

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2004-1364-AIR-E TCEQ ID: RN100213370 CASE NO.: 18611
 RESPONDENT NAME: SOUTHWESTERN ELECTRIC POWER COMPANY DBA SWEPCO**

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 1187 County Road 4865 in Pittsburg, Titus County

TYPE OF OPERATION: Owns and operates a power plant

SMALL BUSINESS: Yes 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 June 23, 2008. No comments were received.

CONTACTS AND MAILING LIST:

- TCEQ Attorney:** Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
- SEP Coordinator:** Sharon Blue, Litigation Division, MC 175
- TCEQ Enforcement Coordinator:** Ms. Miriam Hall, Air Enforcement Section, MC 128, (512) 239-1044
- TCEQ Regional Contact:** Mr. Charles Murray, Tyler Regional Office, MC R-5, (903) 535-5178
- Respondent:** Ms. Venita McCellon-Allen, President and COO, Southwestern Electric Power Company dba SWEPCO, 1187 County Road 4865, Pittsburg, Texas, 75686-8561
- Respondent's Attorney:** Mr. Keith Courtney, Winstead, P.C., 401 Congress Avenue, Suite 2100, Austin, Texas 78701

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 25, 2004</p> <p>Date of NOE Relating to this Case: July 19, 2004</p> <p>Background Facts: An EDPRP was filed on April 11, 2005. An EDFARP was filed on October 25, 2007. The case was referred to SOAH on January 8, 2008. A signed Agreed Order was received on March 31, 2008.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>AIR:</p> <p>1. Failed to report PM from routine maintenance on the ESPs on the 2002 and 2003 emission inventories, and failed to report this deviation on the compliance certification/deviation report covering the periods of this deviation [30 TEX. ADMIN. CODE §§ 101.10(b), 122.143(4) and 122.145(2)(A); Operating Permit O-00026, Special Condition No. 2.E.; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2. Failed to record the amount of contaminants emitted during ESP maintenance [30 TEX. ADMIN. CODE §§ 106.8(c)(2)(A) and 106.263(g); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$98,176</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$49,088</p> <p>Total Paid to General Revenue: \$49,088</p> <p>The Respondent has paid \$49,088 of the administrative penalty. The remaining amount of \$49,088 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP) (See Attachment A).</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1. The Executive Director recognizes that by letter dated September 14, 2004, the Respondent notified the Executive Director that it had developed and was maintaining records of the amount of particulate matter ("PM") emitted for electrostatic precipitators ("ESP") maintenance at the Plant.</p> <p>2. The Executive Director recognizes that by letter dated February 2, 2005, the Respondent submitted a revised emissions inventory for 2003 to include PM from routine maintenance on the ESPs.</p> <p>3. The Executive Director recognizes that by letter dated July 13, 2004, the Respondent submitted documentation to complete certification of compliance with the terms and conditions of Operating Permit No. O-00026 for the period beginning April 9, 2003, and ending on October 9, 2003.</p> <p>4. The Executive Director recognizes that on August 6, 2004, the Respondent filed an application to alter Permit No. 4381/PSD-TX-3 to delete any reference to the heat input rate for Unit 1, Unit 2 and Unit 3 Boilers at the Plant and that the Executive Director issued the alteration on March 20, 2007.</p> <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days, submit a revised emissions inventory for 2002 to include PM from routine maintenance on the ESPs.</p> <p>2. Within 45 days, submit written certification of compliance with Ordering Provision No. 1. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p> <p>3. The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p>

DBA SWEPCO

DOCKET NO.: 2004-1364-AIR-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to maintain the maximum allowable firing rate (heat output) below 5,156 million British thermal units per hour ("MMBtu/hr") at times between January 1, 2001 and April 30, 2004. Records indicate that the Unit 1, Unit 2 and Unit 3 Boilers were operated as high as 6,239 MMBtu/hr, 5,986 MMBtu/hr and 5,982 MMBtu/hr or 21%, 16%, and 16% over permit rates, respectively [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4); Permit No. 4381/PSD-TX-3, Special Condition Nos. 2, 3, and 4; Permit No. O-00026, Special Condition No. 11; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4. Failed to certify compliance with the terms and conditions of Operating Permit No. O-00026 for the period beginning April 9, 2003 and ending on October 9, 2003 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1); Operating Permit O-00026, General Condition; and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		

