EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0620-AIR-E **TCEQ ID:** RN100219716 **CASE NO.:** 33240

RESPONDENT NAME: Shell Pipeline Company 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: Shell Pipeline El Vista Tank Farm, 6300 Old West Port Arthur Road, Port Arthur, Jefferson County

TYPE OF OPERATION: Tank farm

SMALL BUSINESS: ____ **Yes** __X__ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on September 24, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: Ms. Melissa Reeves, Environmental Coordinator, Shell Pipeline Company LP, 777 Walker Street, TSP 1586, Houston, Texas 77002
Mr. Greg Smith, Regional Operations Manager, Shell Pipeline Company LP, 777 Walker Street, TSP 1586, Houston, Texas 77002
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: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** February 7, 2007 **Date of NOV/NOE Relating to this Case:** April 5, 2007 (NOE) **Background Facts:** This was a routine investigation. Two violations were documented. **AIR** 1) Failed to conduct quarterly opacity readings on an internal combustion ("IC") unit at least once quarterly. Specifically, from September 8, 2005 through September 7, 2006, Shell Pipeline failed to perform opacity readings on an IC engine for a flood pump [30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit ("FOP") No. O-2739, General Terms and Conditions ("GTC"), Special Terms and Conditions 3.A.(iv)1, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to submit a Semi-Annual Deviation Report for the period September 8, 2005 through March 6, 2006 and report this deviation in the Semi-Annual Deviation Report for March 7, 2006 through September 7, 2006 and Annual Compliance Certification for September 8, 2005 through September 7, 2006 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A) and (B), 122.146(5)(D), FOP No. O-2739, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $7,735 **Total Deferred:** $1,547 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $3,094 **Total Paid to General Revenue:** $3,094 **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** X **Average** __ **Poor** **Major Source:** X Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant: a. During December 2006 and March 2007, conducted quarterly opacity readings on the flood pump engine; and b. On June 15, 2007, submitted a revised Annual Compliance Certification for September 8, 2005 through September 7, 2006 and revised Semi-Annual Deviation report for March 7, 2006 through September 7, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Additional ID No(s).: JE0228I

Attachment A
Docket Number: 2007-0620-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Shell Pipeline Company LP**
Payable Penalty Amount:	**Six Thousand One Hundred Eighty-Eight Dollars ($6,188)**
SEP Amount:	**Three Thousand Ninety-Four Dollars ($3,094)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**South East Texas Regional Planning Commission-West Port Arthur Home Energy Efficiency Program**
Location of SEP:	**Jefferson County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes' energy efficiency. SEP monies will be used to pay for the cost of caulking and insulating homes, replacing heating and cooling systems and major appliances with new, energy efficient equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and nitrogen oxides associated with the combustion of fuel and generation of electricity. Additionally, the improvements will improve homes as shelters for responding to emergency releases.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

South East Texas Regional Planning Commission
Transportation and Environmental Resources
Bob Dickenson, Director
2210 Eastex Freeway
Beaumont, Texas 77703

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision March 19, 2007*

TCEQ

DATES					
Assigned	9-Apr-2007				
PCW	18-Apr-2007	Screening	17-Apr-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Shell Pipeline Company LP		
Reg. Ent. Ref. No.	RN100219716		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	33240	No. of Violations	2
Docket No.	2007-0620-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Miriam Hall
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* **$6,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 19% Enhancement — *Subtotals 2, 3, & 7* **$1,235**

Notes: The penalty was enhanced for one 1660 order and reduced for one Notice of Audit.

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

Notes: The 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	$111
Approx. Cost of Compliance	$200

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$7,735**

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 **$7,735**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$7,735**

DEFERRAL — 20% Reduction — *Adjustment* **-$1,547**

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 **$6,188**

Screening Date	17-Apr-2007	**Docket No.** 2007-0620-AIR-E	**PCW**
Respondent	Shell Pipeline Company LP		*Policy Revision 2 (September 2002)*
Case ID No.	33240		*PCW Revision March 19, 2007*
Reg. Ent. Reference No.	RN100219716		
Media [Statute]	Air		
Enf. Coordinator	Miriam Hall		

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	0	0%
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)*	1	-1%
	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) 19%

>> 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

The penalty was enhanced for one 1660 order and reduced for one Notice of Audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 19%

Screening Date	17-Apr-2007	**Docket No.** 2007-0620-AIR-E	**PCW**
Respondent	Shell Pipeline Company LP		*Policy Revision 2 (September 2002)*
Case ID No.	33240		*PCW Revision March 19, 2007*
Reg. Ent. Reference No.	RN100219716		
Media [Statute]	Air		
Enf. Coordinator	Miriam Hall		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.143(4), Federal Operating Permit ("FOP") No. O-2739, General Terms and Conditions ("GTC"), Special Terms and Conditions 3.A.(iv)1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct quarterly opacity readings on an internal combustion ("IC") unit at least once quarterly. Specifically, from September 8, 2005 through September 7, 2006, the Respondent failed to perform opacity readings on an IC engine for a flood pump.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment could have been exposed to insignificant amounts of pollutants which would not have exceeded levels that are protective of human health or the environment. The pump is operated about one hour a month for maintenance.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 | 365 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $4,000

Four single events are recommended, one for each missed reading.

