EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0090-AIR-E **TCEQ ID:** RN104256102 **CASE NO.:** 32307

RESPONDENT NAME: Approach Operating LLC

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: Approach Ozona NE Compressor Station, located 0.4 mile down a lease road off of Taylor Box Road east of Ozona, Crockett County

TYPE OF OPERATION: Natural gas compression station

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 May 7, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Jessica Rhodes, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2879; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Glenn W. Reed, Vice President of Operations, Approach Operating LLC, 6300 Ridglea Place, Suite 1107, Fort Worth, Texas 76116

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(s) of Complaints Relating to this Case:** None **Date of Record Review Relating to this Case:** December 28, 2006 **Date of NOE Relating to this Case:** December December 30, 2006(NOE) **Background Facts:** This was a routine record review. **AIR** Failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-02797 for at least each 12-month period following the initial issuance of the permit. Specifically, the annual compliance certification for the period June 8, 2005 to June 7, 2006 was due by July 7, 2006, but was not received until January 3, 2007 [30 TEX. ADMIN. CODE § 122.146(1), Federal Operating Permit No. O-02797, Special Terms and Conditions (b)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $2,250 **Total Deferred:** $450 _X_ Expedited Settlement ___Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,800 **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:** The Executive Director recognizes that Approach submitted an Annual Permit Compliance Certification form for the period June 8, 2005 to June 7, 2006 to the San Angelo Regional Office on January 3, 2007.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision December 8, 2006*

TCEQ

DATES					
Assigned	3-Jan-2007				
PCW	15-Feb-2007	Screening	22-Jan-2007	EPA Due	25-Sep-2007

RESPONDENT/FACILITY INFORMATION

Respondent	Approach Operating LLC		
Reg. Ent. Ref. No.	RN104256102		
Facility/Site Region	8-San Angelo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	32307	No. of Violations	1
Docket No.	2007-0090-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Jessica Rhodes
Multi-Media		EC's Team	EnforcementTeam
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 — 0% Enhancement — *Subtotals 2, 3, & 7* **$0**

Notes: There is no penalty adjustment.

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

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 10% Reduction — *Subtotal 5* **$250**

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

Notes: The respondent achieved compliance on January 3, 2007.

0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts	$5
Approx. Cost of Compliance	$200

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$2,250**

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 **$2,250**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$2,250**

DEFERRAL — 20% Reduction — *Adjustment* **-$450**

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 **$1,800**

Screening Date	22-Jan-2007	**Docket No.** 2007-0090-AIR-E	**PCW**
Respondent	Approach Operating LLC		*Policy Revision 2 (September 2002)*
Case ID No.	32307		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN104256102		
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*)	0	0%
	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 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) 0%

>> 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: There is no penalty adjustment.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	22-Jan-2007	**Docket No.** 2007-0090-AIR-E	**PCW**
Respondent	Approach Operating LLC		*Policy Revision 2 (September 2002)*
Case ID No.	32307		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN104256102		
Media [Statute]	Air Quality		
Enf. Coordinator	Jessica Rhodes		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.146(1), Federal Operating Permit No. O-02797, Special Terms and Conditions (b)(2), and Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-02797 for at least each 12-month period following the initial issuance of the permit. Specifically, the annual compliance certification for the period June 8, 2005 to June 7, 2006 was due by July 7, 2006, but was not received until January 3, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 1

180 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.

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $2,250

This violation Final Assessed Penalty (adjusted for limits) $2,250

Economic Benefit Worksheet

Respondent Approach Operating LLC
Case ID No. 32307
Reg. Ent. Reference No. RN104256102
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	$200	7-Jul-2006	3-Jan-2007	0.5	$5	n/a	$5
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 (07/07/06) is the date that the annual compliance certification was due. The final date (01/03/07) 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: $5

Compliance History

Customer/Respondent/Owner-Operator:	CN602620825	Approach Operating LLC	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN104256102	APPROACH OZONA NE COMPRESSOR STATION	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01

ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION	71953
	AIR NEW SOURCE PERMITS	AFS NUM	0055
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CZA001A
	AIR OPERATING PERMITS	PERMIT	2797
	AIR OPERATING PERMITS	PERMIT	2797

Location: O.4 MILE DOWN A LEASE ROAD OFF OF TAYLOR BOX ROAD, EAST OF OZONA, IN CROCKETT COUNTY

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 08 - SAN ANGELO

Date Compliance History Prepared: January 03, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 03, 2002 to January 03, 2007

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?	No
3. If Yes, who is the current owner?	N/A
4. if Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

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 12/29/2006 (535495)

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

N/A

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**
APPROACH OPERATING LLC	§	
RN104256102	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0090-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 Approach Operating LLC ("Approach") 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 Approach appear before the Commission and together stipulate that:

1. Approach owns and operates a natural gas compression station located 0.4 mile down a lease road off of Taylor Box Road east of Ozona, in Crockett 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 Approach agree that the Commission has jurisdiction to enter this Agreed Order, and that Approach is subject to the Commission's jurisdiction.

4. Approach received notice of the violations alleged in Section II ("Allegations") on or about January 3, 2007.

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

6. An administrative penalty in the amount of Two Thousand Two Hundred Fifty Dollars ($2,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Approach has paid One Thousand Eight Hundred Dollars ($1,800) of the administrative penalty

and Four Hundred Fifty Dollars ($450) is deferred contingent upon Approach'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 Approach fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Approach 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 Approach 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 Approach submitted an Annual Permit Compliance Certification Form for the period June 8, 2005 to June 7, 2006 to the San Angelo Regional Office on January 3, 2007.

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 Approach 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, Approach is alleged to have failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-02797 for at least each 12-month period following the initial issuance of the permit, in violation of 30 TEX. ADMIN. CODE § 122.146(1), Federal Operating Permit No. O-02797, Special Terms and Conditions (b)(2), and TEX. HEALTH AND SAFETY CODE § 382.085(b), as documented during a record review conducted on December 28, 2006. Specifically, the annual compliance certification for the period June 8, 2005 to June 7, 2006 was due by July 7, 2006, but was not received until January 3, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Approach pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Approach'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: Approach Operating LLC, Docket No. 2007-0090-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 Approach. Approach 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 Approach 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 Approach, or three days after the date on which the Commission mails notice of the Order to Approach, 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

_____ 6/27/07
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.

_____ 2/26/07
Signature Date

Glenn W. Reed _____ Vice President of Operations
Name (Printed or typed) Title
Authorized Representative of
Approach Operating LLC

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.