Attachment A
Docket No.: 2004-1364-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Southwestern Electric Power Company dba SWEPCO

Penalty Amount: Ninety-eight thousand one hundred seventy-six dollars (\$98,176.00)

Type of SEP: Pre-approved SEP

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Clean School Bus*

SEP Amount: Forty-nine thousand eighty-eight dollars (\$49,088.00)

Location of SEP: Titus County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contributions will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Clean School Bus* program in Titus County. Specifically, SEP monies for the *Clean School Bus* program will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of retrofitting or replacing older diesel buses with alternative fueled or clean diesel buses to reduce emissions. SEP funds may be used in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program.

The projects will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Passengers, drivers, and students in the area where school buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors NO_x and HC, diesel exhaust is known to contain particular matter (PM) and may cause or exacerbate a number of respiratory diseases, including asthma. Due to the more stringent emissions standards introduced by the Environmental Protection Agency (EPA), a model year 2007 bus will be 90% cleaner in terms of PM emissions than a model year 2004 bus. New HC and NO_x standards phased in between 2007 and 2010 will result in new school bus

Southwestern Electric Power Company dba SWEPCO
Agreed Order – Attachment A Docket No. 2004-1364-AIR-E

engines being 72% cleaner for HC and 90% cleaner for NOx than a bus produced to meet the 2004 federal standards for these pollutants.

C. Minimum Expenditure

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, Respondent shall contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

Respondent shall concurrently mail a copy of the payment (as described in Section 3, below) to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. Records and Reporting

Concurrent with the payment of the SEP Amount, 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. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If 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. In the event of incomplete performance, the Respondent shall submit a check for the remaining amount due made payable to "Texas Commission on

Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 a SEP for 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 May 17, 2004

DATES	PCW 12-Mar-2007	Screening 17-Aug-2004	Priority Due 16-Oct-2004	EPA Due 15-Apr-2005
--------------	-----------------	-----------------------	--------------------------	---------------------

RESPONDENT/FACILITY INFORMATION	
Respondent	Southwestern Electric Power Company dba AEP SWEPCO (Welsh Power Plant)
Reg. Ent. Ref. No.	RN100213370
Additional ID No(s).	Air Account TF0012D
Facility/Site Region	10-Beaumont <input type="button" value="<"/>
Major/Minor Source	Major Source <input type="button" value="<"/>

CASE INFORMATION			
Enf./Case ID No.	18611	No. of Violations	4
Docket No.	2004-1364-AIR-E	Order Type	1660 without deferral <input type="button" value="<"/>
Case Priority	2 (SNC/HPV) <input type="button" value="<"/>	Enf. Coordinator	Miriam Hall
Media Program(s)	Air Quality <input type="button" value="<"/>	EC's Team	Enforcement Team 8 <input type="button" value="<"/>
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section		
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$104,000	
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	Subtotals 2, 3, & 7 \$18,720	
18% Enhancement		
Notes	The respondent received 9 NOVs for unrelated violations (8 Water Quality and 1 Air NOVs)	
Culpability	Subtotal 4 \$0	
No <input type="button" value="<"/> 0% Enhancement		
Notes	The respondent does not meet the culpability criteria.	
Good Faith Effort to Comply	Subtotal 5 \$0	
0% Reduction		
Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer
Ordinary		
N/A	x	(mark with a small x)
Notes	The respondent does not meet the good faith criteria.	
Economic Benefit	Subtotal 6 \$0	
0% Enhancement*		
Total EB Amounts	\$381	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$2,200	
SUM OF SUBTOTALS 1-7	Final Subtotal \$122,720	
OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment -\$24,544	
20% Reduction		
Notes	Reduction due to risk of Litigation.	
Final Penalty Amount \$98,176		
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$98,176	
DEFERRAL	Adjustment \$0	
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	No deferral because this is not an expedited order.	
PAYABLE PENALTY	\$98,176	