Economic Benefit (EB) for this violation

Estimated EB Amount $105

Statutory Limit Test

Violation Final Penalty Total $4,760

This violation Final Assessed Penalty (adjusted for limits) $4,760

Economic Benefit Worksheet

Respondent Shell Pipeline Company LP
Case ID No. 33240
Reg. Ent. Reference No. RN100219716
Media Air
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				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
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	$100	8-Sep-2005	7-Sep-2006	1.0	$5	$100	$105
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	The estimated cost for conducting four quarterly opacity readings for the time period of the violation.						

Approx. Cost of Compliance: $100

TOTAL: $105

Screening Date	17-Apr-2007	**Docket No.** 2007-0620-AIR-E	**PCW**
Respondent	Shell Pipeline Company LP		*Policy Revision 2 (September 2002)*
Case ID No.	33240		*PCW Revision March 19, 2007*
Reg. Ent. Reference No.	RN100219716		
Media [Statute]	Air		
Enf. Coordinator	Miriam Hall		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A) and (B), 122.146(5)(D), FOP No. O-2739, GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit a Semi-Annual Deviation Report for the period September 8, 2005 through March 6, 2006 and report this deviation in the Semi-Annual Deviation Report for March 7, 2006 through September 7, 2006 and Annual Compliance Certification for September 8, 2005 through September 7, 2006.

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 25%

Matrix Notes: The Respondent failed to comply with 100% of the rule requirement.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

377 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended for the missed Semi-Annual Report.

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $2,975

This violation Final Assessed Penalty (adjusted for limits) $2,975

Economic Benefit Worksheet

Respondent Shell Pipeline Company LP
Case ID No. 33240
Reg. Ent. Reference No. RN100219716
Media Air
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)	$100	5-Apr-2006	15-Jun-2007	1.2	$6	n/a	$6
Notes for DELAYED costs	The estimated cost of preparing the first Semi-Annual Deviation Report and amended reports from the first due date to the compliance date.						
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: $100

TOTAL: $6

Compliance History

Customer/Respondent/Owner-Operator:	CN600123996	Shell Pipeline Company LP	Classification: AVERAGE	Rating: 2.94
Regulated Entity:	RN100219716	SHELL PIPELINE EL VISTA TANK FARM	Classification: AVERAGE	Site Rating: 19.14

ID Number(s):

AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0228I
AIR NEW SOURCE PERMITS	REGISTRATION	56251
AIR NEW SOURCE PERMITS	AFS NUM	4824500090
AIR NEW SOURCE PERMITS	REGISTRATION	70241
AIR NEW SOURCE PERMITS	PERMIT	56253
AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0228I
AIR OPERATING PERMITS	PERMIT	2739

Location: 6300 OLD W PORT ARTHUR RD, PORT ARTHUR, TX, 77640 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: April 17, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 17, 2002 to April 17, 2007

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

Name: Miriam Hall Phone: (512) 239-1044

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? Shell Pipeline Company LP
4. if Yes, who was/were the prior owner(s)? Equilon Pipeline Company, LLC
5. When did the change(s) in ownership occur? 05/01/2002

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: 04/14/2006 ADMINORDER 2005-1236-AIR-E (1660)

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.6(b)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: GOP O-01160, SC (b)(2) OP
GOP O-01160, SC (b)(4)(A) OP
PBR Registration No. 56251 PERMIT

Description: Failure to maintain the short-term 5.66 pound per hour (lb/hr) VOC emission rate for Tanks 2034, 2038, and 2039.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: GOP O-01160, SC (b)(10)(A) OP
GOP O-01160, SC (b)(2) OP

Description: Failed to equip Tank Nos. 4420 and 4421with a submerged fill pipe or vapor system which is required because material with a vapor pressure greater than 1.5 pounds per square inch absolute ("psia") is stored on occasion.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(B)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: GOP O-00160, SC(b)(2) OP

Description: Failure to report deviations in a timely manner.

