internal environmental website or equivalent site for the term of this Consent Decree. EP Energy shall be responsible for ensuring that all employees and contractors involved in performing any work pursuant to this Consent Decree perform such work in compliance with the requirements of this Consent Decree.

10. In any action to enforce this Consent Decree, EP Energy shall not raise as a defense to liability or a stipulated penalty the failure by any of its officers, directors, employees,



agents, or contractors to take any actions necessary to comply with the provisions of this Decree. This Section does not preclude EP Energy from holding any employee, agent, or contractor of any tier who is alleged to have not complied with this Consent Decree liable for their actions.

#### IV. DEFINITIONS

11. Terms used in this Consent Decree that are defined in the Act, 42 U.S.C. § 7401 et seq., or in the regulations promulgated pursuant to the Act, shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply.

a. “Actual Uncontrolled Annual VOC Emissions” shall mean the amount of VOC emissions from a Tank System during the previous 12-month period based on actual production prior to routing of those VOCs to an emission control device.

b. “AVO” shall mean auditory, visual, olfactory.

c. “Business Day” shall mean Monday through Friday, with the exception of federal holidays.

d. “Calendar Day” shall mean any of the seven days of the week. In computing any period of time under this Consent Decree expressed in Calendar Days (as opposed to Business Days), where the last Calendar Day would fall on a Saturday, Sunday, or federal holiday, the period shall not be extended to the next Business Day.

e. “Complaint” shall mean the Complaint filed by the United States and the State of Utah in this action.

f. “Compromised Equipment” shall mean equipment associated with a Vapor Control System that shows signs of wear beyond normal wear and tear (and cannot be addressed by cleaning the equipment). Examples include, but are not limited to, cracks

or grooves in gaskets, abnormally or heavily corroded equipment, beveling of sealing surfaces, or other indications of insufficient connection of the thief hatch to the tank.

g. “Consent Decree” or “Decree” shall mean this Consent Decree and all appendices attached hereto listed in Section XXVII (Appendices).

h. “Date of Lodging” shall mean the date this Decree is filed for lodging with the Clerk of the Court for the United States District Court for the District of Utah.

i. “Day” or “day” shall mean a Calendar Day unless expressly stated to be a Business Day. In computing any period of time under this Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, unless the time period is expressly stated to be in “Calendar Days” and not “days” or “Business Days,” the period shall run until close of business the next Business Day.

j. “Defendant” or “EP Energy” shall mean EP Energy E&P Company, L.P.

k. “DOJ” means the United States Department of Justice and any of its successor departments or agencies.

l. “Effective Date” shall have the definition provided in Section XIX (Effective Date).

m. “Engineering Design Standards” shall mean the engineering standards developed by EP Energy pursuant to Paragraph 18.a(1)-18.a(5) (Engineering Design Standards and Vapor Control System Capacity).

n. “Engineering Evaluation” shall mean the evaluations performed by EP Energy for compliance with Paragraph 19 (Vapor Control System Engineering Evaluation and Modifications) of this Decree.

o. “Environmental Manager” shall mean the EP Energy employee responsible for environmental compliance and programs for the Tank Systems subject to the Consent Decree.

p. “Environmental Mitigation Project” shall mean the requirements specified in Section VI (Environmental Mitigation Projects) and Appendix B of this Consent Decree to remedy, reduce, or offset past excess ozone precursor emissions resulting from EP Energy’s alleged violations of the Clean Air Act in this matter. Ozone is not emitted directly from air pollution sources but rather it is a photochemical oxidant formed when precursor pollutants—VOCs and nitrogen oxides (“NOx”)—in the ambient air react in the presence of sunlight.

q. “EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.

r. “Flame Arrestor” shall mean a device in a Vapor Control System which allows gas to pass through it but stops a flame from returning to an ignition source in order to prevent a larger, uncontrolled fire or explosion.

s. “Heater-Treater” shall mean a unit that heats the reservoir fluid from an oil or natural gas well to break oil/water emulsions and to reduce the oil viscosity, so that the oil and water can be gravimetrically separated.

t. “IR Camera Inspection” shall mean an inspection of a Vapor Control System using an OGI camera designed for and capable of detecting hydrocarbon and VOC emissions, conducted by trained personnel who maintain proficiency through regular use of the OGI camera.

u. “Malfunction” shall mean any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not Malfunctions.

v. “Maximum Design Pressure” shall mean the highest pressure that each Vapor Control System is designed to maintain in the Tank System, as determined according to Paragraph 18 (Engineering Design Standards and Vapor Control System Capacity) such that uncontrolled emissions to the atmosphere due to over-pressurization are precluded.

w. “Modeling Guideline” shall mean the Modeling Guideline developed by or on behalf of EP Energy pursuant to Paragraph 17 (Development of Modeling Guideline) to determine the Potential Peak Instantaneous Vapor Flow Rate and Peak Modeled Pressure for purposes of designing and adequately sizing Vapor Control Systems.

x. “Normal Operations” shall mean all periods of operation, excluding Malfunctions. For Storage Tanks at Well Pads, Normal Operations include, but are not limited to, receipt or transfer of liquids from Separator(s) or Heater-Treater(s).

y. “Open Loop Vapor Control System” shall mean Vapor Control Systems at Tank Systems that are subject to the Open Loop Vapor Control System requirements in Paragraphs 19.a-19.b (Vapor Control System Engineering Evaluation and Modifications).

z. “Operator” shall mean the principal on the bond covering a well, who is responsible for drilling, completion, and operation of the well, including plugging and reclamation of the well site.

aa. “Overflow Tank(s)” are Storage Tanks that (1) receive liquids from Produced Oil or Produced Water Storage Tanks; or (2) vent associated gas that is routed through a bypass line from the Separator or Heater Treater when it cannot be sent to the sales gas line.

bb. “Paragraph” or “paragraph” shall mean a portion of this Decree identified by an Arabic numeral.

cc. “Parties” shall mean the United States, the State of Utah, and EP Energy.

dd. “Peak Modeled Pressure” shall mean the highest pressure experienced by the Vapor Control System during Normal Operations, as determined using the Open Loop Vapor Control System Modeling Guideline and Open Loop Vapor Control System Engineering Design Standards.

ee. “Potential Peak Instantaneous Vapor Flow Rate” or “PPIVFR” shall mean the maximum instantaneous rate of vapors routed to a Vapor Control System during Normal Operations, including flashing, working, breathing or standing losses, as determined using the Open Loop Vapor Control System Modeling Guideline.

ff. “Plaintiffs” shall mean the United States and the State of Utah.

gg. “Pressurized Liquids” shall mean pressurized Produced Oil upstream of the Storage Tank(s) or pressurized Produced Water upstream of the Storage Tank(s).

hh. “Produced Oil” shall mean oil that is separated from extracted reservoir fluids during Production Operations.

ii. “Produced Water” shall mean water that is separated from extracted reservoir fluids during Production Operations.

jj. “Production Operations” shall mean the extraction, separation using Separators or Heater-Treaters, and temporary storage of reservoir fluids from an oil and natural gas well at a Well Pad.

kk. “QA/QC” shall mean quality assurance and quality control.

ll. “Reliable Information” shall mean any observance or detection of VOC emissions from a Tank System and control devices (including Vapor Recovery Units), associated open-ended line (e.g., vent line, blowdown valve or line), or associated pressure relief device (e.g., thief hatches or pressure relief valves) while using an OGI camera, EPA Method 21 monitoring, or AVO techniques by the EPA, UDAQ, EP Energy employees or EP Energy contractors trained to conduct inspections for emissions.

Reliable Information may be obtained at any time after May 1, 2022.

(1) In addition, the following shall be considered Reliable Information: Any observance or detection of (a) an unlit pilot or (b) Visible Smoke Emissions from a combustion device in a Vapor Control System by the EPA, UDAQ, EP Energy employees or EP Energy contractors trained to conduct inspections for emissions.

(2) The following shall not be considered Reliable Information:

- (i) For purposes of this Decree alone, evidence of surface staining alone;
- (ii) Emissions observations while pressure relief devices (e.g., thief hatches) and open-ended lines (e.g., blowdown valves) are open for active maintenance,

well unloading, tank truck loadout without emission controls or gauging activities;

- (iii) Emission observations while an EP Energy representative is performing onsite active well maintenance (e.g., swabbing, liquids unloading) at the well production facility associated with the Tank System; and
- (iv) Emission observations during field testing to collect information for use in the Open Loop Engineering Evaluations.

mm. “Root Cause Analysis” shall mean an assessment conducted through the process of investigation to determine the primary cause and contributing cause(s), if any, of Reliable Information or tank pressure monitor measurements that trigger site investigations pursuant to Paragraph 28.d(i), (ii), or (iii) (Tank Pressure Monitoring).

nn. “Section” shall mean a portion of this Decree identified by a Roman numeral.

oo. “Separator” shall mean a pressurized vessel designed to separate reservoir fluids into their constituent components of oil, natural gas, and water.

pp. “Shut-In” shall mean the flow of all liquids and vapor into the Tank System or piece of equipment has ceased and cannot be resumed without EP Energy personnel opening valves, activating equipment, or supplying a power source.

qq. “State” or “Utah” shall mean the State of Utah, acting on behalf of the Utah Department of Environmental Quality and the Utah Division of Air Quality.

rr. “Storage Tank” shall mean the definition of “storage vessel” as set forth in 40 C.F.R. § 60.5430a.

ss. “Tank System” shall mean one or more Storage Tanks, with at least one Produced Oil Storage Tank, that share a common Vapor Control System. The Tank Systems that are subject to this Consent Decree are listed in Appendix A.

tt. “TPY” shall mean tons per year.

uu. “UDAQ” shall mean the Utah Division of Air Quality and any of its successor divisions, departments, or agencies.

vv. “United States” shall mean the United States of America, acting on behalf of the EPA.

ww. “Utah Air Quality Regulations” shall mean the State’s air quality regulations found in Utah Administrative Code r. R307-101 through R307-842.

xx. “Utah General Provisions” shall mean the State’s air quality regulations found in Utah Administrative Code r. R307-501-1 through R307-501-4.

yy. “Utah PBR” shall mean the State’s permit-by-rule regulations found in Utah Administrative Code r. R307-505 through R307-511.

zz. “Vapor Control System” or “VCS” shall mean the system used to contain, convey, or control vapors from one or more Storage Tank(s) (including flashing, working, breathing or standing losses as well as any emissions routed to the Storage Tank Vapor Control Systems). A Vapor Control System includes a Tank System, piping to convey vapors from a Tank System to a combustion device and/or Vapor Recovery Unit, fittings, connectors, liquid knockout vessels or vapor control piping, openings on Storage Tanks (such as thief hatches and any other PRDs), and emission control devices.



aaa. “Vapor Recovery Unit” or “VRU” shall mean a control device that captures and compresses vapors from a Tank System and routes such vapors for recovery to sales line.

bbb. “Visible Smoke Emissions” shall mean observations of smoke for any period or periods of duration greater than or equal to one (1) minute in any fifteen (15) minute period during Normal Operations, pursuant to EPA Method 22. Visible Smoke Emissions do not include radiant energy or water vapor.

ccc. “VOC” or “VOCs” shall mean volatile organic compounds as defined in 40 C.F.R. § 60.2.

ddd. “Well Pad” shall mean a property with one or more Storage Tank(s) capable of receiving Produced Oil from Production Operations.

## **V. INJUNCTIVE RELIEF**

12. Deadlines for Design Requirements. EP Energy shall meet the following deadlines for Paragraphs 13-16, and 19-20, below:

<b>Table 1. Deadlines for Design Requirements</b>		
<b>Requirements</b>	<b>Deadline</b>	
Paragraph 13 (Pressurized Liquid Sampling)	July 7, 2022	
Paragraph 14 (Overflow Tanks); Paragraph 15 (Installation and Operation of Automatic Shut-in); Paragraph 16 (Vapor Control System Field Survey); Paragraph 19 (Vapor Control System Engineering Evaluation and Modifications); Paragraph 20 (Tank System Production Operations Shut-In)	Appendix A, Group 1	August 31, 2022
	Appendix A, Group 2	October 31, 2022
	Appendix A, Group 3	December 31, 2022
	Appendix A, Group 4	February 28, 2023

13. Pressurized Liquid Sampling. On February 6, 2022, EP Energy submitted a Sampling and Analysis Plan (“SAP”) for the EPA’s review and approval, in consultation with UDAQ. By the deadline set forth in Table 1, Paragraph 12 (Deadlines for Design Requirements), above, EP Energy shall collect and analyze Pressurized Liquids samples from a cross-section of at least 25% of wells producing from each individual field in the Uinta Basin and associated with Tank Systems identified in Appendix A in accordance with an approved Sampling and Analysis Plan. EP Energy shall initially collect and analyze 72 Pressurized Liquid samples from at least 58 Tank Systems identified in Appendix A. Within each of the categories, EP Energy shall use its best efforts to evenly apportion samples among volumetrically high, middle, and low producers of oil.

a. EP Energy shall provide at least seven Days’ notice to the EPA and UDAQ of when field sampling events are scheduled to occur.

b. EP Energy shall conduct a Quality Assurance and Quality Control assessment of the sampling data in accordance with the requirements of the SAP.

c. EP Energy shall review the analytical results to determine if the samples obtained are representative for each of the categories for the purpose of developing inputs to the Modeling Guideline to calculate PPIVFR, and, if not, EP Energy shall: (i) obtain additional samples to achieve an adequate sampling for each such category; (ii) obtain site specific data collected and analyzed in accordance with the SAP for application of the Open Loop Vapor Control System Modeling Guideline at a Tank System; or (iii) incorporate an engineering factor as appropriate, in the Open Loop Modeling Guideline. EP Energy shall complete the field sampling and analysis of Pressurized Liquids with sufficient time to meet the deadlines in Paragraph 16 (Vapor Control System Field Survey).

14. Overflow Tanks. EP Energy shall perform the following actions with respect to those Tank Systems on Appendix A that include Overflow Tanks by the applicable Tank System group deadlines set forth in Table 1, Paragraph 12, above: (1) for Tank Systems Consent Decree No. 55 (BOREN 3-11A2 SINGLE WELL FACILITY) and Consent Decree No. 57 (LAWRENCE 1-30B4 MULTI-WELL FACILITY), EP Energy shall remove or cap all connections from the Separator(s) to the Overflow Tanks and remove all Overflow Tanks from the Well Pad; (2) at each of the remaining Tank Systems listed in Appendix A on which Overflow Tanks are located, EP Energy will remove or cap all connections from the Separator(s) to the Overflow Tanks and integrate the Overflow Tanks into the Tank System's Vapor Control System. At all Tank Systems that EP Energy integrates the Overflow Tanks into the Vapor Control System, EP Energy shall ensure that the Overflow Tank is subject to and complies with

Paragraphs 16-27 (as applicable). EP Energy will submit the following information for each Tank System in the initial Semi-Annual Report:

- a. The number of Overflow Tanks removed and the date the removal was completed;
- b. The number of Overflow Tanks that were incorporated into the VCS and the date the incorporation was completed;
- c. Any Notices of Intent to update or revise AOs to reflect equipment changes; and
- d. A revised piping and instrumentation diagram (“P&ID”) reflecting any changes made to the connection from the Separator to the Overflow Tank and, where applicable, changes made to integrate the Overflow Tanks into the Tank System’s Vapor Control System.