Screening Date 17-Aug-2004 **Docket No.** 2004-1364-AIR-E **PCW**
Respondent Southwestern Electric Power Company dba AEP SWEPCO (Welsh Power Plant) *ember 2002*
Case ID No. 18611 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN100213370
Additional ID No(s) Air Account TF0012D
Media [Statute] Air Quality
Enf. Coordinator Miriam Hall
Site Address 1187 County Road 4865, Pittsburg, Titus County

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	9	18%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
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)

>> Repeat Violator (Subtotal 3)

 Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

 Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

Screening Date 17-Aug-2004	Docket No. 2004-1364-AIR-E	PCW
Respondent Southwestern Electric Power Company dba AEP SWPECO (Welsh Power Plant)		<i>ember 2002)</i>
Case ID No. 18611		<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No. RN100213370		
Additional ID No(s). Air Account TF0012D		
Media [Statute] Air Quality		
Enf. Coordinator Miriam Hall		
Violation Number	<input type="text" value="1"/>	
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 101.10(b), 122.143(4), 122.145(2)(A), Operating Permit O-00026, Special Condition (SC) 2.E.	
Secondary Rule Cite(s)	Texas Health and Safety Code § 382.085(b)	
Violation Description	Failure to report particulate matter from routine maintenance on the electrostatic precipitators (ESP) on the 2002 and 2003 emission inventories (EIs), and failure to report this deviation on the compliance certification/deviation report covering the periods of this deviation.	
Base Penalty		<input type="text" value="\$10,000"/>

>> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
<i>mark only one</i>	<i>quarterly</i>	<input type="text"/>
<i>use a small x</i>	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$192"/>	Violation Final Penalty Total <input type="text" value="\$378"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$378"/>	

Economic Benefit Worksheet

Respondent Southwestern Electric Power Company dba AEP SWPECO (Welsh Power Plant)
Case ID No. 18611
Reg. Ent. Reference No. RN100213370
Additional ID No(s): Air Account TF0012D
Media [Statute] Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	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)	\$600	07-May-2003	31-Dec-2007	4.7	\$140	n/a	\$140

Notes for DELAYED costs: The estimated cost of supplying the missing information for the 2002 and 2003 emission inventories. The begin date is the original due date for the 2002 emission inventory and the end date is the projected 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]	\$50	08-Nov-2003	08-May-2004	1.0	\$3	\$50	\$53
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: The estimated cost of including the missing information in the deviation report. The begin date is the due date for the first deviation report which included the reporting period for the 2002 emission inventory and the end date is the due date of the deviation report covering the reporting period for the 2003 emission inventory.

Approx. Cost of Compliance \$650
TOTAL \$192

Screening Date	17-Aug-2004	Docket No.	2004-1364-AIR-E	PCW
Respondent	Southwestern Electric Power Company dba AEP SWEP\CO (Welsh Power Plant)			ember 2002)
Case ID No.	18611			PCW Revision May 17, 2004
Reg. Ent. Reference No.	RN100213370			
Additional ID No(s).	Air Account TF0012D			
Media [Statute]	Air Quality			
Enf. Coordinator	Miriam Hall			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 106.8(c)(2)(A) and 106.263(g)			
Secondary Rule Cite(s)	Texas Health and Safety Code § 382.085(b)			
Violation Description	Failed to record the amount of contaminants emitted during ESP maintenance.			
		Base Penalty	\$10,000	

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="checkbox"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Percent <input type="checkbox"/>
Matrix Notes	The respondent complied with about 75% of the rule requirement.				

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events	<input type="checkbox"/> 1			
<i>mark only one use a small x</i>	<i>daily</i>	<input type="checkbox"/>		Violation Base Penalty <input type="checkbox"/> \$100
	<i>monthly</i>	<input type="checkbox"/>		
	<i>quarterly</i>	<input type="checkbox"/>		
	<i>semiannual</i>	<input checked="" type="checkbox"/>		
	<i>annual</i>	<input type="checkbox"/>		
	<i>single event</i>	<input type="checkbox"/>		
<p>The respondent reported this violation in the semiannual Texas Operating Permit Deviation report for 10/09/03-04/08/04. Specific dates were not documented during the investigation. One semiannual event is recommended so that the violation is commensurate with the situation.</p>				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="checkbox"/> \$34	Violation Final Penalty Total <input type="checkbox"/> \$94
This violation Final Assessed Penalty (adjusted for limits) <input type="checkbox"/> \$94	