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	06/02/2002	(434621)
2	08/21/2002	(6997)
3	07/17/2003	(119106)
4	10/28/2004	(337929)
5	07/07/2005	(392555)
6	05/17/2006	(465368)
7	04/05/2007	(541381)

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

F. Environmental audits.

Notice of Intent Date: 02/13/2003 (33186)
No DOV Associated

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**
SHELL PIPELINE COMPANY LP	§	
RN100219716	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0620-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 Shell Pipeline Company LP ("Shell Pipeline") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Shell Pipeline appear before the Commission and together stipulate that:

1. Shell Pipeline operates a tank farm at 6300 Old West Port Arthur Road in Port Arthur, Jefferson County, Texas (the "Plant").

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

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

4. Shell Pipeline received notice of the violations alleged in Section II ("Allegations") on or about April 10, 2007.

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

6. An administrative penalty in the amount of Seven Thousand Seven Hundred Thirty-Five Dollars ($7,735) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Shell Pipeline has paid Three Thousand Ninety-Four Dollars ($3,094) of the administrative penalty and One Thousand Five Hundred Forty-Seven Dollars ($1,547) is deferred

contingent upon Shell Pipeline'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 Shell Pipeline fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Shell Pipeline to pay all or part of the deferred penalty. Three Thousand Ninety-Four Dollars ($3,094) shall be conditionally offset by Shell Pipeline's completion of a Supplemental Environmental Project.

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 Shell Pipeline have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Shell Pipeline has implemented the following corrective measures at the Plant:

   a. During December 2006 and March 2007, conducted quarterly opacity readings on the flood pump engine; and

   b. On June 15, 2007, submitted a revised Annual Compliance Certification for September 8, 2005 through September 7, 2006 and revised Semi-Annual Deviation report for March 7, 2006 through September 7, 2006.

10. 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 Shell Pipeline has not complied with one or more of the terms or conditions in this Agreed Order.

11. 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.

12. 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 operator of the Plant, Shell Pipeline is alleged to have:

1. Failed to conduct quarterly opacity readings on an internal combustion ("IC") unit at least once quarterly, in violation of 30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit ("FOP") No. O-2739, General Terms and Conditions ("GTC"), Special Terms and Conditions 3.A.(iv)1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 7, 2007. Specifically, from September 8, 2005 through September 7, 2006, Shell Pipeline failed to perform opacity readings on an IC engine for a flood pump.

2. Failed to submit a Semi-Annual Deviation Report for the period September 8, 2005 through March 6, 2006 and report this deviation in the Semi-Annual Deviation Report for March 7, 2006

through September 7, 2006 and Annual Compliance Certification for September 8, 2005 through September 7, 2006, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A) and (B), 122.146(5)(D), FOP No. O-2739, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 7, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Shell Pipeline pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Shell Pipeline'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: Shell Pipeline Company LP, Docket No. 2007-0620-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. Shell Pipeline shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Ninety-Four Dollars ($3,094) of the assessed administrative penalty shall be offset with the condition that Shell Pipeline implement the SEP defined in Attachment A, incorporated herein by reference. Shell Pipeline's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

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

4. If Shell Pipeline 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, Shell Pipeline's failure to comply is not a violation of this Agreed Order. Shell Pipeline shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Shell Pipeline shall notify the Executive Director within seven days after Shell Pipeline 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 Shell Pipeline shall be made in writing to the Executive Director. Extensions are not effective until Shell Pipeline 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 Shell Pipeline 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 Shell Pipeline, or three days after the date on which the Commission mails notice of the Order to Shell Pipeline, 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

John Sadler
For the Executive Director

10/3/07
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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Greg Smith
Signature

7/11/07
Date

GREG SMITH
Name (Printed or typed)
Authorized Representative of
Shell Pipeline Company LP

REGIONAL OPERATIONS MANAGER
Title

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.

Attachment A
Docket Number: 2007-0620-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Shell Pipeline Company LP**
Payable Penalty Amount:	**Six Thousand One Hundred Eighty-Eight Dollars ($6,188)**
SEP Amount:	**Three Thousand Ninety-Four Dollars ($3,094)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**South East Texas Regional Planning Commission-West Port Arthur Home Energy Efficiency Program**
Location of SEP:	**Jefferson County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes' energy efficiency. SEP monies will be used to pay for the cost of caulking and insulating homes, replacing heating and cooling systems and major appliances with new, energy efficient equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and nitrogen oxides associated with the combustion of fuel and generation of electricity. Additionally, the improvements will improve homes as shelters for responding to emergency releases.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

South East Texas Regional Planning Commission
Transportation and Environmental Resources
Bob Dickenson, Director
2210 Eastex Freeway
Beaumont, Texas 77703

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.