15. Installation and Operation of Automatic Shut-In: At each Well Pad where associated gas is routed through a bypass vent line when it cannot be sent to the sales gas line from the Separator or Heater Treater, EP Energy shall install automatic Shut-In of all wells. The automatic Shut-In must prevent all oil and gas from entering a Tank System during any event which would prevent EP Energy from sending its associated gas to the pipeline. Automatic Shut-In is to be installed and operational by the deadlines set forth in Table 1, Paragraph 12 (Deadlines for Design Requirements), above. EP Energy must report the automatic Shut-In installation date in the initial Semi-Annual Report, as applicable. The dates, times, and duration of each automatic Shut-In occurrence shall be reported in each Semi-Annual Report.

16. Vapor Control System Field Survey. During the field surveys of all Tank Systems to be completed by the deadlines set forth in Table 1, Paragraph 12 (Deadlines for Design

Requirements), above, EP Energy shall: (i) inventory tanks and equipment (including identification of the manufacturer designed minimum inlet pressure for each control device and VRU) associated with each Vapor Control System and identify their configuration and operational status; and (ii) conduct a one-time evaluation of the condition of all PRVs, thief hatches, blowdown valves, mountings, and gaskets at each Storage Tank and the condition of all control device components in the Vapor Control System, and the possibility of repairing, replacing, or upgrading such equipment to reduce the likelihood of VOC emissions. The information required under (i) and (ii) of this Paragraph 16 may be obtained during separate field visits at EP Energy's discretion. These field surveys shall include the following actions:

- a. EP Energy shall ensure that, at the time of the field survey, every thief hatch is mounted with a suitable gasket to the tank at the tank attachment point, in accordance with good engineering practices and manufacturer specifications;
- b. Confirm, using field testing, the set point of any backpressure regulating devices at the inlet of any control device or VRU, unless the Tank System is equipped with a pressure gauge that records the set point of the backpressure regulator. If the set point of any backpressure regulating device is determined to be outside of the manufacturer-specified inlet pressure range for the control device, EP Energy shall adjust the set point to a pressure that meets the manufacturer's specified minimum inlet pressure;
- c. If while surveying the PRVs, thief hatches, blowdown valves, mountings, gaskets, VRUs, and control devices, EP Energy observes Compromised Equipment, Reliable Information, or evidence of significant staining emanating from pressure relief valves, EP Energy shall repair, replace, or upgrade such equipment, as appropriate.

However, nothing herein shall require EP Energy to repair, replace, or upgrade such equipment on Shut-In Tank Systems and their associated Vapor Control Systems except that EP Energy must repair, replace, or upgrade such equipment prior to resuming Normal Operations; and

d. EP Energy shall maintain records of the following information and make it available upon request by EPA or UDAQ:

- (1) The date(s) each Tank System underwent the field survey(s);
- (2) The name of the employee(s) who performed the field survey;
- (3) Whether Compromised Equipment, Reliable Information, or evidence of significant staining emanating from PRVs was observed; and
- (4) What, if any, repair, replacement, upgrade, or other corrective action was performed, including a description of the existing PRVs, thief hatches, blowdown valves, mounting, gasket, VRUs, or control device components, including backpressure regulating devices, and a description of how that equipment was repaired or with what it was replaced/upgraded. Descriptions of PRVs or thief hatches shall include pressure set points where such information is available, and descriptions of PRVs, thief hatches, control devices, VRUs, mountings, or gaskets shall include the manufacturer and model where such information is available.

17. Development of Modeling Guideline. On March 28, 2022, EP Energy submitted a Modeling Guideline for the EPA's review and approval, in consultation with UDAQ. EP Energy

may periodically update the Modeling Guideline as appropriate. Should the Modeling Guideline be updated, EP Energy can use the version current at the time of the Open Loop Vapor Control System Engineering Evaluations. Updates to the Modeling Guideline do not in and of themselves require EP Energy to redo Engineering Evaluations. The purpose of the Modeling Guideline is to determine the Open Loop Vapor Control System PPIVFR for purposes of designing and adequately sizing Vapor Control Systems and to provide procedures for achieving this objective. This Modeling Guideline will apply to all Tank Systems listed in Appendix A.

a. For all Tank Systems listed in Appendix A, EP Energy shall determine the PPIVFR for each Tank System. The PPIVFR shall (i) reflect the maximum potential rate of vapors routed to a Vapor Control System during Normal Operations, and (ii) be expressed in standard cubic feet per day.

b. The Modeling Guideline shall address the following, where relevant:

- (1) All vapor sources (e.g., atmospheric Storage Tanks, Separator gases, transfer and loading systems, etc.) tied or to be tied into the Vapor Control System;
- (2) The maximum operating pressure and minimum operating temperature from the last stage of separation prior to the Tank System;
- (3) Maximum potential stock tank liquid temperature;
- (4) Vapor pressure of the final weathered product transported from the Produced Oil tank(s);
- (5) The recycling of liquids from the Storage Tank(s) back to the upstream process equipment;

(6) Estimation of highest potential flow rate of flash gas to the Vapor Control System utilizing: pressurized or atmospheric liquid sampling; lab analyses, including flash gas to oil ratio; process simulation; correlations; or any combination thereof;

(7) Volume and duration of individual dump events, including the nature of the flow of liquids to the Separator or Heater-Treater (i.e., steady flow, slug flow, intermittent flow (e.g., due to discrete well cycling events)); the minimum time between dump events; and the maximum number of dump events associated with a single well cycle with slug or intermittent flow, including where relevant:

- (i) The type of dump valve control (e.g., proportional, on/off) and dump valve size and trim size;
- (ii) Size, length and fittings of the liquid transfer line between the last stage of separation and the Storage Tank(s);
- (iii) Consideration of simultaneous dump events to the same Tank System (unless all potential simultaneous dump events have been precluded through installation of timers, automation, or other measures); and
- (iv) Consideration of the maximum design daily oil and water production rates and diurnal variations in these flows.



(8) The calculation methods or simulation tools for processing the data inputs; and

(9) The accuracy of the input data and results (e.g., uncertainty of empirical correlations, representativeness of samples, process conditions).

18. Engineering Design Standards and Vapor Control System Capacity. For all Tank Systems listed in Appendix A, EP Energy shall develop Engineering Design Standards to assess the capacity of each Vapor Control System in standard cubic feet per day. EP Energy submitted the Engineering Design Standards to the EPA, in consultation with UDAQ, for review and approval, on March 28, 2022. EP Energy may submit the Engineering Design Standards within the document prepared for compliance with Paragraph 17 (Development of Modeling Guideline). EP Energy will apply Engineering Design Standards to Vapor Control Systems at individual Tank Systems as EP Energy may determine appropriate.

a. These standards shall include, as appropriate:

(1) Vapor control equipment installed on the Tank System including equipment-specific considerations and any associated pressure losses (e.g., liquid knock-out drums, Flame Arrestors);

(2) Size and design of the piping system between the Storage Tank(s) and the emission control devices including VRUs, and the size and design of the emission control devices including VRUs (including consideration of equivalent pipe length and back pressure valves or other restrictions on vapor flow);

(3) Volume and duration of individual dump events; the nature of the flow of liquids to and from the Separator (i.e., steady flow, slug flow,

intermittent flow (e.g., due to discrete well cycling events)); the minimum time between dump events; and the maximum number of dump events associated with a single well cycle with slug or intermittent flow;

(4) Minimum available headspace in the tank(s); and

(5) Engineering design considerations applied to account for issues associated with the Vapor Control System (e.g., fouling, potential for liquids accumulation in lines, winter operations) and variability of data.

b. EP Energy may rely on manufacturer specifications for individual components or pieces of equipment that are part of a Vapor Control System.

c. Updates to the Engineering Design Standards do not in and of themselves require EP Energy to redo Engineering Evaluations. EP Energy shall maintain all versions of Engineering Design Standards and submit site-specific Engineering Design Standards if requested by the EPA and UDAQ.

19. Vapor Control System Engineering Evaluation and Modifications.

a. Open Loop Vapor Control System Engineering Evaluation. Using the field survey activities from Paragraph 16 and the Engineering Design Standards from Paragraph 18, EP Energy shall determine whether each Open Loop Vapor Control System is adequately designed and sized to handle the PPIVFR as calculated through the application of the Modeling Guideline. An Open Loop Engineering Evaluation is not required for a Vapor Control System at a Tank System that is Shut-In, which remains Shut-In, is dismantled, and for which all wells associated with the Tank System are plugged and abandoned before the termination of this Consent Decree.

b. Open Loop Vapor Control System Modification. For those Open Loop Vapor Control Systems that are not adequately designed and sized to handle the PPIVFR or Peak Modeled Pressure based on the Open Loop Engineering Evaluation, EP Energy shall: (1) make all necessary modifications to change the PPIVFR (as recalculated using the Modeling Guideline), including reducing the rate or otherwise altering the frequency or duration of the PPIVFR to ensure that Peak Modeled Pressures do not exceed the Maximum Design Pressure of the Vapor Control System; and/or (2) increase the capacity of the Vapor Control System consistent with the Engineering Design Standards. EP Energy shall ensure that the modifications result in a Vapor Control System that is adequately designed and sized to handle the PPIVFR, as determined through application of an Open Loop Vapor Control System Engineering Evaluation consistent with the Engineering Design Standard.

20. Tank System Production Operations Shut-In. If EP Energy has not completed all requirements of Paragraphs 14-16 and 19-20 by the deadlines set forth in Table 1, Paragraph 12 (Deadlines for Design Requirements), above, EP Energy shall Shut-In all Production Operations associated with that Tank System by such deadline until the requirements of Paragraphs 14-16 and 19-20 are met. Notice of Shut-In Tank Systems shall be provided to the EPA and UDAQ in the next Semi-Annual Report due at least 30 Days after the date of Shut-In.

a. If Production Operations are temporarily Shut-In, EP Energy shall for the sole purpose of (i) undertaking an Open Loop Vapor Control System Engineering Evaluation at a Tank System, or (ii) taking corrective actions pursuant to Paragraph 27 (Reliable Information, Investigation, and Corrective Action) be allowed to resume

Production Operations associated with that Tank System for a period not to exceed five Calendar Days.

21. Vapor Control System Initial Verification. Except as otherwise provided in this Paragraph, EP Energy shall complete the requirements of this Paragraph within 30 Days of each Tank System group deadline listed in Table 1, Paragraph 12 (Deadlines for Design Requirements). For Tank Systems Shut-In pursuant to Paragraph 20 (Tank System Production Operations Shut-In) EP Energy shall complete the requirements of this Paragraph by the deadline for the next Semi-Annual Report that is due at least 60 Days after first resuming Normal Operations. EP Energy will submit written notification to the EPA and UDAQ no later than the first Semi-Annual Report advising the EPA and UDAQ of any Vapor Control System Shut-In by that date.

a. Conduct an IR Camera Inspection of all Tank Systems during Normal Operations, including while and immediately after Produced Oil is being sent to the Tank System from all the last points of separation equipped with a dump valve that are not Shut-In at the time of the IR Camera Inspection (or, in the event that the potential for simultaneous dump events has been precluded, from the associated last points of separation equipped with a dump valve that are not Shut-In that yield the highest, non-precluded PPIVFR) to confirm the Vapor Control System is adequately designed and sized and not emitting VOCs detected with the infrared camera. In the event that any of the last points of separation equipped with a dump valve associated with a Tank System are Shut-In at the time of this IR Camera Inspection, and the last point of separation equipped with a dump valve that is Shut-In contributes to the highest, non-precluded PPIVFR, EP Energy shall perform additional IR Camera Inspections in accordance with

this Paragraph within 30 Days of resuming Normal Operations from the last points of separation equipped with a dump valve that had been Shut-In. Inspections under this Paragraph must be conducted pursuant to the IR Camera Inspection Standard Operating Procedure (“SOP”) prepared by EP Energy and approved by the EPA, in consultation with UDAQ, pursuant to Paragraph 26.b (IR Camera Inspection SOP). A video record of each IR Camera Inspection done to comply with this Paragraph shall be recorded and kept on file. The video recording shall be made available to EPA or UDAQ upon request. EP Energy shall comply with the requirements of Paragraph 27 (Reliable Information, Investigation, and Corrective Action) in the event Reliable Information is observed while complying with the requirements of this Paragraph.

b. If EP Energy conducts an operational or equipment change that results in a modification as described in Paragraph 19 (Vapor Control System Engineering Evaluation and Modifications), EP Energy shall repeat the Vapor Control System Initial Verification requirements of this Paragraph 21 within 30 Calendar Days of completion of the modification.

22. Certification of Completion Report for Open Loop Vapor Control Systems. In either a spreadsheet or database format, complete and submit to the EPA the following information as a Certification of Completion Report, by the deadline set forth in Paragraph 50, Table 2 (Deadline Table for Injunctive Relief and Mitigation Projects) and in accordance with Paragraph 46 (Certification Statement):

a. The result of the Open Loop Vapor Control System Engineering Evaluation, including the PPIVFR, VCS capacity, Peak Modeled Pressure, and the Maximum Design Pressure;

- b. An identifier for the report associated with the Open Loop Vapor Control System Engineering Evaluation consistent with the Engineering Design Standard (which could be for an individual Tank System) that was used for each Vapor Control System;
- c. Identification of any changes made to equipment or operation as a result of the Open Loop Vapor Control System Engineering Evaluation;
- d. Identification of site-specific or system-wide operational parameters or practices relied upon in the Open Loop Engineering Evaluation and determined by the Open Loop Engineering Evaluation to be necessary for verification during Normal Operations (e.g., maximum operating pressure for final stage of separation, minimum inlet pressure to the combustion device, minimum available headspace in tanks);
- e. The minimum Tank System thief hatch and PRV settings;
- f. Whether the modeling performed in accordance with the Modeling Guideline was transient or steady state; and
- g. The date an IR Camera Inspection was completed to comply with Paragraph 21.a (Vapor Control System Initial Verification) and the results of such inspection, along with any corrective actions performed to address Reliable Information and the date and method of verification that the corrective action was successful. In the event that any of the last points of separation equipped with a dump valve associated with a Tank System are Shut-In at the time of the IR Camera Inspection, and the last point of separation equipped with a dump valve that is Shut-In contributes to the highest, non-precluded PPIVFR, EP Energy shall indicate as such; and
- h. EP Energy shall post final Certification of Completion Reports on its public domain website within 30 Days of finalization. Certification of Completion

Reports shall be maintained on EP Energy's public domain website for one calendar year after termination of this Consent Decree.