Economic Benefit Worksheet

Respondent: Southwestern Electric Power Company dba AEP SWPECO (Welsh Power Plant)
Case ID No.: 18611
Reg. Ent. Reference No.: RN100213370
Additional ID No(s): Air Account TF0012D
Media [Statute]: 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	Overtime 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	\$500	09-Oct-2003	23-Jul-2004	0.8	\$20	n/a	\$20
Training/Sampling	\$500	09-Oct-2003	06-May-2004	0.6	\$14	n/a	\$14
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 estimated costs for calculating the amount of contaminants emitted and for retraining plant personnel. The date required is the first date documented in the report. The final date for record keeping is the date of the letter in which the respondent stated that the facility collected the information for estimating the emissions. The training final date is the date of the deviation report in which the respondent stated that plant personnel were retrained.

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 \$1,000

TOTAL \$34

Screening Date 17-Aug-2004	Docket No. 2004-1364-AIR-E	PCW
Respondent Southwestern Electric Power Company dba AEP SWEPCO (Welsh Power Plant)	<small>ember 2002)</small>	
Case ID No. 18611	<small>PCW Revision May 17, 2004</small>	
Reg. Ent. Reference No. RN100213370		
Additional ID No(s) Air Account TF0012D		
Media [Statute] Air Quality		
Enf. Coordinator Miriam Hall		
Violation Number <input type="text" value="3"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 122.143(4), Permit Nos. 4381/PSD-TX-3 SC 2,3,4 and O-00026, SC 11	
Secondary Rule Cite(s)	Texas Health and Safety Code § 382.085(b)	
Violation Description	Failed to maintain the maximum allowable firing rate (heat input) below 5,156 million British thermal units per hour (MMBtu/hr). Records indicate that the Unit 1, Unit 2, and Unit 3 Boilers have been operated as high as 6239 MMBtu/hr, 5986 MMBtu/hr, and 5982 MMBtu/hr or 21%, 16% and 16% over permit rate, respectively.	
Base Penalty	<input type="text" value="\$10,000"/>	

>> **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

During the time period from January 1, 2001 through April 30, 2004, the following quarterly events were documented: 14 for Unit 1, 13 for Unit 2, and 14 for Unit 3.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$155"/>	Violation Final Penalty Total <input type="text" value="\$96,760"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$96,760"/>	

Economic Benefit Worksheet

Respondent: Southwestern Electric Power Company dba AEP SWPECO (Welsh Power Plant)
Case ID No.: 18611
Reg. Ent. Reference No.: RN100213370
Additional ID No(s): Air Account TF0012D
Media [Statute]: Air Quality
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	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	\$500	01-Jan-2001	08-Mar-2007	6.2	\$155	n/a	\$155
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	The estimated cost for a permit alteration. The date required is the first day a violation was documented, and the final date is the date the permit was altered to remove the heat input limit.						

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 \$500

TOTAL \$155

Screening Date 17-Aug-2004	Docket No. 2004-1364-AIR-E	PCW
Respondent Southwestern Electric Power Company dba AEP SWPECO (Welsh Power Plant)		<small>ember 2002)</small>
Case ID No. 18611		<small>PCW Revision May 17, 2004</small>
Reg. Ent. Reference No. RN100213370		
Additional ID No(s). Air Account TF0012D		
Media [Statute] Air Quality		
Enf. Coordinator Miriam Hall		
Violation Number <input type="text" value="4"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 122.146(1)	
Secondary Rule Cite(s)	Operating Permit O-00026, General Condition, Texas Health and Safety Code § 382.085(b)	
Violation Description	Failed to certify compliance for the period beginning April 9, 2003 and ending on October 9, 2003.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> **Environmental, Property and Human Health Matrix**

