EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0009-AIR-E **TCEQ ID:** RN100893338 **CASE NO.:** 32108

RESPONDENT NAME: Maxim Production Co., LP

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
X AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Farm Road 1096, Boling, Wharton County

TYPE OF OPERATION: Egg production farm

SMALL BUSINESS: ____ Yes X No

OTHER SIGNIFICANT MATTERS: Six complaints were received, the first one on September 13, 2006, stating that the odor coming from the egg production farm was overpowering causing the complainant to stay inside. On September 15, 19, 20, 22, and 28, 2006 complaints were also received stating a foul, manure smell was coming from the location. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: Complaints were received but, the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 11, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6162; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

Respondent: Mr. Vincent J. Reina, CEO, Maxim Production Co., LP, Route 1 Box 31, Boling, Texas 77420

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** September 13,15,19,20,22, and 28, 2006 **Date of Investigation Relating to this Case:** September 29, 2006 **Date of NOE Relating to this Case:** December 7, 2006 (NOE) **Background Facts:** This was a complaint investigation. Two violations were documented. **AIR** 1) Failed to obtain authorization for the poultry incinerator [30 TEX. ADMIN. CODE § 116.110(a)(1) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)]. Specifically, the Permit By Rule ("PBR") covering the incinerator could not be met due to the volume of material incinerated. 2) Failed to pay outstanding General Wastewater Permit fees and all applicable late fees for Fiscal Year 2007 (Financial Administration Account No. 20500342) [30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE §§ 5.702(a) and 26.0291].	**Total Assessed:** $3,660 **Total Deferred:** $732 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,928 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, either meet the conditions of the PBR for the incinerator, or submit an administratively complete permit application; b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; c. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest; and d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision November 17, 2006*

DATES						
Assigned	11-Dec-2006					
PCW	8-Jan-2007	Screening	27-Dec-2006	EPA Due		

RESPONDENT/FACILITY INFORMATION

Respondent	Maxim Production Co., LP		
Reg. Ent. Ref. No.	RN100893338		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32108	No. of Violations	2
Docket No.	2007-0009-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Sherronda Martin
Multi-Media		EC's Team	EnforcementTeam 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History — 22% Enhancement — *Subtotals 2, 3, & 7* $660

Notes: Penalty enhancement due to one non similar NOV, and one 1660-style Agreed Order.

Culpability — No — 0% Enhancement — *Subtotal 4* $0

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 0% Reduction — *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$74
Approx. Cost of Compliance	$1,500

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $3,660

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $3,660

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $3,660

DEFERRAL — 20% Reduction — *Adjustment* -$732

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $2,928

Screening Date 27-Dec-2006 **Docket No.** 2007-0009-AIR-E **PCW**

Respondent Maxim Production Co., LP *Policy Revision 2 (September 2002)*

Case ID No. 32108 *PCW Revision November 17, 2006*

Reg. Ent. Reference No. RN100893338

Media [Statute] Air Quality

Enf. Coordinator Sherronda Martin

Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> **Repeat Violator (Subtotal 3)**

No ***Adjustment Percentage (Subtotal 3)*** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer ***Adjustment Percentage (Subtotal 7)*** 0%

>> **Compliance History Summary**

Compliance History Notes Penalty enhancement due to one non similar NOV, and one 1660-style Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 27-Dec-2006 **Docket No.** 2007-0009-AIR-E **PCW**

Respondent Maxim Production Co., LP *Policy Revision 2 (September 2002)*

Case ID No. 32108 *PCW Revision November 17, 2006*

Reg. Ent. Reference No. RN100893338

Media [Statute] Air Quality

Enf. Coordinator Sherronda Martin

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a)(1) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description Failed to obtain authorization for the poultry incinerator. Specifically, as documented during an investigation conducted on September 29, 2006, due to the volume of material incinerated, the Permit By Rule ("PBR") covering the incinerator could not be met.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: The Respondent did not meet 100% of the rule requirement.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 3

90 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three monthly events are recommended for the period of September 29, 2006 to December 27, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $74

Statutory Limit Test

Violation Final Penalty Total $3,660

This violation Final Assessed Penalty (adjusted for limits) $3,660

Economic Benefit Worksheet

Respondent Maxim Production Co., LP
Case ID No. 32108
Reg. Ent. Reference No. RN100893338
Media Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$1,500	29-Sep-2006	23-Sep-2007	1.0	$74	n/a	$74
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to obtain TCEQ authorization for operation. Date required is the date of the investigation. Final date is the date of expected compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $1,500

TOTAL: $74

Screening Date 27-Dec-2006 **Docket No.** 2007-0009-AIR-E **PCW**

Respondent Maxim Production Co., LP *Policy Revision 2 (September 2002)*

Case ID No. 32108 *PCW Revision November 17, 2006*

Reg. Ent. Reference No. RN100893338

Media [Statute] Air Quality

Enf. Coordinator Sherronda Martin

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 205.6 and Tex. Water Code §§ 5.702(a) and 26.0291