23. Vapor Control System Modifications Post-Certification of Completion Report. If, after EP Energy has submitted a Certification of Completion Report for a Tank System to the EPA and UDAQ in compliance with Paragraph 22 (Certification of Completion Report for Open Loop Vapor Control Systems), EP Energy intends to make an operational or equipment change such that: (1) the PPIVFR is increased beyond what was evaluated in the Open Loop Engineering Evaluation; or (2) the Open Loop Vapor Control System capacity decreases, EP Energy shall repeat all applicable requirements of Paragraphs 19.a-19.b (Open Loop Vapor Control System Engineering Evaluation and Modification) prior to any such change. EP Energy shall submit an updated Certification of Completion Report within the deadline set forth in Paragraph 50, Table 2 (Deadlines for Injunctive Relief and Mitigation Project Submittals) for any Tank Systems that underwent another Open Loop Engineering Evaluation in accordance with this Paragraph.

24. Vapor Control System Verification of Design Analysis. EP Energy's Open Loop Vapor Control Systems Engineering Evaluations and Modifications shall be subject to the following verification:

a. Proposed Verification of Design Analysis Work Plan. By no later than the deadline set forth in Paragraph 50, Table 2 (Deadlines for Injunctive Relief and Mitigation Project Submittals) EP Energy shall provide to the EPA and UDAQ, EP Energy's proposed plan describing how EP Energy shall meet the requirements of this Paragraph 24, below ("Proposed Verification of Design Analysis Work Plan"). The

Proposed Verification of Design Analysis Work Plan shall also identify the engineer(s) who will conduct the verification (hereinafter the “Reviewer”) as set forth below:

(1) Reviewer Qualifications. The Proposed Verification of Design Analysis Work Plan shall provide a curriculum vitae for each Reviewer EP Energy selects to conduct the verification. If EP Energy utilizes a third-party contractor to conduct the requirements of Paragraphs 17-19, EP Energy may select an employee of EP Energy who meets the requirements of this Paragraph to be the Reviewer. If EP Energy did not hire a third-party contractor to conduct Paragraphs 17-19, the Reviewer must be a third-party not employed or currently contracted by EP Energy.

- (i) If the Reviewer is a third-party, EP Energy must certify that the Reviewer has not conducted any other work for EP Energy within two years prior to the verification work plan submittal and has no significant perceived conflict of interest.
- (ii) The EPA and UDAQ may request such other information as it deems reasonably necessary to evaluate any Reviewer’s qualifications.
- (iii) Any Reviewer EP Energy selects to conduct the verification duties identified in Paragraphs 24.c(1) through 24.c(3) shall not have conducted the Open Loop Vapor Control Systems Engineering Evaluations subject to verification, or have been an employee of any



company which conducted the Open Loop Vapor Control Systems Engineering Evaluations subject to verification.

b. Approval of Proposed Verification of Design Analysis Work Plan. The EPA, in consultation with UDAQ, shall either approve or disapprove the Proposed Verification of Design Analysis Work Plan, including EP Energy's selection of a Reviewer. If the EPA has not responded within 30 Days, EP Energy's Reviewer shall be deemed approved and EP Energy may proceed with its Proposed Verification of Design Analysis Work Plan. In the event the EPA disapproves the Proposed Verification of Design Analysis Work Plan, the EPA shall state the reasons for its disapproval in writing, and the process will be repeated with EP Energy having 30 Days from the date of disapproval to propose a revised work plan. In the event a work plan is not approved by August 31, 2023, all deadlines in this Paragraph shall be extended by an equivalent period to the time beyond August 31, 2023, that it takes for Proposed Verification of Design Analysis Work Plan approval.

c. Verification. For all Tank Systems that underwent an Open Loop Vapor Control System Engineering Evaluation, the Reviewer shall conduct a review (document and/or field visit, as necessary) to verify:

- (1) Site-specific inputs and assumptions were correctly identified in the Open Loop Vapor Control System Engineering Evaluation as informed by the Modeling Guideline and Engineering Design Standards (e.g., number of wells connected to the Tank System, well operation type, frequency and duration of dump events, minimum Separator temperature and maximum

Separator pressure, minimum inlet pressure to the control device, maximum tank liquid level, Open Loop Vapor Control System piping set-up and configuration, vapor sources, etc.);

(2) The PPIVFR, Vapor Control System capacity, and Peak Modeled Pressure were determined by methods consistent with the Modeling Guideline and Engineering Design Standards; and

(3) Each Open Loop Vapor Control System is adequately designed and sized in accordance with the Open Loop Vapor Control System Engineering Evaluations, by demonstrating that the PPIVFR does not exceed the Vapor Control System capacity, or that the Peak Modeled Pressure does not exceed the Maximum Design Pressure of the Open Loop Vapor Control System.

d. The Reviewer shall conduct a field visit for each Tank System for which modifications are required by Paragraph 19.b (Open Loop Vapor Control System Modification) to verify that those modifications have been fully and correctly implemented in accordance with the requirements of this Decree.

e. The verification described in Paragraph 24.c shall be completed no later than 120 Days after the Verification of Design Analysis Work Plan is approved, except for Tank Systems that are Shut-In pursuant to Paragraph 20 (Tank System Production Operations Shut-In) and by the Tank System group deadlines set forth in Table 1, Paragraph 12 (Deadlines for Design Requirements), then EP Energy must complete the verification described in Paragraph 24.c within 30 Days of completing an IR Camera Inspection pursuant to Paragraph 21.a (Vapor Control System Initial Verification).

f. If, during the verification described in Paragraph 24.c, the Reviewer finds any noncompliance with this Consent Decree, EP Energy shall follow the requirements of Paragraph 44 (Noncompliance Reporting).

g. Verification of Design Analysis Report. The Reviewer shall submit a written report (“Verification of Design Analysis Report”) describing work performed and conclusions reached by the Reviewer(s) pursuant to Paragraph 24.c(1) through (3), and 24.d. The Verification of Design Analysis Report shall include (i) a certification from the Reviewer that the requirements of Paragraph 24.c(1) through (3) were completed in accordance with the applicable provisions of this Consent Decree; and (ii) a certification from EP Energy or the Reviewer (as applicable) that the requirements of Paragraph 24.d were completed in accordance with the applicable provisions of this Consent Decree. EP Energy shall submit the Verification of Design Analysis Report by the deadline set forth in Paragraph 50, Table 2 (Deadlines for Injunctive Relief and Mitigation Project Submittals), below. EP Energy shall post all non-confidential portions of the Verification of Design Analysis Report on its public-domain website for a term of not less than one calendar year after termination of this Consent Decree.

25. Directed Inspection and Preventative Maintenance Program. On February 11, 2022, EP Energy submitted a directed inspection and preventative maintenance (“DI/PM”) program for review and approval by the EPA, in consultation with UDAQ. EP Energy shall implement an approved DI/PM program at each Tank System, and associated Well Pad, by no later than 60 Days after the date of final approval by EPA or Date of Lodging, whichever is later. Paragraph 25.a-25.b25.c shall be conducted weekly at or for each Tank System. The DI/PM program shall include requirements for:

a. AVO Inspections. Address system-wide inspection, response, and preventative maintenance procedures for the Vapor Control Systems, including:

(1) Weekly AVO walk-around inspection of all Vapor Control Systems and associated production equipment (i.e., Separators or Heater-Treaters) to check for VOC emissions (including while Storage Tank(s) are receiving Produced Oil from Production Operations), including checking for hissing, new stains, or other indicators of operational abnormalities. An AVO inspection performed to comply with 40 C.F.R. § 60.5416a(c) and that meets the requirements of this Paragraph may be used to fulfill one inspection per month under this Paragraph. An IR Camera Inspection performed to comply with Paragraph 26 may be used to fulfill one AVO inspection per month under this Paragraph.

(2) EP Energy must develop an SOP for the AVO walk-around inspection. The SOP will define “auditory,” “visual,” and “olfactory” components of AVO inspections to assist in training of the personnel who will conduct these inspections. This SOP should be informed by the results of the Engineering Evaluations performed by EP Energy. The AVO walk-around inspection shall also check the following parameters, where relevant, on the following equipment:

(i) Separators and Heater-Treaters – final stage of separation operating pressure and temperature; set point of any device restricting final stage Separator or Heater-Treater dump flow rate; and valves in correct position;

- (ii) Vapor Control System – PRDs are properly sealed; thief hatches are closed, latched, and properly sealed; other valves are in the correct position (e.g., blowdown valve is not open); the absence of other observed or detected emissions (using AVO observations) from tank piping (e.g., load line, blowdown line, vapor line, etc.);
- (iii) Combustion devices – proper burner operation (e.g., no visible clogging of burner tray); no Visible Smoke Emissions; presence of pilot light; level of liquids in knockout vessel if installed (and drain, as necessary); properly functioning and positioned inlet valves, auto-ignitor, and back pressure regulator.
- (iv) VRUs—where VRUs are in service, check inlet and outlet temperatures and pressures, oil level, and volumes, where available. Through observation, visually inspect for leaks and use auditory inspection to listen for noises in screw compressor or motor.

b. Critical Parameters and Practices. Address any parameters or practices relied upon in developing the PPIVFR for the Tank System or Vapor Control System capacity that are observable during an AVO walk-around by ensuring that such parameters or practices (e.g., temperatures, pressures, etc.) identified by the Open Loop Vapor Control System Engineering Evaluation as critical for ensuring the Tank System and Vapor Control System are operating as designed. EP Energy shall ensure that such

parameters and practices are readily identified and available to EP Energy field personnel while on location (via on-site labeling, EP Energy-provided forms, field data collection software, or other means) and verified during the weekly AVO walk-around inspection required by this Paragraph.

c. Production Monitoring. Establish and implement procedures for monitoring and recordkeeping of the production rate of each Tank System on a weekly basis. The weekly monitoring shall assess whether the production rate is less than or equal to 95% of the production rate used to develop the PPIVFR.

d. Preventative Maintenance. Establish and implement procedures for evaluation of performance of wear equipment to identify appropriate long-term maintenance, inspection, and replacement assessment schedules. EP Energy shall propose initial maintenance and inspection schedules and a replacement assessment program in the DI/PM. EP Energy shall develop and take all actions necessary to fully implement an SOP for preventative maintenance activities indicating specific equipment and inspection/work to be performed which includes:

- (1) Clean and check PRV and thief hatch seals and gaskets for integrity, check that the spring in the thief hatch/PRV aligns with the parameter identified in the Engineering Evaluation (through visual observation), repair or replace any Compromised Equipment, clean Flame Arrestor (replacing as appropriate) and air-intake, check and clean burner tray (replacing as appropriate), verify the set point and proper operation of backpressure regulator to combustion device, check proper operation of dump valve on Separator by manually actuating the dump valve and visually observing its operation (unless actuation occurs

without manual activation during the inspection), and perform any other appropriate maintenance and inspection activities to the extent identified by EP Energy in its DI/PM program. These activities shall occur no less frequently than semi-annually.

(2) Where Separator dump valve orifices are present, check to ensure they are in good condition and replace them as necessary. This check shall occur no less frequently than annually.

(3) Clear liquids or paraffins from any lines where liquids or paraffin build-up can accumulate no less frequently than quarterly. Should maintenance activities or other inspection activities, including any Root Cause Analysis, indicate that liquids or paraffins are accumulating in vapor lines and causing VOC emissions, EP Energy shall update these schedules to be more frequent to prevent, as much as practicable, liquid or paraffin accumulation in vapor lines. Alternatively, after one full year of quarterly cleaning, should maintenance activities or other inspection activities indicate that liquids or paraffins are not accumulating in vapor lines and causing VOC emissions, EP Energy may request approval from the EPA and UDAQ to update these schedules to be less frequent. Such approval shall not be unreasonably withheld.

(4) Where VRUs are in service, shut down the compressor, lock and tag out, and depressurize. Inspect belts or couplings for wear and tear, replace oil filter and oxygen sensor filter, grease motor and condensate pump, bearings, inspect cooler components, and verify panel operation. Repair or replace any Compromised Equipment, perform other appropriate maintenance and

inspection activities to the extent identified by EP Energy in its DI/PM program. These activities shall occur no less frequently than semi-annually.

e. Spare Parts Program. Maintain a spare parts program adequate to support normal operation, maintenance, and replacement requirements, establish written procedures for the acquisition of parts on an emergency basis (e.g., vendor availability on a next-day basis), and evaluate appropriate parts to be kept on hand (e.g., gaskets and seals for thief hatches kept on trucks and replacement PRVs kept at a central EP Energy facility). Beginning within 60 Calendar Days of the Effective Date, EP Energy shall ensure that a current employee has been designated with the responsibility to maintain an adequate spare parts inventory. The spare parts inventory may be based initially on vendor recommendations.

f. Recordkeeping. Establish and implement requirements for appropriate documentation of compliance with DI/PM practices and procedures (by Tank System number listed in Appendix A) so that the Parties can verify that the DI/PM program is being implemented. This includes creating and maintaining documentation of the date of the inspection/maintenance activity and any corrective action work (including repair, replacement, or upgrade), except as provided for in this Paragraph 25.f. Activities identified within the DI/PM program as being performed on a regular basis that are not a direct result of finding Reliable Information or Compromised Equipment, shall not be considered “corrective action” work for purposes of this Paragraph. Any activities not defined as “corrective action” in this Paragraph will be described in the DI/PM program. Activities responsive to Reliable Information or Compromised Equipment are always considered “corrective action” work for purposes of this Paragraph, regardless of whether



such activities were also described in the DI/PM program procedures.

g. Training. EP Energy shall ensure the following training requirements are met for employees and contractors.

(1) EP Energy Employees. All employees responsible for implementation or execution of any part of the DI/PM program, shall complete training on the aspects of the DI/PM program, including any SOPs, which are relevant to the person's duties. EP Energy shall develop a training program to ensure that refresher training for EP Energy's employees is performed once per calendar year and that new personnel are sufficiently trained prior to any involvement in the DI/PM program. New EP Energy employees training shall include a job shadowing program, and refresher training shall include on-the-job review by supervising employees or employees familiar with the requirements of this Consent Decree and SOPs.