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	X	<input type="text"/>	
	Percent <input type="text" value="10%"/>				
Matrix Notes	The respondent failed to comply with 50% of the rule requirement. (The respondent certified compliance for 6-months instead of 12 months.)				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<small>mark only one use a small x</small>	<small>daily</small>	<input type="text"/>
	<small>monthly</small>	<input type="text"/>
	<small>quarterly</small>	<input type="text"/>
	<small>semiannual</small>	X
	<small>annual</small>	<input type="text"/>
	<small>single event</small>	<input type="text"/>

Violation Base Penalty

One semiannual event is recommended because the respondent failed to certify for the semiannual period from April 9, 2003 to October 9, 2003

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$944"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$944"/>	

Economic Benefit Worksheet

Respondent Southwestern Electric Power Company dba AEP SWPECO (Welsh Power Plant)
Case ID No. 18611
Reg. Ent. Reference No. RN100213370
Additional ID No(s). Air Account TF0012D
Media [Statute] Air Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Overtime 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)	\$50	09-May-2004	13-Jul-2004	0.2	\$0	n/a	\$0

Notes for DELAYED costs
 The estimated cost for sending in a revised certification. The respondent sent a semiannual certification instead of an annual certification on May 6, 2004. (The due date was 05/09/04.) On July 13, 2004, the respondent sent a revised certification covering the annual period (April 9, 2003-April 8, 2004).

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
 T

Approx. Cost of Compliance \$50 TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600126767 Southwestern Electric Power Company	Classification: AVERAGE	Rating: 2.090
Regulated Entity:	RN100213370 AEP - WELSH POWER PLANT	Classification: AVERAGE	Site Rating: 0.50
ID Number(s):	WASTEWATER	PERMIT	TX0063215
	WASTEWATER	PERMIT	TPDES0063215
	WASTEWATER	PERMIT	WQ0001811000
	AIR NEW SOURCE PERMITS	PERMIT	74352
	AIR NEW SOURCE PERMITS	REGISTRATION	70824
	AIR NEW SOURCE PERMITS	PERMIT	70697
	AIR NEW SOURCE PERMITS	REGISTRATION	70257
	AIR NEW SOURCE PERMITS	AFS NUM	0005
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31086
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000726414
	AIR OPERATING PERMITS	PERMIT	26
	AIR OPERATING PERMITS	ACCOUNT NUMBER	TF0012D
	WASTEWATER LICENSING	LICENSE	WQ0001811000
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TF0012D
	AIR NEW SOURCE PERMITS	PERMIT	49391
	AIR NEW SOURCE PERMITS	PERMIT	48821
	AIR NEW SOURCE PERMITS	PERMIT	47492
	AIR NEW SOURCE PERMITS	PERMIT	46723
	AIR NEW SOURCE PERMITS	PERMIT	45464
	AIR NEW SOURCE PERMITS	PERMIT	43913
	AIR NEW SOURCE PERMITS	PERMIT	39985
	AIR NEW SOURCE PERMITS	PERMIT	38370
	AIR NEW SOURCE PERMITS	PERMIT	33325
	AIR NEW SOURCE PERMITS	PERMIT	24666
	AIR NEW SOURCE PERMITS	PERMIT	4381
	AIR NEW SOURCE PERMITS	PERMIT	4379
	AIR NEW SOURCE PERMITS	PERMIT	1576
	AIR NEW SOURCE PERMITS	PERMIT	1166
Location:	1187 COUNTY ROAD 4865, PITTSBURG, TX, 75686		Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	December 01, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 01, 1999 to December 01, 2004		

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? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |
| 6. Comments: | <u>STEERS</u> |

