EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1551-AIR-E **TCEQ ID:** RN101973782 **CASE NO.:** 31083

RESPONDENT NAME: Plains Pipeline, L.P.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Mesa McCamey Tank Farm, Highway 67 and one mile south on Shell Road, approximately one mile from McCamey, Upton 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 January 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Jessica Rhodes, Enforcement Division, Enforcement Section III, MC 149, (512) 293-2879; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Troy Valenzuela, Vice President, Environmental Health and Safety, Plains Pipeline, L.P., P.O. Box 4648, Houston, Texas 77210-4648

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 __ Routine __ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** July 31, 2006 **Date of NOE Relating to this Case:** August 16, 2006 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **AIR** Failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-1183. Specifically, Plains Pipeline failed to timely submit a Permit Compliance Certification Form for the period March 29, 2004 to March 28, 2005 [30 TEX. ADMIN. CODE § 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-1183, General Terms and Conditions].	**Total Assessed:** $2,000 **Total Deferred:** $400 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,600 **Site Compliance History Classification:** __High _X_ Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Plains Pipeline submitted a Permit Compliance Certification Form for the period March 29, 2004 to March 28, 2005 to the Midland Regional Office on September 19, 2005.

Attachment: Site Compliance History

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

DATES					
Assigned	21-Aug-2006				
PCW	08-Sep-2006	Screening	06-Sep-2006	EPA Due	13-May-2007

RESPONDENT/FACILITY INFORMATION

Respondent	Plains Pipeline, L.P.		
Reg. Ent. Ref. No.	RN101973782		
Facility/Site Region	7-Midland	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	31083	No. of Violations	1
Docket No.	2006-1551-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Jessica Rhodes
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement *Subtotals 2, 3, & 7* $125

Notes: Penalty enhancement due to one NOV for the same or similar violations.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction *Subtotal 5* -$625

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

Notes: The Respondent achieved compliance on 9/19/05.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$4
Approx. Cost of Compliance	$200

SUM OF SUBTOTALS 1-7 Final Subtotal $2,000

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 $2,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $2,000

DEFERRAL 20% Reduction Adjustment -$400

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

Notes: Deferal offered for expedited settlement.

PAYABLE PENALTY $1,600

Screening Date	06-Sep-2006	**Docket No.** 2006-1551-AIR-E	**PCW**
Respondent	Plains Pipeline, L.P.		*Policy Revision 2 (September 2002)*
Case ID No.	31083		*PCW Revision April 25, 2006*
Reg. Ent. Reference No.	RN101973782		
Media [Statute]	Air Quality		
Enf. Coordinator	Jessica Rhodes		

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)*	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	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*	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) **5%**

>> 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 NOV for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **5%**

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	06-Sep-2006
Docket No.	2006-1551-AIR-E
Respondent	Plains Pipeline, L.P.
Case ID No.	31083
Reg. Ent. Reference No.	RN101973782
Media [Statute]	Air Quality
Enf. Coordinator	Jessica Rhodes

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 122.146(2), and Federal Operating Permit No. O-1183, General Terms and Conditions

Secondary Rule Cite(s) Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to submit the an annual compliance certification for Federal Operating Permit No. O-1183 in a timely manner. Specifically, the annual compliance certification for the period March 29, 2004 to March 28, 2005 was due by April 28, 2005, but was not received until September 19, 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

144 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $2,000

This violation Final Assessed Penalty (adjusted for limits) $2,000

Economic Benefit Worksheet

Respondent: Plains Pipeline, L.P.
Case ID No.: 31083
Reg. Ent. Reference No.: RN101973782
Media [Statute]: Air Quality
Violation No.: 1

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	$200	28-Apr-2005	19-Sep-2005	0.4	$4	n/a	$4
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	The delayed costs include the cost to prepare and submit a compliance certification report. The date required (4/28/05) is the date that the annual compliance certification was due. The final date (9/19/05) is the date the respondent achieved 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: $200

TOTAL: $4

Compliance History

Customer/Respondent/Owner-Operator:	CN601440852	Plains Pipeline, L.P.	Classification: AVERAGE	Rating: 6.46
Regulated Entity:	RN101973782	MESA MCCAMEY TANK FARM	Classification: AVERAGE	Site Rating: 0.60

ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER UB0152N
	AIR NEW SOURCE PERMITS	AFS NUM 0033
	AIR NEW SOURCE PERMITS	PERMIT 73357
	AIR OPERATING PERMITS	ACCOUNT NUMBER UB0152N
	AIR OPERATING PERMITS	PERMIT 2728

Location: From McCamey, 1 mile east on Hwy 67, then 1 mile south on Shell Road

Rating Date: September 01 05 Repeat Violator: NO

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: August 24, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 24, 2001 to August 24, 2006

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

Name: Jessica Rhodes Phone: 512-239-2879

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?	Plains Pipeline, L.P.
4. if Yes, who was/were the prior owner(s)?	Rancho Pipeline Holdings, L.P. Equilon Pipeline Company, LLC Shell Pipeline Company, LP
5. When did the change(s) in ownership occur?	05/01/2002 08/01/2002

Components (Multimedia) for the Site :

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

N/A

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 08/06/2004 (288516)

2 08/16/2006 (489484)

3 05/20/2002 (111467)

4 05/20/2002 (111466)

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

Date: 05/17/2002 (111466)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Description: LATE COMPLIANCE CERTIF

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**
PLAINS PIPELINE, L.P.	§	
RN101973782	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1551-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 Plains Pipeline, L.P. ("Plains 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 Plains Pipeline, appear before the Commission and together stipulate that:

1. Plains Pipeline owns and operates a tank farm on Highway 67 and one mile south on Shell Road, approximately one mile from McCamey in Upton 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 Plains Pipeline agree that the Commission has jurisdiction to enter this Agreed Order, and that Plains Pipeline is subject to the Commission's jurisdiction.

4. Plains Pipeline received notice of the violations alleged in Section II ("Allegations") on or about August 19, 2006.

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

6. An administrative penalty in the amount of Two Thousand Dollars ($2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Plains Pipeline has paid One Thousand Six Hundred Dollars ($1,600) of the administrative penalty and Four Hundred Dollars ($400) is deferred contingent upon Plains 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 Plains Pipeline fails to timely and satisfactorily comply with all

requirements of this Agreed Order, the Executive Director may require Plains Pipeline 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 Plains 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 Plains Pipeline submitted a Permit Compliance Certification Form for the period March 29, 2004 to March 28, 2005 to the Midland Regional Office on September 19, 2005.

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 Plains 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 owner and operator of the Plant, Plains Pipeline is alleged to have failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-1183, in violation of 30 TEX. ADMIN. CODE § 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-1183, General Terms and Conditions, as documented during a record review conducted on July 31, 2006. Specifically, Plains Pipeline failed to timely submit a Permit Compliance Certification Form for the period March 29, 2004 to March 28, 2005.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Plains Pipeline pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Plains 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: Plains Pipeline, L.P., Docket No. 2006-1551-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 The provisions of this Agreed Order shall apply to and be binding upon Plains Pipeline. Plains 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.

3. This Agreed Order, issued by the Commission, shall not be admissible against Plains 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.

4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Plains Pipeline, or three days after the date on which the Commission mails notice of the Order to Plains 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

_____ 2/13/07
For the Executive Director 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.

Troy E. Valenzuela NOVEMBER 9, 2006
Signature Date

TROY E. VALENZUELA VICE PRESIDENT - E.H.&S.
Name (Printed or typed) Title
Authorized Representative of
Plains Pipeline, L.P.

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.