(2) EP Energy Contractors. Contractors shall be informed and required by contract to comply with the aspects of the DI/PM program, including any SOPs, which are relevant to the person's duties. EP Energy shall inform contractors, in writing, that contractors are to develop a training program to ensure that refresher training for contractors is performed once per calendar year and that new contract personnel are sufficiently trained prior to any involvement in the DI/PM program. New contract personnel training shall include a job shadowing program, if practicable, and refresher training shall include on-the-job review by supervising contract personnel or contract personnel familiar with the requirements of this Consent Decree and SOPs.

h. Shut-In Systems. EP Energy is not required to implement the requirements of Paragraph 25.a-d at a Well Pad where all Tank Systems are Shut-In and remain Shut-In, so long as EP Energy (1) performs the requirements of Paragraph 25.d (Preventative Maintenance) prior to returning the Tank System to Normal Operations, and (2) performs any missed maintenance or inspection under Paragraph 25.a-c at the Tank System within five Calendar Days of returning one or more Tank System(s) to Normal Operations.

i. Directed Inspection and Preventative Maintenance Program Internal Annual Review. Commencing in 2023 for records created or dated in 2022, EP Energy shall perform the following during each Calendar year for each Vapor Control System, and any other equipment subject to the DI/PM program:

(1) A DI/PM program-trained employee or contractor of EP Energy, whose primary responsibilities do not include performing duties in the DI/PM program on a routine basis for the particular Tank System under evaluation, shall undertake the following for each Vapor Control System, and any other equipment subject to the DI/PM, in consultation with persons performing DI/PM program duties for that particular Tank System:

- (i) Verify that maintenance and inspection schedules and the replacement assessment program have been followed at the appropriate frequency;
- (ii) Review maintenance and corrective action work records required to be maintained by this Consent Decree and records necessary to implement the DI/PM program for

the Tank System to confirm proper recordkeeping, timely response to all issues (e.g., emissions or other operational issues), and determine if there are recurrent or systemic issues associated with a particular Tank System; and

(iii) Make any appropriate updates to the DI/PM program, including SOPs.

(2) Upon completion of review of all Tank Systems, EP Energy shall evaluate whether there are recurrent or systemic issues across EP Energy's Tank Systems.

(3) Should EP Energy determine that actions need to be taken to address operations or maintenance activities at one or more Tank Systems based on EP Energy's review described in this Paragraph 25, such as making appropriate updates to the DI/PM program, including SOPs, EP Energy shall take such actions as soon as practicable.

(4) EP Energy shall use best efforts to complete the review required by this Paragraph 25i. for no fewer than half of its Tank Systems during the first semi-annual period of each Calendar year (i.e., EP Energy would review its 2022 records for no fewer than half of its Tank Systems between January 1 and June 30 of 2023, etc.).

(5) With the next Semi-Annual Report or the Semi-Annual Report due at least 30 Days following the completion of the review on the schedule described in Paragraph 25.i(1)-(4), above, EP Energy shall submit

documentation of the following information: (a) the date that review of the Tank System was completed; (b) a discussion of whether EP Energy identified any systemic issues; and (c) the nature and timing of any modifications, corrective actions, or other actions as a result of this review.

26. Periodic IR Camera Inspections. By June 1, 2022, EP Energy shall undertake an IR Camera Inspection program of all Vapor Control Systems, in accordance with the following requirements:

a. IR Camera Inspections shall be performed on a monthly basis. An IR Camera Inspection performed to comply with 40 C.F.R. § 60.5397a(g)(1) and that meets the requirements of this Paragraph may be used to fulfill that month's required inspection. An IR Camera Inspection of a Tank System completed pursuant to Paragraph 21 (Vapor Control System Initial Verification) during a monthly inspection period shall also count as an inspection for purposes of this Paragraph. EP Energy shall notify the Ute Indian Tribe at least 24-hours in advance of an IR Camera Inspection of a facility located on the Uintah and Ouray Reservation conducted pursuant to this Paragraph 26 and representatives of the Ute Indian Tribe may observe any such inspection. Notice to the Ute Indian Tribe shall include the date, time, facility name of the Tank System(s) to be inspected, and latitudinal and longitudinal coordinates of the Tank System(s). Notice shall be made to the Ute Indian Tribe Air Quality Program by email to [miken@utetribes.com](mailto:miken@utetribes.com). The Ute Indian Tribe may change the individuals to receive notice on its behalf by providing written notice to EP Energy of such change in accordance with Section XVI (Notices). Verification of the Ute Indian Tribe's attendance or absence at an inspection is not required for EP Energy to perform the inspection.

b. IR Camera Inspection SOP. IR Camera Inspections must be conducted pursuant to a written SOP prepared by EP Energy and approved by the EPA, in consultation with UDAQ, by the deadline set forth in Paragraph 50, Table 2 (Deadlines for Injunctive Relief and Mitigation Project Submittals), below. During the IR Camera Inspection, EP Energy shall also confirm, for each combustion device used in the associated Vapor Control System, that a pilot light is present.

c. EP Energy shall maintain the original video recorded from each IR Camera Inspection with a time and date stamp reflected. Records of the following for each IR Camera Inspection shall be provided in a spreadsheet with each Semi-Annual Report:

- (1) The date, time, Well Pad, Tank System, and number of Storage Tanks and control devices inspected;
- (2) The date and time of any instance where Reliable Information is observed;
- (3) A description of the Reliable Information obtained, including identification of affected component(s);
- (4) The method and date of corrective action taken to address Reliable Information;
- (5) The method and date of verification of corrective action taken to address Reliable Information. The IR Camera video record of verification of corrective action; and

(6) The manufacturer and model, where available, of any combustion devices found with: (a) Reliable Information observed without flame presence indicating combustion; or (b) no pilot light present.

27. Reliable Information, Investigation, and Corrective Action. Requirements of this Paragraph begin May 1, 2022. Except as provided in Paragraph 27.a, below, as soon as possible but in no more than five Calendar Days after EP Energy obtains any Reliable Information, EP Energy shall either (i) complete all necessary corrective actions to address the Reliable Information or (ii) temporarily Shut-In Production Operations associated with the Tank System. Except for performing corrective action associated with an observed open thief hatch or open-ended line, EP Energy shall conduct an IR Camera Inspection within five Calendar Days of completing the corrective action to confirm that the corrective actions successfully resolved the issue(s) that caused or contributed to obtaining Reliable Information. Reliable Information includes but is not limited to, observations or detections of Reliable Information during inspections required by Paragraph 16 (Vapor Control System Field Survey), Paragraph 21 (Vapor Control System Initial Verification), Paragraph 25 (Directed Inspection and Preventative Maintenance Program), Paragraph 26 (Periodic IR Camera Inspections), and Paragraph 28 (Tank Pressure Monitoring). If EPA or UDAQ observe Reliable Information, it shall be deemed to be obtained by EP Energy for purposes of this Paragraph on the Calendar Day that it is communicated to EP Energy through the email address provided in Section XVI (Notices).

a. Open Thief Hatch or Open-Ended Line. Whether Reliable Information is observed or not, an open thief hatch or open-ended line must be corrected immediately or no more than 12 hours after observation or temporarily Shut-In Production Operations associated with the Tank System. Within 12 hours of completing the corrective action,

EP Energy shall verify that there are no leaks from the closed thief hatch or capped open-ended line by confirming that no soap bubbles are observed according to the alternative screening procedures specified in section 8.3.3. of Method 21.

b. If Production Operations are temporarily Shut-In pursuant to the requirements of this Paragraph, EP Energy shall proceed as follows:

(1) If the Tank System has not yet undergone an Engineering Evaluation, Production Operations shall remain Shut-In until the Engineering Evaluation and any necessary modifications have been completed, and EP Energy shall comply with the requirements of Paragraph 21.a (Vapor Control System Initial Verification) at that Tank System within 30 Days of resuming any Production Operations associated with that Tank System.

(2) If the Tank System has already undergone an Engineering Evaluation, Production Operations shall remain Shut-In until completion of any necessary corrective actions, including, if appropriate, a re-evaluation of the Engineering Evaluation. If a re-evaluation of the Engineering Evaluation is appropriate and results in any modification at the Tank System, EP Energy shall comply with the requirements of Paragraph 21.a (Vapor Control System Initial Verification) at that Tank System within 30 Days of resuming any Production Operations associated with that Tank System.

(3) For each Tank System with associated Production Operations temporarily Shut-In pursuant to the requirements of this Paragraph, EP Energy shall document in a spreadsheet the following:

- (i) The date and time Reliable Information was obtained resulting in a temporary Shut-In;
- (i) A description of the Reliable Information obtained, including identification of affected component(s);
- (ii) The Tank System identification;
- (iii) The date that such Production Operations were temporarily Shut-In;
- (iv) The date corrective actions were made, including a description of the corrective actions;
- (v) The date that the IR Camera Inspection verification or Method 21 verification (for open thief hatches or open ended lines) was conducted to ensure the corrective actions successfully resolved the Reliable Information;
- (vi) The date that Production Operations were resumed; and
- (vii) The date following any re-evaluation of the Engineering Evaluation that an IR Camera Inspection meeting the requirements of Paragraph 21.a (Vapor Control System Initial Verification) was completed, and a summary of the results of that inspection.

c. For each instance where EP Energy obtains Reliable Information, and within the deadline provided in this Paragraph 27, completes all necessary corrective actions, EP Energy shall document in a spreadsheet the following:

- (1) The date and time Reliable Information was obtained;



- (2) A description of the Reliable Information including identification of the affected component(s);
- (3) The identification of the Tank System; and
- (4) The date corrective actions were made, including a description of the corrective actions and the date of IR Camera Inspection verification or Method 21 verification (for open thief hatches or open ended lines) that determined the corrective actions were successful.

d. EP Energy shall attach copies of the spreadsheets required by this Paragraph to the next Semi-Annual Report that follows at least 30 Days after all corrective actions should have been completed.

e. If EP Energy obtains three or more instances of Reliable Information related to any single Tank System in a rolling six-month period, EP Energy shall complete within 90 Calendar Days, a Root Cause Analysis for that Tank System and identify any appropriate response actions to be taken to address any common operation, maintenance, or design cause(s) identified, along with a proposed schedule for the implementation of those response actions. Appropriate response actions may include proactive solutions to maintenance problems (e.g., if thief hatches with gaskets are observed to have an increased failure rate, then a replacement schedule may be appropriate to implement pursuant to Paragraph 25.d (Directed Inspection and Preventative Maintenance Program-Preventative Maintenance)).

f. In the next Semi-Annual Report due at least 30 Days following the completion of the Root Cause Analysis, EP Energy shall submit the results of the

analysis, including the proposed timeline for response actions if those are not already completed at the time of the submission of the Root Cause Analysis results.

28. Tank Pressure Monitoring.

a. No later than August 31, 2022, EP Energy shall verify the installation and calibration (in accordance with manufacturer recommendations, if available), of one or more electronic pressure monitors per Tank System for the Tank Systems listed in Appendix A as follows:

(1) 100% of all Tank Systems that had, as of calendar year 2021, Actual Uncontrolled Annual VOC Emissions of 50 TPY or more;

(2) At least 60% of all Tank Systems that had, as of calendar year 2021, Actual Uncontrolled Annual VOC Emissions less than 50 TPY and equal to or greater than 25 TPY;

(3) At least 20% of all Tank Systems that had, as of calendar year 2021, Actual Uncontrolled Annual VOC Emissions less than 25 TPY and equal to or greater than 12 TPY; and

(4) At least 5% of all Tank Systems that had, as of calendar year 2021, Actual Uncontrolled Annual VOC Emissions less than 12 TPY.

b. EP Energy shall operate and maintain the electronic pressure monitors as described below. Each electronic pressure monitor shall be linked to and continuously monitored (i.e., one data point at least every 15 seconds with a data transmission at least every hour) by a central monitoring station in accordance with the requirements of this Paragraph 28. Use of the pressure monitoring system must be continuous except during instances of active equipment maintenance and active repair of the tank pressure monitors

or during instances of Malfunction of the tank pressure monitors. If a tank pressure monitoring system is identified as experiencing a Malfunction, EP Energy shall conduct an AVO inspection within one Calendar Day of the initial Malfunction. Any Reliable Information observed during the AVO Inspection shall be addressed through the requirements of Paragraph 27 (Reliable Information, Investigation, and Corrective Action). EP Energy shall make a first attempt at repair of the tank pressure monitoring system within 5 Calendar Days. EP Energy shall complete repair as soon as practicable, but no later than 10 Calendar Days after the first attempt at repair or Shut-In the Tank System. EP Energy shall record all dates, durations and causes of pressure monitor operation failures and timing of repairs, and will report this information as required by Section VIII (Periodic Reporting).

c. EP Energy shall develop an Electronic Pressure Monitor Calibration SOP and submit it for review and approval by the deadline set forth in Paragraph 50, Table 2 (Deadlines for Injunctive Relief and Mitigation Project Submittals). For the first 60 Days after the deadline in Paragraph 28.a, above, EP Energy shall have a performance optimization period to evaluate calibration and optimize electronic tank pressure monitor performance and reliability. The initial calibration period will allow EP Energy, and its contractors or electronic pressure monitor vendors, an opportunity to ensure that the electronic pressure monitors, to the greatest extent practicable, are producing quality data that may be used to identify the potential for over-pressurization of Tank Systems (e.g., optimization of pressure monitor location on a Tank System, determination of pressure measurements and frequency indicative of over-pressurization). EP Energy shall re-

calibrate each pressure monitor every six months in compliance with its Tank Pressure Monitor Calibration SOP.

d. Site Investigation. Following the performance optimization period, EP Energy shall conduct a site investigation if (i) there are two or more measurements in a 48-hour period that exceed the “high-pressure trigger point” or there are two or more measurements less than the “low-pressure trigger point” (as determined by Paragraph 28e., below) for a Tank System or (ii) if a measurement exceeds the high-pressure trigger point continuously for a duration of one minute, or (iii) a measurement is less than the low-pressure trigger point continuously for a duration of 150 minutes at a Tank System where tank unloading includes opening the thief hatch, or is less than the low-pressure trigger point continuously for a duration of one minute at a Tank System with closed system tank unloading, (iv) if a measurement is static for a duration of 2 minutes, or (v) there is a loss of communications with the pressure monitor for a period of 12 hours or longer. For the purposes of this Paragraph, “measurement” means a single data point that exceeds the high-pressure trigger point or is less than the low-pressure trigger point, except that additional consecutive data points that exceed the high-pressure trigger point or are less than the low-pressure trigger point will be considered a single measurement. Measurements at a Shut-In Tank System shall not initiate a site investigation. Additional measurements that might occur at a Tank System in which EP Energy is currently performing a site investigation must be evaluated in that analysis but will not initiate a separate site investigation.

- (1) If the site investigation was required to assess (i), (ii), or (iii) (unless EP Energy confirms that the site investigation was triggered by a tank

unloading at a Tank System without closed system tank unloading that required more than 150 minutes to complete) above, the site investigation shall include a site visit to test the electronic pressure monitor and evaluate the operating parameters or practices identified by the Engineering Evaluation as critical parameters (e.g., tank head space, Separator or Heater-Treater pressure, Separator or Heater-Treater temperature) for ensuring the Tank System and Vapor Control System are operating as designed (including those parameters or practices incorporated into a Certification of Completion Report for the associated Tank System). The site investigation shall be completed within one Calendar Day following the measurement that initiates the site investigation. For those site investigations required under (i), (ii), or (iii) (unless EP Energy confirms that the site investigation was triggered by a tank unloading at a Tank System without closed system tank unloading that required more than 150 minutes to complete), EP Energy shall also conduct an IR Camera Inspection of the Tank System within one Calendar Day following the measurement that initiates the site investigation.