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	04/16/2001	(192226)
2	03/29/2000	(192225)
3	03/25/2003	(192224)
4	03/21/2002	(192223)
5	03/19/2001	(192222)
6	02/26/2003	(192221)
7	02/19/2002	(192220)
8	02/14/2001	(192219)
9	02/28/2000	(192218)
10	08/13/2003	(149966)
11	12/28/2001	(247178)
12	09/20/2001	(247177)
13	10/25/2004	(292833)
14	02/18/2004	(309894)
15	02/23/2001	(247176)
16	03/29/2004	(309896)
17	04/28/2004	(309897)
18	05/25/2004	(309899)
19	01/02/2003	(247175)
20	06/30/2004	(309901)
21	04/21/2004	(309903)
22	08/26/2003	(309905)
23	01/28/2000	(192263)
24	09/22/2003	(309907)
25	01/24/2003	(192262)
26	01/22/2002	(192261)
27	11/03/2003	(309909)
28	01/25/2001	(192260)
29	01/06/2000	(192259)
30	12/02/2003	(309910)
31	12/27/2002	(192258)
32	12/29/2003	(309911)
33	12/21/2001	(192257)
34	01/13/2004	(309912)
35	12/28/2000	(192256)
36	11/25/2002	(192254)
37	11/19/2001	(192253)
38	11/14/2000	(192252)
39	08/16/2004	(288066)
40	03/12/2003	(25678)
41	01/03/2003	(192250)
42	11/01/2001	(192249)
43	10/16/2000	(192248)
44	09/24/2002	(192247)

45 02/01/2000 (93422)
 46 09/24/2001 (192246)
 47 05/15/2000 (93423)
 48 08/28/2000 (93424)
 49 07/19/2004 (278307)
 50 11/30/2000 (192245)
 51 01/26/2001 (93425)
 52 08/26/2002 (192244)
 53 05/17/2001 (93426)
 54 07/27/2001 (93427)
 55 08/23/2001 (192243)
 56 08/23/2001 (93428)
 57 08/24/2000 (192242)
 58 10/04/2001 (93429)
 59 10/08/2002 (13333)
 60 12/11/2001 (93430)
 61 07/25/2003 (192241)
 62 05/07/2002 (93431)
 63 07/22/2002 (192240)
 64 05/21/2002 (93432)
 65 06/20/2002 (93433)
 66 11/07/2001 (192239)
 67 07/27/2000 (192238)
 68 06/23/2003 (192237)
 69 06/26/2002 (192236)
 70 06/21/2001 (192235)
 71 06/26/2000 (192234)
 72 05/23/2003 (192233)
 73 05/22/2002 (192232)
 74 05/24/2001 (192231)
 75 05/24/2000 (192230)
 76 12/01/2003 (248208)
 77 04/25/2003 (192229)
 78 04/24/2002 (192228)
 79 04/23/2001 (192227)

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

Date: 12/28/2001 (247178)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 09/20/2001 (247177)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 02/23/2001 (247176)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 01/02/2003 (247175)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 09/30/2003 (309909)

Self Report? YES Classification: Moderate
 Citation: COH Violation 26.121(a)[G]
 COH Violation 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2002 (192250)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2001 (192249)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2000 (192234)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/16/2003 (248208)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
 Description: Failure to notify the Texas Commission on Environmental Quality (TCEQ) Tyler Regional Office
 of a reportable excess opacity event within 24 hours after discovery of the event.

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
ENFORCEMENT ACTION
AGAINST
SOUTHWESTERN ELECTRIC
POWER COMPANY DBA
SWEPCO;
RN100213370**

§
§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2004-1364-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 Southwestern Electric Power Company dba SWEPCO ("SWEPCO") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Litigation Division, and SWEPCO, represented by Mr. Keith Courtney of the law firm of Winstead, P.C., appear before the Commission and together stipulate that:

1. SWEPCO owns and operates a power plant located 1187 County Road 4865 in Pittsburg, Titus County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382.
4. The Commission and SWEPCO agree that the Commission has jurisdiction to enter this Agreed Order, and that SWEPCO is subject to the Commission's jurisdiction.
5. SWEPCO received notice of the violations alleged in Section II ("Allegations") on or about July 24, 2004.