Violation Description Failed to pay outstanding General Wastewater Permit fees and all applicable late fees for Fiscal Year 2007 (Financial Administration Account No. 20500342).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Adjustment $10,000

$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $0

No administrative penalty is recommended because penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent Maxim Production Co., LP
Case ID No. 32108
Reg. Ent. Reference No. RN100893338
Media Air Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	N/A						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	N/A						

Approx. Cost of Compliance: $0

TOTAL: $0

Compliance History

Customer/Respondent/Owner-Operator:	CN602788804	Maxim Production Co., LP	Classification: AVERAGE	Rating: 5.20
Regulated Entity:	RN100893338	EGG FARM 273	Classification: AVERAGE	Site Rating: 9.60

ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	24542
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	WF0111S
	WASTEWATER AGRICULTURE	PERMIT	TXG920855

Location: FM 1096, BOLING, TX, 77420 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 17, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 21, 2001 to December 21, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Bryan Elliott Phone: 239-6162

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Maxim Production Co., LP
4. if Yes, who was/were the prior owner(s)? Maxim Production Co., Inc.

   Route 60 Real Estate Company, L.C.
5. When did the change(s) in ownership occur?

   02/17/2005
   03/30/2005

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/20/2003 ADMINORDER 2000-1011-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
30 TAC Chapter 321, SubChapter K 321.193(8)

5C THC Chapter 382, SubChapter A 382.085(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: gen pro 1.1 PERMIT
Description: Failure to control odors during waste handling, treatment and management at the Plant.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 04/22/2002 (111840)
2 05/23/2002 (111841)
3 06/20/2002 (111842)
4 07/05/2002 (111843)
5 02/10/2003 (24297)
6 05/22/2003 (281345)
7 04/26/2004 (269842)
8 11/15/2005 (435166)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 06/20/2002 (111842)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
Description: NUISANCE PROHIBITION

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
MAXIM PRODUCTION CO., LP	§	
RN100893338	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0009-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Maxim Production Co., LP ("Maxim") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 5 and 7. The Executive Director of the TCEQ, through the Enforcement Division, and Maxim appear before the Commission and together stipulate that:

1. Maxim owns and operates an egg production farm located at Farm Road 1096 in Boling, Wharton County, Texas (the "Farm").

2. The Farm consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Maxim agree that the Commission has jurisdiction to enter this Agreed Order, and that Maxim is subject to the Commission's jurisdiction.

4. Maxim received notice of the violations alleged in Section II ("Allegations") on or about December 12, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Maxim of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Six Hundred Sixty Dollars ($3,660) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Maxim has paid Two Thousand Nine Hundred Twenty-Eight Dollars ($2,928) of the administrative penalty and Seven Hundred Thirty-Two Dollars ($732) is deferred contingent

upon Maxim's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Maxim fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Maxim to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Maxim have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Maxim has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Farm, Maxim is alleged to have:

1. Failed to obtain authorization for the poultry incinerator, in violation of 30 TEX. ADMIN. CODE § 116.110(a)(1) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on September 29, 2006. Specifically, the Permit By Rule ("PBR") covering the incinerator could not be met due to the volume of material incinerated.

2. Failed to pay outstanding General Wastewater Permit fees and all applicable late fees for Fiscal Year 2007 (Financial Administration Account No. 20500342), in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE §§ 5.702(a) and 26.0291, as documented during a record review conducted on December 27, 2006.

III. DENIALS

Maxim generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Maxim pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Maxim's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Maxim Production Co., LP, Docket No. 2007-0009-AIR-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. It is further ordered that Maxim shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, either meet the conditions of the PBR for the incinerator, or submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE § 116.110 to:

      Air Permits Division, MC 162
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

   b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and

   c. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Maxim Production Co., LP Account No. 20500342," to:

      Financial Administration Division, Revenues Section
      Attention: Cashier's Office, MC 214
      Texas Commission on Environmental Quality
      P.O. Box 13088
      Austin, Texas 78711-3088

   d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Maxim. Maxim is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Farm operations referenced in this Agreed Order.

4. If Maxim fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Maxim's failure to comply is not a violation of this Agreed Order. Maxim shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Maxim shall notify the Executive Director within seven days after Maxim becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Maxim shall be made in writing to the Executive Director. Extensions are not effective until Maxim receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Maxim in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Maxim, or three days after the date on which the Commission mails notice of the Order to Maxim, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

9/7/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

x
Signature

08/24/2007
Date

Vincent J. Reina
Name (Printed or typed)
Authorized Representative of
Maxim Production Co., LP

President, Maxim GP LLC
Managing Partner of
Title Maxim Production Co., LP

Instructions Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.