(2) If the site investigation was required to assess (iv) or (v) above, the site investigation shall include a site visit to test the electronic pressure monitor with a corresponding AVO inspection and if the pressure monitor is experiencing a Malfunction, repair according to Paragraph 28.b. The site investigation shall be completed within one Calendar Day following the measurement that initiates the site investigation.

(3) In the event that a Tank System requires three site investigations in a consecutive 30 Calendar Day period associated with (i), (ii), or

(iii) above, EP Energy shall conduct a Root Cause Analysis, and identify appropriate response actions to be taken to address any common operation, maintenance, or design cause(s) identified, along with a proposed schedule for the implementation of those response actions. Appropriate response actions may include proactive solutions to maintenance problems (e.g., if thief hatches with gaskets greater than one year old are observed to have an increased failure rate, then a replacement schedule at or before one year after installation may be appropriate to implement pursuant to Paragraph 25 (Directed Inspection and Preventative Maintenance Program)). Additional site investigations at a Tank System at which EP Energy is currently performing a Root Cause Analysis shall be added as additional information in that Root Cause Analysis, but shall not initiate additional Root Cause Analyses until EP Energy has completed the ongoing Root Cause Analysis. Upon completion of a Root Cause Analysis, EP Energy shall re-initiate its count of inspections at zero for purposes of calculating the number of site investigations in a 30 Calendar Day period.

e. Pressure Monitor Trigger Points and Leak Point Development. EP Energy must identify the low-pressure trigger point, high-pressure trigger point, and leak point for each Tank System in accordance with the following:

- (1) The low-pressure trigger point shall be equal to or greater than one ounce per square inch;
- (2) The high-pressure trigger point must be at least two ounces per square inch below the lowest set point of any pressure relief device in the Tank System (i.e., if a tank is equipped with a thief hatch with a set point of 16

oz/in<sup>2</sup> and a PRV with a set point of 14 oz/in<sup>2</sup>, the high pressure trigger point can be no greater than 12 oz/in<sup>2</sup>);

(3) The leak point must be greater than the high-pressure trigger point and no greater than the lowest set point of any pressure relief device in the Tank System; and

(4) After EP Energy determines the leak point for each Tank System, EP Energy must conduct an IR Camera Inspection during a pressure test to ensure that the Tank System pressure relief devices are not emitting at or before the designated leak point. During the pressure test, the Tank System will be manually allowed to pressurize up to at least the designated leak point. The IR Camera Inspection can coincide with the IR Camera Inspection conducted in accordance with Paragraph 26 (Periodic IR Camera Inspections).

f. Pressure Monitor Recordkeeping. EP Energy shall maintain records of the following for Tank Systems requiring site investigations, and this information shall be provided in a spreadsheet (unless the Parties agree in writing to a different format) with each Semi-Annual Report: (i) the date, time, location, and numerical value of all pressure readings that exceed the high-pressure trigger point continuously for a duration of one minute or are less than the low-pressure trigger point as set forth in Paragraph 28.d, (ii) the date, time, and location of all static pressure readings that require a site investigation, pursuant to Paragraph 28.d, (iii) the date, time, and location of all or loss of communications periods that require a site investigation, pursuant to Paragraph 28.d, (iv) the date and results of all corresponding site investigations and any corresponding Root

Cause Analyses, and (v) the timeline for response actions identified by the Root Cause Analysis if not already completed.

(1) At any time, EP Energy may submit to the EPA and UDAQ, a written request for alternative criteria (e.g., pressure measurements and number of measurements in a given time period) triggering a site investigation and/or Root Cause Analysis. The EPA, after consultation with UDAQ, may grant or deny EP Energy's request in whole or in part.

29. Redirection of Oil. If EP Energy redirects oil from any well that, as of the Date of Lodging, is connected to a Tank System identified on Appendix A, to another Tank System, EP Energy shall:

a. If the oil is redirected from a Tank System identified on Appendix A to one or more Tank System(s) that is not identified on Appendix (hereinafter "New Tank System"), EP Energy shall add the New Tank System(s) to Appendix A following the redirection of the wells to the New Tank System(s). If EP Energy removes the original Tank System equipment that was replaced by the New Tank System(s), EP Energy shall remove the Tank System from Appendix A after equipment removal. At least 30 Days prior to redirecting the oil to New Tank System(s), EP Energy shall propose a schedule for compliance of the New Tank System(s) with the applicable requirements of the Consent Decree, which shall be subject to EPA approval, in consultation with UDAQ. If the EPA has not approved or denied the proposed schedule within 21 Business Days of receipt, the proposed schedule shall be deemed approved.

b. If EP Energy redirects the oil from all wells that as of the Date of Lodging are connected to Tank System(s) identified on Appendix A to Tank System(s) that are



already identified in Appendix A, and EP Energy removes the original Tank System equipment, EP Energy shall remove the original Tank System from Appendix A.

c. EP Energy shall provide an updated Appendix A with the next Semi-Annual Report following the redirection of the wells to the New Tank System(s) or the removal of the original Tank System(s) (as appropriate).

d. Removal of a Tank System from Appendix A in accordance with this Paragraph shall constitute termination of the Tank System from this Decree.

30. Performance Standards.

a. Following the completion of an Engineering Evaluation and any necessary modifications, for all Tank Systems EP Energy shall:

- (1) Comply with the applicable requirements set forth at: 40 C.F.R. §§ 60.5360–60.5430 and 60.5360a–60.5432a; UAC r. R307-401; UAC r. R307-501-4(1)(a)-(c), 4(2)(a)–(b); and UAC r. R307-506–R307-511.

**VI. ENVIRONMENTAL MITIGATION PROJECT**

31. EP Energy shall implement the Environmental Mitigation Project (“Project”) described in Appendix B in compliance with the approved plan and schedule for such Project and other terms of this Consent Decree.

32. EP Energy shall maintain and, within 30 Days of an EPA or UDAQ request, provide copies of all documents to identify and substantiate the costs expended to implement the Project described in Appendix B.

33. All plans and reports prepared by EP Energy pursuant to the requirements of this Section VI (Environmental Mitigation Project) are required to be submitted to the EPA and

UDAQ and shall be made available to the public from EP Energy upon request and without charge.

34. Project Certification. EP Energy shall certify, as part of each plan submitted to the EPA and UDAQ for any Project, that:

a. EP Energy is not required to perform the Project by any federal, state, or local law or regulation or by any agreement, grant, or as injunctive relief awarded in any other action in any forum;

b. The Project is not a project that EP Energy was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Decree; and

c. EP Energy has not received and will not receive credit for the Project in any other enforcement action. EP shall neither generate nor use any pollutant reductions, pollutant offsets, or apply for, obtain, trade, or sell any pollutant reduction credits.

35. EP Energy shall use its best efforts to secure as much environmental benefit as possible for the Project(s) and costs expended, consistent with the applicable requirements and limits of this Decree.

36. EP Energy shall comply with the reporting requirements described in Appendix B.

37. In connection with any communication to the public or shareholders regarding EP Energy's actions or expenditures relating in any way to the Project(s) in this Decree, EP Energy shall include prominently in the communication the information that the actions and expenditures were required as a part of this Consent Decree.

38. Project Completion Notice. In accordance with Paragraph 50, Table 2 (Deadlines for Injunctive Relief and Mitigation Project Submittals), within 60 Days following the completion of each Project required under this Consent Decree (including any applicable periods of demonstration or testing), EP Energy shall submit to the EPA and UDAQ a report that documents the date the Project was completed, the results achieved by implementing the Project, including a general discussion of the environmental benefits and, where feasible, the estimated emissions reductions, and the costs expended by EP Energy in implementing the Project. EP Energy shall post the Project Completion Notice on its public domain website for a term of no less than one year after termination of this Consent Decree.

## **VII. CIVIL PENALTY**

39. Within 30 Days after the Effective Date, EP Energy shall pay to the United States and the State of Utah the sum of \$700,000 as a civil penalty plus Interest from the Date of Lodging, pursuant to Section 113 of the Act, 42 U.S.C. § 7413. If any portion of the civil penalty is not paid when due, EP Energy shall pay interest on the amount past due, accruing from the Effective Date through the date of payment at the rate specified in 28 U.S.C. § 1961.

40. Payment Instructions to the United States. EP Energy shall pay \$350,000, together with Interest, by FedWire Electronic Funds Transfer (“EFT”) to the DOJ account, in accordance with instructions provided to EP Energy by the Financial Litigation Unit (“FLU”) of the U.S. Attorney’s Office for the District of Utah after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number that EP Energy shall use to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to:

Karolyn Gillespie  
601 Travis Street  
Suite 1400  
Houston, TX 77002  
[Karolyn.Gillespie@epenergy.com](mailto:Karolyn.Gillespie@epenergy.com)

on behalf of EP Energy. EP Energy may change the individual to receive payment instructions on its behalf by providing written notice of such change to the DOJ and the EPA in accordance with Section XVI (Notices). At the time of payment, EP Energy shall send notice that payment has been made: (i) to the EPA via email at [cinwd\\_acctsreceivable@epa.gov](mailto:cinwd_acctsreceivable@epa.gov) or via regular mail at the EPA Cincinnati Finance Office, 26 Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States via email or regular mail in accordance with Section XVI (Notices); and (iii) to the EPA in accordance with Section XVI (Notices). Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in United States and the State of Utah v. EP Energy E&P Company, L.P., and shall reference the civil action number, CDCS number, and the DOJ case number 90-5-2-1-12299/1.

41. Payment Instructions to the State of Utah. EP Energy shall pay \$350,000, together with Interest, by wire transfer to the Utah Department of Environmental Quality, Utah Division of Air Quality, in accordance with instructions that will be provided to EP Energy following the entry of this Consent Decree. The penalty due to the State of Utah shall be deposited as follows: eighty percent (80%) of the total penalty shall be deposited to the Environmental and Mitigation Response Fund (the “fund”) as authorized by Section 19-1-603(3) of the Utah Code. The funds deposited by the Defendant to the Fund shall be earmarked for air quality-related projects authorized by Subsections 19-1-604(2)(a) through (c) of the Utah Code under the authority of Section 19-1-603(4) of the Utah Code. The funds will remain in the Fund until depleted for use on these projects and will not revert or be paid back to the Defendant. The remaining twenty

percent (20%) of the total penalty due to the State of Utah shall be deposited into the General Fund under Section 19-2-115(9)(a) of the Utah Code.

42. Not Tax Deductible. EP Energy shall not deduct any penalties paid under this Consent Decree pursuant to this Section or Section X (Stipulated Penalties) in calculating its federal tax.

### **VIII. PERIODIC REPORTING**

43. After entry of this Consent Decree, EP Energy shall submit to the United States and the State of Utah in accordance with the requirements of Section XVI (Notices), a periodic Semi-Annual Report within 30 Days after the end of each half of the calendar year (i.e., January through June, and July through December). Each Semi-Annual Report shall contain the following information:

a. Pressurized Liquid Sampling. (Paragraph 13): Status and/or completion of sampling, QA/QC assessment, and review of analytical results to the extent not previously reported.

b. Overflow Tanks. (Paragraph 14): In the initial Semi-Annual Report, for each Tank System: the date the removal of the vapor connection to the Overflow Tanks and the removal of Overflow Tanks was completed for Tank Systems No. 55 (BOREN 3-11A2 SINGLE WELL FACILITY) and No. 57 (LAWRENCE 1-30B4 MULTI-WELL FACILITY) or; the date the incorporation of the Overflow Tanks into the VCS was completed at the remaining Tank Systems; and Notices of Intent to update or revise AOs, as required by Utah Air Quality Regulations;

c. Installation and Operation of Automatic Shut-In. (Paragraph 15): In the Initial Semi-Annual Report: the date and location of automatic Shut-In installation. In the

Initial Semi-Annual Report and all subsequent Semi-Annual Reports: the date, location, and duration of any automatic Shut-In occurrences.

d. Vapor Control System Field Survey. (Paragraph 16) Status and/or completion of one-time inventory of tanks and equipment and evaluation of conditions of PRVs, thief hatches, mountings, gaskets, blowdown valves, or control device components to the extent not previously reported and included in the information listed in Paragraph 16.d.

e. Development of Modeling Guideline. (Paragraph 17) A copy of the Modeling Guideline if it was revised during the reporting period. If the Modeling Guideline was revised such that a new Engineering Evaluation is triggered (e.g., a new Tank System design), a list of any Tank Systems that underwent new Engineering Evaluations during the reporting period. EP Energy also shall identify the revisions in the Modeling Guideline that triggered the new Engineering Evaluations.

f. Engineering Design Standards and Vapor Control System Capacity. (Paragraph 18) Copies of any revised Engineering Design Standards and VCS capacity calculations performed during the reporting period.

g. Vapor Control System Engineering Evaluation and Modifications. (Paragraph 19): Status and/or completion of Engineering Evaluations and any modifications, and a summary of modifications to Vapor Control Systems.

h. Tank System Productions Operations Shut-In. (Paragraph 20): A list of any Tank Systems with associated Production Operations temporarily Shut-In during the reporting period pending completion of the Engineering Evaluation and any modifications, the date of Shut-In for each Tank System, and, if any Tank System

resumes Production Operations in accordance with Paragraph 20.a, the date(s) on which Production Operations occurred.

i. Vapor Control System Initial Verification. (Paragraph 21) The information identified in Paragraphs 22 (Certification of Completion Report for Open Loop Vapor Control Systems). EP Energy shall include the date and a link to the Certification of Completion Reports posted on its public domain website in the reporting period.

j. Vapor Control System Modifications Post-Certification of Completion Report. (Paragraph 23): A summary of any evaluations undertaken during the reporting period of whether modifications were necessary at Vapor Control Systems for other Tank Systems, and the timing, results, locations, and description of any modifications of other Vapor Control Systems or a timeline for the completion of such modifications.

k. Directed Inspection and Preventative Maintenance Program. (Paragraph 25): Status of DI/PM program development and implementation, including a copy of EP Energy's DI/PM program if revised during the reporting period, VRU operational times and if the VRU is bypassed, the control device operational times as evidence by flow through the flare inlet valve, identification of any new or modified maintenance or inspection schedules or replacement program during the reporting period, a summary of any identified issues with training program, a summary of any reviews of or modifications to the spare parts program during the reporting period, and, beginning with the Semi-Annual Report due July 30, 2022, the information required by Paragraph 25.h.

l. Periodic IR Camera Inspections. (Paragraph 26): A spreadsheet with information on IR Camera Inspection records pursuant to Paragraph 26.c.

m. Reliable Information, Investigation, and Corrective Action. (Paragraph

27): Copies of the spreadsheets and information as specified and required by Paragraph 27.d.

n. Tank Pressure Monitoring. (Paragraph 28): Information required in Paragraph 28.f).

o. Redirection of Oil. (Paragraph 29): If, EP Energy redirects oil from a well that is connected to a Tank System identified on Appendix A to another Tank System during the reporting period, EP Energy shall submit an updated Appendix A in the next Semi-Annual Report as required by subparagraphs 29.b-29.c.

p. Environmental Mitigation Project (Section VI and Appendix B): A summary of activities undertaken, status of Environmental Mitigation Project milestones set forth in Appendix B, and a summary of costs incurred since the previous Semi-Annual report.

q. A summary of any problems encountered or anticipated in complying with this Consent Decree during the reporting period, together with implemented or proposed solutions, if available.

44. Noncompliance Reporting:

a. Semi-Annual Report: In each Semi-Annual Report submitted pursuant to Paragraph 43, EP Energy shall also include a description of any noncompliance with the requirements of this Consent Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation.

b. 10-Day Reporting: If EP Energy violates, or has reason to believe that it may violate, any requirement of this Consent Decree with an associated stipulated penalty, EP Energy shall notify the United States and the State of Utah in accordance



with the requirements of Section XVI (Notices) of such violation and its likely duration, in writing, within 10 Business Days of the Day EP Energy first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, EP Energy shall so state in the report. EP Energy shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 Days of the Day EP Energy becomes aware of the cause of the violation. Nothing in this Paragraph 44 or Paragraph 43 relieves EP Energy of its obligation to provide the notice required by Section XI (Force Majeure). If the EPA or UDAQ become aware of any violation of any requirement of this Consent Decree, the EPA and UDAQ will use best efforts to promptly notify EP Energy of such violation.

45. Violation Posing Immediate Threat to Public Health or Welfare: Whenever any violation of this Consent Decree or of any applicable permits or any other event affecting EP Energy's performance under this Consent Decree may pose an immediate threat to the public health or welfare or the environment, EP Energy shall comply with any applicable federal and state or local laws and, in addition, shall notify the EPA and UDAQ as per Section XVI (Notices) orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after EP Energy first knew of the violation or event. This notice requirement is in addition to the requirement to provide notice of a violation of this Decree set forth in the preceding Paragraph.

46. Certification Statement. Each report submitted by EP Energy under this Section, and each Certification of Completion Report submitted pursuant to the requirements of

Paragraph 22.b (Certification of Completion Report for Open Loop Vapor Control Systems), shall be signed by an official of the submitting party and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency notifications where compliance would be impractical.

47. The reporting requirements of this Consent Decree do not relieve EP Energy of any reporting obligations required by the Act, or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

48. Any information provided pursuant to this Consent Decree may be used by the United States and the State of Utah in any proceeding to enforce the provisions of this Decree and as otherwise permitted by law.

49. Semi-Annual Report Meeting. Following the submittal of the initial Semi-Annual Report and extending through the term of this Decree, EP Energy shall, upon request of the EPA and UDAQ, attend a meeting to review and discuss any issues reported in a Semi-Annual Report. Upon request from the EPA and UDAQ, EP Energy may be required to submit supplemental information for the EPA and UDAQ to determine compliance with this Consent Decree and to re-certify any Semi-Annual Report.

**IX. INJUNCTIVE RELIEF AND MITIGATION PROJECT SUBMITTALS**

50. All reports and submittals in Section V (Injunctive Relief), Section VI (Environmental Mitigation Projects), and Section VIII (Periodic Reporting) must be submitted by the applicable deadlines in Table 2 (Deadlines for Injunctive Relief and Mitigation Project Submittals), below:

<b>Table 2. Deadlines for Injunctive Relief and Mitigation Project Submittals</b>		
<b>Submission Title</b>	<b>EP Energy's Deadline for Submittal</b>	<b>EPA/UDAQ: Approval or Review and Comment</b>
Sampling and Analysis Plan (Paragraph 13)	February 6, 2022	Review and Approval
Overflow Tank Certification of Completion Report (Paragraph 14.a-14.d)	Initial Semi-Annual Report	N/A
Modeling Guideline (Paragraph 17)	March 28, 2022	Review and Approval
Engineering Design Standard (Paragraph 18)	March 28, 2022	Review and Approval
Notification of Tank Systems Shut-In or Missing Engineering Evaluation Deadline (Paragraph 20)	Next Semi-Annual Report due at least 30 Days after Shut-In	N/A
Certification of Completion Report (Paragraph 22)	Next Semi-Annual Report due at least 60 Days after the applicable Open Loop Engineering Evaluation deadline in Paragraph 15	N/A
Updated Certification of Completion Report after Modification of Vapor Control System (Paragraph 23)	Next Semi-Annual Report due at least 30 Days of completing Paragraph 21.a (Vapor Control System Initial Verification) requirements	N/A
Proposed Verification of Design Analysis Work Plan	May 31, 2023	Approval

<b>Table 2. Deadlines for Injunctive Relief and Mitigation Project Submittals</b>		
<b>Submission Title</b>	<b>EP Energy's Deadline for Submittal</b>	<b>EPA/UDAQ: Approval or Review and Comment</b>
(Paragraph 24.a-24.c)		
Verification of Design Analysis Report (Paragraph 24.g)	180 Days after the Verification of the Design Analysis Work Plan is approved	N/A
DI/PM Program (Paragraph 25) including AVO SOP	February 11, 2022	Review and Approval
DI/PM Program Annual Review Documentation (Paragraph 25.i)	Next Semi-Annual Report due at least 30 Days after completing Paragraph 25.i(1) requirements in accordance with the timeline in Paragraph 25.i(5)	N/A
IR Camera SOP (Paragraph 26.b)	February 11, 2022	Review and Approval
Observations of Reliable Information (Paragraph 26.c(1)-26.c(6))	Next Semi-Annual Report due at least 30 days after EP Energy obtains Reliable Information	N/A
Pressure Monitor Calibration SOP (Paragraph 28.c)	June 30, 2022	Review and Approval
Pressure Monitor Recordkeeping (Paragraph 28.f)	Next Semi-Annual Report	N/A
Redirection of Oil Proposed Schedule for Compliance with Consent Decree Provisions (Paragraph 29.a)	30 Days Prior to Redirection of Oil to New Tank System	Review and Approval
Mitigation Project Plans (Section VI)	Date of Lodging	Approval
Mitigation Project Plans	Within 60 Days after Project	N/A

<b>Table 2. Deadlines for Injunctive Relief and Mitigation Project Submittals</b>		
<b>Submission Title</b>	<b>EP Energy's Deadline for Submittal</b>	<b>EPA/UDAQ: Approval or Review and Comment</b>
Completion Notice (Paragraph 38)	Plan Completion [Date Dependent Upon Agreed Project Plans]	
Semi-Annual Reports (Periodic Reporting, Section VIII)	January 31 and July 31 of each year (Reporting periods July 1-December 31; January 1-June 30)	N/A

51. Approval of Deliverables. After review of any plan, report, or other item that was required to be submitted pursuant to this Consent Decree and is subject to approval, the EPA, after consultation with UDAQ, will in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission.

52. If the submission is approved pursuant to Paragraph 51 (Approval of Deliverables), EP Energy shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to Paragraph 51(b) or (c), EP Energy shall, upon written direction from the EPA and UDAQ, take all actions required by the approved plan, report, or other item that the EPA and UDAQ determine are technically severable from any disapproved portions, subject to EP Energy's right to dispute only the specified conditions or the disapproved portions, under Section XII (Dispute Resolution).

53. If the submission is disapproved in whole or in part pursuant to Paragraph 51(c) or (d), Defendant shall, within 45 Days or such other time as the Parties agree to in writing or is

specified in this Decree, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs 51-52. If the resubmission is approved in whole or in part, EP Energy shall proceed in accordance with the preceding Paragraph.

54. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, the EPA and UDAQ may again require EP Energy to correct any deficiencies, in accordance with the preceding Paragraphs 51, 52, and 53, subject to EP Energy's right to invoke Dispute Resolution and the right of the EPA and UDAQ to seek stipulated penalties as provided in the Section X (Stipulated Penalties).

55. If EP Energy elects to invoke Dispute Resolution as set forth in Section XII, EP Energy shall do so by sending a Notice of Dispute in accordance with Paragraph 93 within 30 Days (or such other time as the Parties agree to in writing) after receipt of the applicable decision.

56. Any stipulated penalties applicable to the original submission, as provided in Section X (Stipulated Penalties), accrue during the 45 Day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of EP Energy's obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

#### **X. STIPULATED PENALTIES**

57. EP Energy shall be liable for stipulated penalties to the United States and the State of Utah for violations of this Consent Decree as specified below, unless excused under Section XI (Force Majeure), or reduced or waived by the United States or the State of Utah pursuant to

Paragraph 61 of the Decree. A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

a. Compliance Requirements.

<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to timely remove Overflow Tanks or incorporate the Overflow Tanks into the Vapor Control System as required by the deadline set forth in Table 1, Paragraph 12 (Deadlines for Design Requirements)	\$550 per day per Tank System for the first 30 days of noncompliance; \$2,750 per day per Tank System thereafter
Failure to timely pull and collect samples by the deadline set forth in Table 1, Paragraph 12 (Deadlines for Design Requirements)	\$550 per day for the first 30 days of noncompliance; \$2,750 per day thereafter
Failure to timely provide notice and conduct QA/QC analyses as required by Paragraphs 13(a)-(c) (Pressurized Liquid Sampling)	\$550 per day for the first 30 days of noncompliance; \$2,750 per day thereafter
Failure to timely install automatic Shut-In as required by the deadline set forth in Table 1, Paragraph 12 (Deadlines for Design Requirements)	\$550 per day per Tank System for the first 30 days of noncompliance; \$2,750 per day per Tank System thereafter
Failure to automatically Shut-In Tank System when associated gas cannot be sent to sales gas line as required by Paragraph 15 (Installation and Operation of Automatic Shut-In)	\$550 per day per Tank System for the first 30 days of noncompliance; \$2,750 per day per Tank System thereafter
Failure to conduct evaluation of the condition of all PRDs/thief hatches, mountings, and gaskets at each Storage Tank as required by Paragraph 16 (Vapor Control System Field Survey)	\$550 per day per Tank System for the first 30 days of noncompliance; \$2,750 per day per Tank System thereafter.
Failure to timely submit Modeling Guideline Paragraph 17 (Development of Modeling Guideline)	\$5,500 for first 30 days of noncompliance; \$8,250 per day thereafter.

<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to timely submit Engineering Design Standards as required by Paragraph 18 (Engineering Design Standards and Vapor Control System Capacity)	\$5,500 for first 30 days of noncompliance; \$8,250 per day thereafter.
Failure to implement the requirements of Paragraph 18 (Engineering Design Standards and Vapor Control System Capacity)	\$550 per day per Vapor Control System for the first 15 days of noncompliance; \$1,100 per day per violation from the 16th to 30th days of noncompliance; and \$2,200 per day per violation thereafter.
Failure to complete an Engineering Evaluation for a Tank System as required by Paragraph 19.a (Open Loop Vapor Control System Engineering Evaluation)	For each Tank System unless associated Production Operations temporarily Shut-In as required by Paragraph 20: \$1,100 per day per violation for the first 15 days of noncompliance; \$2,750 per day per violation from the 16th to 30th days of noncompliance; and \$5,500 per day per violation thereafter.
Failure to complete modifications for a Vapor Control System as required by Paragraph 19.b (Open Loop Vapor Control System Modification)	For each Vapor Control System unless associated Production Operations temporarily Shut-In as required by Paragraph 19: \$1,100 per day per violation for the first 15 days of noncompliance; \$3,300 per day per violation from the 16th to 30th days of noncompliance; and \$9,900 per day per violation thereafter.
Failure to timely Shut-In Tank System as required by Paragraph 20 (Tank System Production Operations Shut-In)	\$11,000 per day per Tank System for the first 30 days of noncompliance; \$25,000 per day per Tank System thereafter.



<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to timely conduct and complete an IR Camera Inspection as required by Paragraph 21.a-21.b (Vapor Control System Initial Verification)	\$550 per day per Vapor Control System for the first 15 days of noncompliance; \$1,100 per day per violation from the 16th to 30th days of noncompliance; and \$2,200 per day per violation thereafter.
Failure to timely complete and submit a Certification of Completion Report as required by Paragraph 22 (Certification of Completion Report for Open Loop Vapor Control Systems)	\$550 per day per report for the first 15 days of noncompliance; \$2,750 per day per report from the 16th to 30th days of noncompliance; and \$5,500 per day per report thereafter.
Failure to post a Certification of Completion Report on EP Energy's public domain website as required by Paragraph 22.h (Vapor Control System Initial Verification)	\$550 per day per report for the first 15 days of noncompliance; \$2,750 per day per report from the 16th to 30th days of noncompliance; and \$5,500 per day per report thereafter.
Failure to conduct a new Engineering Evaluation as required under Paragraph 23 (Vapor Control System Modifications Post-Certification of Completion Report)	\$1,100 per day per violation for the first 15 days of noncompliance; \$2,750 per day per violation from the 16th to 30th days of noncompliance; and \$5,500 per day per violation thereafter.
Failure to conduct any necessary modifications required by Paragraph 23 (Vapor Control System Modifications Post-Certification of Completion Report) after a new Engineering Evaluation is conducted.	For each Vapor Control System unless associated Production Operations temporarily Shut-In as required by Paragraph 19: \$1,100 per day per violation for the first 15 days of noncompliance; \$3,300 per day per violation from the 16th to 30th days of noncompliance; and \$9,900 per day per violation thereafter.
Failure to timely conduct a new IR Camera Verification required by Paragraph 23 (Vapor Control System Modifications Post-Certification of Completion Report) after a new Engineering Evaluation and any necessary modifications are completed.	\$550 per day per Vapor Control System for the first 15 days of noncompliance; \$1,100 per day per violation from the 16th to 30th days of noncompliance; and \$2,200 per day per violation thereafter.

<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to timely submit an updated Certification of Completion Report as required by Paragraph 23 (Vapor Control System Modifications Post-Certification of Completion Report)	\$550 per day per report for the first 30 days of noncompliance; \$2,750 per day per report thereafter.
Failure to timely submit Proposed Verification of Design Analysis Work Plan as required by Paragraph 24 (Vapor Control System Verification of Design Analysis)	\$550 per day for the first 30 days of noncompliance; \$2,750 per day thereafter.
Failure to timely complete the Vapor Control System Verification of Design Analysis as required by Paragraph 24.c-24.f (Vapor Control System Verification of Design Analysis)	\$550 per day per Tank System for the first 15 days of noncompliance; \$1,100 per day per Tank System from the 16th to 30th day of noncompliance, and \$2,200 per day per Tank System thereafter.
Failure to timely complete the Verification of Design Analysis Report as required by Paragraph 24.g (Vapor Control System Verification of Design Analysis)	\$5,500 for first 30 days of noncompliance; \$8,250 per day thereafter.
Failure to implement an approved DI/PM program at each Tank System, and associated Well Pad, as required by Paragraph 25 (Directed Inspection and Preventative Maintenance Program)	\$550 per day per Well Pad for the first 30 days of noncompliance; \$2,750 per day per Well Pad thereafter.
Failure to provide written notification to Ute Indian Tribe of IR Camera Inspection (s), as required by Paragraph 26.a (Periodic IR Camera Inspections)	\$550 per violation
Failure to timely conduct Periodic IR Camera Inspections, as required by Paragraph 26.a (Periodic IR Camera Inspections)	\$550 per day per Vapor Control System for the first 30 days of noncompliance; \$2,750 per day per Vapor Control System thereafter, up and until the next IR Camera Inspection required by Paragraph 25 has been conducted.

<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to maintain records documenting Periodic IR Camera Inspection information in Paragraph 26.c(1)-26.c(6) (Periodic IR Camera Inspections)	\$5,500 per Periodic IR Camera Inspection per Vapor Control System.
Failure to complete all necessary corrective actions or temporarily Shut-In Production Operations, as required by Paragraph 27 (Reliable Information, Investigation, and Corrective Action)	\$5,500 per day per Tank System for the first 15 days of noncompliance; \$11,000 per day per Tank System from the 16th to 30th days of noncompliance; and \$22,000 per day per Tank System thereafter.
Failure to comply with the recordkeeping and reporting requirements of Paragraphs 27.b(3), 27.c, or 27.d (Reliable Information, Investigation, and Corrective Action)	\$2,750 per Tank System per failure.
Failure to complete a Root Cause Analysis or identify or implement appropriate response actions identified during a Root Cause Analysis as required by Paragraph 27.e (Reliable Information, Investigation, and Corrective Action)	\$550 per day per Tank System for the first 30 days of noncompliance; and \$1,100 per day per Tank System thereafter.
Failure to verify installation and calibration of tank pressure monitors, as required by Paragraph 28.a-28.c (Tank Pressure Monitoring)	\$550 per day per Tank System for the first 30 days of noncompliance; \$2,750 per day per Tank System thereafter, up and until the verification required by Paragraph 27 has been conducted.
Failure to timely submit tank pressure monitor calibration SOP, as required by Paragraph 28.c (Tank Pressure Monitoring)	\$5,500 for first 30 days of noncompliance; \$8,250 per day thereafter.
Failure to conduct semi-annual calibration of tank pressure monitors, as required by Paragraph 28.c (Tank Pressure Monitoring)	\$550 per day per Tank System for the first 30 days of noncompliance; \$2,750 per day per Tank System thereafter, up and until the verification required by Paragraph 27 has been conducted.

<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to conduct a site investigation or Root Cause Analysis in accordance with the requirements of Paragraphs 28.d(1)-28.d(3) (Tank Pressure Monitoring)	\$2,750 per day per Tank System for the first 15 days of noncompliance; and \$5,500 per day per Tank System thereafter.
Failure to develop trigger and leak points as required by Paragraph 28.e(1)-28.e(4) (Tank Pressure Monitoring)	\$2,750 per Tank System per failure.
Failure to comply with the recordkeeping requirements of Paragraph 28.f (Tank Pressure Monitoring)	\$2,750 per Tank System per failure.
Failure to timely submit a proposed schedule for Consent Decree compliance of any New Tank System as required by Paragraph 29.a (Redirection of Oil)	\$550 per day per Tank System for the first 30 days of noncompliance; \$2,750 per day per Tank System thereafter.

b. Environmental Mitigation Project.

<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to complete the Environmental Mitigation Project(s) in compliance with Section VI and Appendix B to this Decree	\$1,100 per day per violation for the first 30 days of noncompliance; \$5,500 per day per violation thereafter.

c. Periodic Reports.

<b>Consent Decree Violation</b>	<b>Stipulated Penalty</b>
Failure to submit a Semi-Annual Report as required by Paragraph 43 or failure to submit any required components of the Semi-Annual Report in Paragraph 43	\$1,100 per day for the first 30 days of noncompliance; and \$2,750 per day thereafter.

58. Late Payment of Civil Penalty. If EP Energy fails to pay the civil penalty required to be paid under Section VII (Civil Penalty) when due, EP Energy shall pay a stipulated penalty of \$2,000 per day for each day that the payment is late, split evenly between the United States and the State of Utah.

59. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

60. EP Energy shall pay stipulated penalties to the United States and Utah within 30 Days of a written demand by the United States and the State of Utah, except as provided in Paragraph 79. The penalties shall be split evenly between the United States and the State of Utah, except where the daily stipulated penalty exceeds \$20,000 per day per violation. In this circumstance, the penalties shall be split as follows: The State of Utah shall receive a daily stipulated penalty of \$10,000 per day per violation and the United States shall receive the remainder.

61. Either the United States or the State of Utah may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

62. Stipulated penalties shall continue to accrue as provided in Paragraph 59, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of the United States and the State of Utah and is not appealed to the Court, EP Energy shall pay accrued penalties determined to be owing, together with interest, to the United States and the State of Utah within 30 Days of the Effective Date of the agreement or the receipt of

the United States and Utah's decision or order;

b. If the dispute is appealed to the Court and the United States and the State of Utah prevail in whole or in part, EP Energy shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in Paragraph c, below; or

c. If any Party appeals the District Court's decision, EP Energy shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

63. Obligations Prior to the Effective Date. Upon the Effective Date, the stipulated penalty provisions of this Decree shall be retroactively enforceable with regard to any and all violations of Paragraphs 25, 26, and 29, that have occurred prior to the Effective Date, provided that stipulated penalties that may have accrued prior to the Effective Date may not be collected unless and until this Consent Decree is entered by the Court.

64. If EP Energy fails to pay stipulated penalties according to the terms of this Consent Decree, EP Energy shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States and the State of Utah from seeking any remedy otherwise provided by law for EP Energy's failure to pay any stipulated penalties.

65. EP Energy shall pay stipulated penalties owing to the United States and the State of Utah in the manner set forth and with the confirmation notices required by Paragraph 40-42 (Payment Instructions) except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

66. Stipulated penalties are not the United States' or the State of Utah's exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XIV (Effect of Settlement/Reservation of Rights), the United States and the State of Utah expressly reserve the right to seek any other relief deemed appropriate for EP Energy's violation of this Decree or applicable law, including but not limited to an action against EP Energy for statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt. However, where a violation of relevant statutory or regulatory requirements is also a violation of this Decree, the amount of any statutory penalty assessed for a violation shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

#### **XI. FORCE MAJEURE**

67. "Force majeure," for purposes of this Consent Decree, means any event arising from causes beyond the control of EP Energy, of any entity controlled by EP Energy, or of EP Energy's contractors that delays or prevents the performance of any obligation under this Decree despite EP Energy's best efforts to fulfill the obligation. The requirement that EP Energy exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (i) as it is occurring and (ii) after it has occurred to minimize any resulting delay and any adverse effects to the greatest extent possible. "Force majeure" does not include EP Energy's financial inability to perform any obligation under this Consent Decree.

68. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, EP Energy shall provide notice by email to the EPA and UDAQ as provided in Section XVI (Notices), within 72 hours of when EP Energy first knew that the event might cause a delay.

Within 7 Days thereafter, EP Energy shall provide in writing to the EPA and UDAQ (i) an explanation and description of the reasons for the delay; (ii) the anticipated duration of the delay; (iii) all actions taken or to be taken to prevent or minimize the delay; (iv) a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; (v) EP Energy's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and (vi) a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health. EP Energy shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements precludes EP Energy from asserting any claim of force majeure regarding that event for the period of time of such failure to comply, and for any additional delay caused by such failure. EP Energy shall be deemed to know of any circumstance of which EP Energy, any entity controlled by EP Energy, or EP Energy's contractors knew or should have known.

69. If the EPA and UDAQ agree that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by the EPA and UDAQ, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure does not, of itself, extend the time for performance of any other obligation. The EPA and UDAQ will notify EP Energy in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

70. If the EPA and UDAQ do not agree that the delay or anticipated delay has been or will be caused by a force majeure event, the EPA and UDAQ will notify EP Energy in writing of its decision.



71. If EP Energy elects to invoke the dispute resolution procedures set forth in Section XII (Dispute Resolution), it shall do so no later than 15 Days after receipt of the EPA and UDAQ's notice. In any such proceeding, EP Energy bears the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that EP Energy complied with the requirements of Paragraphs 67-68. If EP Energy carries this burden, the delay at issue will be deemed not to be a violation by EP Energy of the affected obligation of this Consent Decree identified to the EPA, UDAQ, and the Court.

## **XII. DISPUTE RESOLUTION**

72. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section are the exclusive mechanism to resolve disputes arising under or with respect to this Decree.

73. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when EP Energy sends the DOJ, the EPA, and UDAQ a written Notice of Dispute. Such Notice of Dispute shall clearly state the matter in dispute. The period of informal negotiations shall not exceed 30 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States and the State of Utah shall be considered binding unless, within 14 Days after the conclusion of the informal negotiation period, EP Energy invokes formal dispute resolution procedures as set forth below.

74. Formal Dispute Resolution. EP Energy shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by sending the DOJ, the EPA, and UDAQ a written Statement of Position regarding the matter in dispute. The statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting EP Energy's position and any supporting documentation relied upon by EP Energy.

75. The United States and the State of Utah will send EP Energy a Statement of Position within 30 Days of receipt of EP Energy's Statement of Position. The United States and the State of Utah's Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States and the State of Utah. The United States and the State of Utah's Statement of Position is binding on EP Energy, unless EP Energy files a motion for judicial review of the dispute in accordance with the following Paragraph.

76. Judicial Dispute Resolution. EP Energy may seek judicial review of the dispute by filing with the Court and serving on the United States and the State of Utah a motion requesting judicial resolution of the dispute. The motion must be filed within 20 Days of receipt of the United States and the State of Utah's Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of EP Energy's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

77. The United States and the State of Utah shall respond to EP Energy's motion within the time period allowed by the Local Rules of this Court. EP Energy may file a reply memorandum, to the extent permitted by the Local Rules.

78. Standard of Review.

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 74 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by the EPA and UDAQ or EPA in consultation with UDAQ under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, EP Energy shall have the burden of demonstrating, based on the administrative record, that the position of the United States and the State of Utah is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 74, EP Energy shall bear the burden of demonstrating that its position complies with this Consent Decree and better furthers the objectives of the Consent Decree.

79. The invocation of the dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the dispute matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 62. If EP Energy does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section X (Stipulated Penalties).

### **XIII. INFORMATION COLLECTION AND RETENTION**

80. The United States and the State of Utah and their representatives, including attorneys, contractors, and consultants, shall have the right of entry to any Well Pad covered by this Consent Decree, at all reasonable times (subject to any applicable federal health and safety laws and regulations and subject to the same rights and restrictions granted to EP Energy by applicable surface use or private agreements), upon presentation of credentials, to conduct the following:

- a. Monitor the progress of activities required under this Decree;
- b. Verify any data or information submitted to the United States and Utah in accordance with the terms of this Decree;
- c. Obtain samples and, upon request, splits or duplicates of any samples taken by EP Energy or its representatives, contractors, or consultants related to activities under this Decree;
- d. Obtain documentary evidence, including photographs and similar data related to activities required under this Decree; and
- e. Assess EP Energy's compliance with this Decree.

81. Upon request, EP Energy shall provide the EPA and UDAQ or its authorized representatives, splits or duplicates of any samples taken by EP Energy. Upon request, the EPA and UDAQ shall provide EP Energy splits or duplicates of any samples taken by the EPA and/or UDAQ.

82. Until five years after the termination of this Consent Decree, EP Energy shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, videos, photographs, or other information (including documents, records, or

other information in electronic form) (hereinafter referred to as “Records”) in its or its contractors’ or agents’ possession or control, or that come into its or its contractors’ or agents’ possession or control, and that relate in any manner to EP Energy’s performance of its obligations under this Decree. This information-retention requirement applies regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States or the State of Utah, EP Energy shall provide copies of any Records required to be maintained under this Paragraph.

83. At the conclusion of the information-retention period provided in the preceding Paragraph, EP Energy shall notify the United States and the State of Utah at least 90 Days prior to the destruction of any Records subject to the requirements of the preceding Paragraph and, upon request by the United States or the State of Utah, EP Energy shall deliver any such Records to the EPA and UDAQ. EP Energy may assert that certain Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If EP Energy asserts such a privilege, it shall provide the following: (1) the title of the Record; (2) the date of the Record; (3) the name and title of each author of the Record; (4) the name and title of each addressee and recipient; (5) a description of the subject of the Record; and (6) the privilege asserted by EP Energy. However, no Record created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

84. EP Energy may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that EP Energy seeks to protect as CBI, EP Energy shall follow the procedures set forth in 40 C.F.R. Part 2 and Utah Code § 63G-2-309.

#### **XIV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

85. This Consent Decree resolves the civil claims of the violations alleged in the Complaint filed in this action for the Tank Systems listed in Appendix A through the Date of Lodging.

86. The United States and Utah reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States or the State of Utah to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraph 85. The United States and the State of Utah further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, EP Energy's Tank Systems and associated Vapor Control Systems, whether related to the violations addressed in this Decree or otherwise.

87. In any subsequent administrative or judicial proceeding initiated by the United States or the State of Utah for injunctive relief, civil penalties, or other appropriate relief relating to the Tank Systems and associated Vapor Control Systems or EP Energy's violations, EP Energy 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 upon any contention that the claims raised by the United States or the State of Utah in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 85 or the December 10, 2021 Settlement Agreement relating to the Bankruptcy Cases.

88. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. EP Energy is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and EP Energy's compliance with this Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the State of Utah do not, by their consent to the entry of this Decree, warrant or aver in any manner that EP Energy's compliance with any aspect of this Decree will result in compliance with provisions of the Act, or with any other provisions of federal, State, or local laws, regulations, or permits.

89. This Consent Decree does not limit or affect the rights of EP Energy or of the United States or Utah against any third parties, not party to this Decree, nor does it limit the rights of third parties, not party to this Decree, against EP Energy, except as otherwise provided by law.

90. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Decree.

91. Except as expressly provided in this Consent Decree, the provisions of the Plan, including but not limited to Sections 10.3 (Discharge) and 10.6 (Injunction), shall control.

#### **XV. COSTS**

92. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and Utah shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by EP Energy. Utah reserves the right to reimburse itself for attorney's

fees incurred in pursuing this action from the penalty amount due to Utah under Section 19-2-115(9)(b) of the Utah Code and as set forth in Paragraph 41.

## XVI. NOTICES

93. Unless otherwise specified in this Consent Decree, whenever notifications, submissions, or communications are required by this Decree, they shall be made in writing and sent by mail or email, with a preference for email, and addressed as follows:

As to the United States by email: [eescdcopy.enrd@usdoj.gov](mailto:eescdcopy.enrd@usdoj.gov)  
Re: DJ # 90-5-2-1-10388/4

As to the United States by mail: EES Case Management Unit  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Re: DJ # 90-5-2-1-10388/4

As to the EPA by email: [R8AirReportEnforcement@epa.gov](mailto:R8AirReportEnforcement@epa.gov)  
[Loiacono.sara@epa.gov](mailto:Loiacono.sara@epa.gov)

As to the EPA by mail: Branch Chief, Air & Toxics Enforcement Branch  
Enforcement and Compliance Assurance Division  
Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Mail Code: 8ENF-AT  
Denver, CO 80202

As to Utah by mail and email: Bryce C. Bird  
Director, Utah Division of Air Quality  
P.O. Box 144870  
Salt Lake City, UT 84114-4870  
[bbird@utah.gov](mailto:bbird@utah.gov)

Marina V. Thomas  
Assistant Attorney General  
Utah Attorney General's Office  
P.O. Box 140873  
Salt Lake City, UT 84114-0873  
[marinathomas@agutah.gov](mailto:marinathomas@agutah.gov)



As to EP Energy by email: Matt Immel  
[matt.immel@epenergy.com](mailto:matt.immel@epenergy.com)

94. Any Party may, by written notice to the other Party, change its designated notice recipient or notice address provided above.

95. Notices submitted pursuant to this Section shall be deemed submitted upon mailing or transmission by email, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing. Notifications or communications mailed to EP Energy shall be deemed to be received on the earlier of: (i) actual receipt by EP Energy; or (ii) receipt of an electronic version sent to the addressees set forth in Paragraph 93, above. An email is presumed to have been received on the day it is sent. With the exception of notices sent pursuant to Section XI (Force Majeure), if the date for submission of a report, study, notification, or other communication falls on a Saturday, Sunday or federal holiday, the report, study, notification, or other communication will be deemed timely if it is submitted the next Business Day.

#### **XVII. SALES OR TRANSFERS OF OPERATIONS**

96. This Consent Decree does not prohibit the sale or transfer of EP Energy's ownership of a working interest in any well, or any well and associated Tank System, provided that EP Energy both (a) remains the Operator of the well and associated Tank System and (b) retains the minimum working interest necessary to remain the Operator of the well and associated Tank System.

97. If EP Energy proposes to sell an operational interest in, or transfer operation of, any well associated with a Tank System to a third party unaffiliated with EP Energy, EP Energy shall, at least 30 Days prior to the sale or transfer, (i) notify the United States and the State of Utah of the proposed sale or transfer and of the specific Consent Decree provisions that EP

Energy proposes the transferee assume; (ii) certify that the transferee is contractually bound to assume the obligations and liabilities of the Consent Decree; and (iii) submit a certified statement from the transferee describing how the transferee has both the financial and technical ability to assume the obligations and liabilities of the Consent Decree.

98. No sale or transfer of an operational interest in, or the operation of, any well associated with a Tank System shall relieve EP Energy of its obligations to ensure that the terms of the Consent Decree are implemented unless and until the Court has approved a modification pursuant to Section XXI (Modification) of this Consent Decree substituting the third party as a party to this Consent Decree with respect to the well(s) and associated Tank System(s) that are the subject of the sale or transfer. The modification shall make the third party a party to this Consent Decree and shall establish, as between EP Energy and the third party, their respective responsibilities for compliance with requirements of this Consent Decree that may be applicable to the transferred or purchased Tank Systems and associated well production assets.

99. No earlier than 30 Days after giving notice of a proposed sale or transfer pursuant to Paragraph 97, EP Energy may file a motion with the Court to modify this Consent Decree in accordance with Section XXI (Modification) to make the terms and conditions of this Consent Decree specifically relating to the well(s) and associated Tank System(s) sold or transferred applicable to the transferee. EP Energy shall be released from the specific obligations and liabilities of this Consent Decree relating to the well(s) and associated Tank System(s) sold or transferred unless the United States opposes the motion and the Court finds that the transferee does not have the financial and technical ability to assume the obligations and liabilities under this Consent Decree.

100. This Consent Decree shall not be construed to impede the transfer of an operational interest in, or the Operation of, any well associated with a Tank System to a third party unaffiliated with EP Energy so long as the requirements of this Consent Decree are met.

101. Notwithstanding anything to the contrary in this Section, EP Energy may not assign, and may not be released from, any obligation under this Consent Decree that is not specific to the purchased or transferred Tank Systems and associated well production assets, including the obligations set forth in Sections VI (Environmental Mitigation Projects) and VII (Civil Penalty).

### **XVIII. PLUGGING AND ABANDONMENT**

102. Effect of Plugging and Abandonment. The permanent plugging and abandonment of a well (“P&A”) shall be deemed to satisfy all requirements of this Consent Decree applicable to the well and Tank System servicing that well. If the Tank System is servicing wells that have not been plugged and abandoned, the provisions of this Paragraph do not apply. To P&A a well, EP Energy must file with the appropriate regulatory agency (i.e., Utah Division of Oil, Gas, and Mining or the U.S. Bureau of Land Management, or both, as applicable) a Notice of Intent to Plug and Abandon a Well, which includes a downhole schematic setting forth the actions to be taken to cement off the producing formations (the “Downhole Work”). After the Downhole Work has been completed, EP Energy will file a Plugging and Abandonment Subsequent Report (“Subsequent Report”) confirming that the Downhole Work was completed. After the regulatory agency’s receipt of the Subsequent Report, the well will be deemed to have been permanently plugged and abandoned. EP Energy shall maintain copies of all documentation required by this Paragraph for inspection and review by the EPA and UDAQ. In each Semi-Annual Report, EP Energy shall update Appendix A to reflect any associated Tank Systems for which all wells have

been permanently plugged and abandoned. Nothing herein shall preclude EP Energy from reusing any equipment from a plugged and abandoned well.

#### **XIX. EFFECTIVE DATE**

103. The Effective Date of this Consent Decree is the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket; provided, however, that EP Energy hereby agrees that it shall be bound to perform any specific duties scheduled to occur prior to the Effective Date. In the event the United States and the State of Utah withdraws or withholds consent to this Decree before entry, or the Court declines to enter the Decree, then the preceding requirement to perform duties scheduled to occur before the Effective Date terminates.

#### **XX. RETENTION OF JURISDICTION**

104. The Court retains jurisdiction over this case until termination of this Consent Decree pursuant to Section XXII (Termination) for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections XII (Dispute Resolution) and XXI (Modification), or effectuating or enforcing compliance with the terms of this Decree.

#### **XXI. MODIFICATION**

105. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it is effective only upon approval by the Court.

106. Any disputes concerning modification of this Consent Decree shall be resolved pursuant to Section XII (Dispute Resolution), provided, however, that, instead of the burden of

proof provided by Paragraph 71, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

## **XXII. TERMINATION**

107. Termination as to Specific Tank System(s). EP Energy may seek consent to terminate the requirements of this Consent Decree with respect to Tank System(s) on Appendix A which are to be transferred entirely from EP Energy's operational control and with respect to Tank Systems (and associated wells and well production assets so long as those associated wells and well production assets are not also associated with a Tank System that will remain subject to the requirements of the Consent Decree) that have completed all requirements of Paragraphs 14-16, 19, 21 (including removal of Overflow Tanks and installation of automatic Shut-In, evaluation of PRDs/thief hatches, Engineering Evaluation, and any necessary modifications, and initial verification of the Vapor Control System) (herein "Request for Termination of a Tank System").

a. Such Requests for Termination of a Tank System shall be provided to the United States and Utah in writing and contain the date a Certification of Completion Report was submitted for the Tank System(s); or if such report has not been submitted, EP Energy shall submit a Certification of Completion Report for the Tank System(s) in accordance with the requirements in Paragraph 22 (Certification of Completion Report for Open Loop Vapor Control Systems).

b. Until such time as the United States and the State of Utah consents to EP Energy's Request for Termination of a Tank System, EP Energy's obligations under this

Consent Decree shall remain in effect as to such Tank System(s). Such consent shall not be unreasonably withheld or delayed.

c. EP Energy shall not submit more than three individual Requests for Termination of a Tank System to the United States and the State of Utah. Under no circumstances may EP Energy seek termination pursuant to this Paragraph involving more than fifteen percent of Tank Systems subject to this Consent Decree on Appendix A as of the Effective Date.

d. This Section, including the calculation of the fifteen percent Tank Systems listed on Appendix A as of the Effective Date, shall operate independently from the provisions in Section XVII (Sales or Transfers of Operations).

108. Request for Termination of Consent Decree. After EP Energy has:

- a. Completed the applicable requirements of Paragraphs 12-19 and 21;
- b. Completed Section VI (Environmental Mitigation Projects);
- c. Substantially complied with Paragraph 23 (Vapor Control System Modifications Post-Certification of Completion); Paragraph 25 (Directed Inspection and Preventative Maintenance Program); Paragraph 26 (Periodic IR Camera Inspections), Paragraph 27 (Reliable Information, Investigation, and Corrective Action); and Paragraph 28 (Tank Pressure Monitoring) for at least two years after completion of the Vapor Control System Verification of Design Analysis in Paragraph 24. This Paragraph shall not apply to Tank Systems subject to this Consent Decree for which all wells associated with the Tank System are permanently plugged and abandoned in accordance with Paragraph 102 at the time of the Request for Termination of this Consent Decree; and

d. Has paid the civil penalty and any accrued stipulated penalties not waived or reduced by the United States or the State of Utah pursuant to Paragraph 61.

EP Energy may send to the United States a Request for Termination of this Consent Decree, which shall be certified in accordance with Paragraph 46 (Certification Statement), stating that EP Energy has satisfied those requirements, together with all necessary supporting documentation.

109. Following receipt by the United States of EP Energy's Request for Termination of this Consent Decree, the Parties shall confer informally concerning the request and any disagreement that the Parties may have as to whether EP Energy has satisfactorily complied with the requirements for termination of this Consent Decree, including documentation of compliance with and completion of each requirement. If the United States, after consultation with Utah, agrees that the Decree may be terminated, and the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

110. If the United States, after consultation with the State of Utah, does not agree that the Consent Decree may be terminated or does not agree that the applicability of the Consent Decree to a particular Tank System, pursuant to Paragraph 107, may be terminated, EP Energy may invoke Dispute Resolution under Section XII (Dispute Resolution). However, EP Energy shall not seek Dispute Resolution of any dispute regarding termination until 45 Days after service of its Request for Termination or its Request for Termination of a Tank System for the particular Tank System(s) in dispute.

### **XXIII. PUBLIC PARTICIPATION**

111. This Consent Decree will be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States and

the State reserve the right to withdraw or withhold its consent if the comments regarding this Decree disclose facts or considerations indicating that this Decree is inappropriate, improper, or inadequate. EP Energy consents to entry of this Decree without further notice and agrees not to withdraw from or oppose entry of this Decree by the Court or to challenge any provision of this Decree, unless the United States and the State of Utah have notified EP Energy in writing that it no longer supports entry of this Decree.

#### **XXIV. SIGNATORIES/SERVICE**

112. Each undersigned representative of EP Energy, Utah, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

113. This Consent Decree may be signed in counterparts, and its validity may not be challenged on that basis. EP Energy agrees to accept service of process by mail with respect to all matters arising under or related to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. EP Energy need not file an answer to the Complaint in this action unless or until the Court expressly declines to enter this Decree.

#### **XXV. INTEGRATION/HEADINGS**

114. With the exception of the December 10, 2021 Settlement Agreement relating to the Bankruptcy Cases, this Consent Decree and its Appendices constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or



written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Decree, the Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

#### **XXVI. FINAL JUDGMENT**

115. Upon approval and entry of this Consent Decree by the Court, this Consent Decree constitutes a final judgment of the Court as to the United States, the State of Utah, and EP Energy.

116. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section III (Applicability), Paragraph 8; Section V (Injunctive Relief), Paragraphs 12-30; Section VI (Environmental Mitigation Projects), Paragraphs 31-38, and Appendix B; Section VIII (Periodic Reporting, Paragraphs 43, 44, and 46, and Section XIII (Information Collection and Retention), Paragraphs 80-82, is restitution or required to come into compliance with law.

#### **XXVII. APPENDICES**

117. The following Appendices are attached to and part of this Consent Decree:

“Appendix A” is the List of Tank Systems; and

“Appendix B” is the Mitigation Project Plan as described in Section VI.

Dated and entered this \_\_\_\_ day of \_\_\_\_\_, 2022

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UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of the *United States of America and the State of Utah v. EP Energy E&P Company, L.P.*, subject to public notice and comment.

FOR THE UNITED STATES OF AMERICA:

NATHANIEL DOUGLAS  
Deputy Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice

Date: 3/29/22

  
JAMES D. FREEMAN  
Senior Attorney  
Environmental Enforcement Section  
U.S. Department of Justice  
999 18th Street,  
Suite 370, South Terrace  
Denver, CO 80202  
Email: james.freeman2@usdoj.gov

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of the *United States of America and the State of Utah v. EP Energy E&P Company, L.P.*, subject to public notice and comment.


FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 8:

Date: 03/22/2022

KENNETH SCHEFSKI  Digitally signed by KENNETH SCHEFSKI  
Date: 2022.03.22 10:17:18 -06'00'

KENNETH C. SCHEFSKI  
Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 8

Date: 03/23/2022

SUZANNE BOHAN  Digitally signed by SUZANNE BOHAN  
Date: 2022.03.23 08:47:27 -06'00'

SUZANNE J. BOHAN  
Director  
Office of Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 8

Date: 03/24/2022

KATHLEEN BECKER  Digitally signed by KATHLEEN BECKER  
Date: 2022.03.24 15:32:02 -06'00'

KC Becker  
Regional Administrator  
U.S. Environmental Protection Agency, Region 8

Date: 03/22/2022

JESSICA PORTMESS  Digitally signed by JESSICA PORTMESS  
Date: 2022.03.22 17:38:11 -06'00'

JESSICA PORTMESS  
Senior Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 8

Date: 03/22/2022

LAUREN HAMMOND  Digitally signed by LAUREN HAMMOND  
Date: 2022.03.22 15:54:06 -06'00'

LAUREN HAMMOND  
Senior Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 8

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of the *United States of America and the State of Utah v. EP Energy E&P Company, L.P.*, subject to public notice and comment.

FOR THE PLAINTIFF, THE STATE OF UTAH:

Date: 03/24/2022

**Marina V.  
Thomas**

Digitally signed by  
Marina V. Thomas  
Date: 2022.03.24  
11:10:37 -06'00'

---

MARINA V. THOMAS  
Assistant Attorney General  
Environment Division  
Utah Attorney General's Office  
195 North 1950 West  
P.O. Box 140873  
Salt Lake City, UT 84004-0873

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of the *United States of America and the State of Utah v. EP Energy E&P Company, L.P.*, subject to public notice and comment.

FOR DEFENDANT, EP Energy E&P Company, L.P.:

Date: March 18, 2022

By: EP Energy Management, L.L.C., its general partner



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Chad D. England  
Senior Vice President and Chief Operating Officer