6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by SWEPCO of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of ninety-eight thousand one hundred seventy-six dollars (\$98,176.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). SWEPCO has paid forty-nine thousand eighty-eight dollars (\$49,088.00) of the administrative penalty. Forty-nine thousand eighty-eight dollars (\$49,088.00) shall be conditionally offset by SWEPCO's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A and incorporated herein by reference. SWEPCO'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 described in Attachment A.
8. 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.
9. The Executive Director recognizes that by letter dated September 14, 2004, SWEPCO notified the Executive Director that it had developed and was maintaining records of the amount of particulate matter ("PM") emitted for electrostatic precipitators ("ESP") maintenance at the Plant.
10. The Executive Director recognizes that via letter dated February 2, 2005, SWEPCO submitted a revised emissions inventory for 2003 to include PM from routine maintenance on the ESPs.
11. The Executive Director recognizes that by letter dated July 13, 2004, SWEPCO submitted documentation to complete certification of compliance with the terms and conditions of Operating Permit No. O-00026 for the period beginning April 9, 2003 and ending on October 9, 2003.
12. The Executive Director recognizes that on August 6, 2004 SWEPCO filed an application to alter Permit No. 4381/PSD-TX-3 to delete any reference to the heat input rate for Unit 1, Unit 2 and Unit 3 Boilers at the Plant and that the Executive Director issued the alteration on March 20, 2007.
13. The Executive Director of the TCEQ and SWEPCO have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
14. 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 SWEPCO has not complied with one or more of the terms or conditions in this Agreed Order.

15. 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.
16. 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

SWEPCO is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 101.10(b), 122.143(4) and 122.145(2)(A); Operating Permit O-00026, Special Condition No. 2.E.; and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to report PM from routine maintenance on the ESPs on the 2002 and 2003 emission inventories, and failing to report this deviation on the compliance certification/deviation report covering the periods of this deviation, as documented during an investigation conducted on May 25, 2004.
2. 30 TEX. ADMIN. CODE §§ 106.8(c)(2)(A) and 106.263(g); and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to record the amount of contaminants emitted during ESP maintenance, as documented during an investigation conducted on May 25, 2004.
3. 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4); Permit No. 4381/PSD-TX-3, Special Condition Nos. 2, 3, and 4; Permit No. O-00026, Special Condition No. 11; and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain the maximum allowable firing rate (heat input) below 5,156 million British thermal units per hour (“MMBtu/hr”) at times between January 1, 2001 and April 30, 2004. Records indicate that the Unit 1, Unit 2, and Unit 3 Boilers were operated as high as 6,239 MMBtu/hr, 5,986 MMBtu/hr, and 5,982 MMBtu/hr or 21%, 16% and 16% over permit rates, respectively, as documented during an investigation conducted on May 25, 2004.
4. 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1); Operating Permit O-00026, General Condition; and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to certify compliance with the terms and conditions of Operating Permit No. O-00026 for the period beginning April 9, 2003 and ending on October 9, 2003, as documented during an investigation conducted on May 25, 2004.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that SWEPCO pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and SWEPCO'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 herein. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Southwestern Electric Power Company dba SWEPCO, Docket No. 2004-1364-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. SWEPCO shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. Forty-nine thousand eighty-eight dollars (\$49,088.00) of the assessed administrative penalty shall be conditionally offset by SWEPCO's completion of a SEP as defined in "Attachment A." SWEPCO's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all portions of the SEP agreement.
3. SWEPCO shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, SWEPCO shall submit a revised emissions inventory for 2002 to include PM from routine maintenance on the ESPs to:

Emissions Inventory Data, MC 166
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, SWEPCO shall submit written certification of compliance with Ordering Provision No. 3.a. The certification shall include detailed supporting documentation including photographs, 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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:

Mr. Charles Murray, Air Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

4. The provisions of this Agreed Order shall apply to and be binding upon SWEPCO. SWEPCO 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.
5. If SWEPCO 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, SWEPCO's failure to comply is not a violation of this Agreed Order. SWEPCO shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. SWEPCO shall notify the Executive Director within seven days after SWEPCO becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 SWEPCO shall be made in writing to the Executive Director. Extensions are not effective until SWEPCO receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against SWEPCO 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to SWEPCO, or three days after the date on which the Commission mails notice of the Order to SWEPCO, 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

7/10/2008

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 SWEPCO's failure to comply with the Ordering Provisions, if any, in this order and/or SWEPCO's failure to timely pay the penalty amount, may result in:

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

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



Signature

3-28-08

Date

Venita McCellon-Allen

Name (Printed or typed)

President and COO

Title

Authorized Representative of
Southwestern Electric Power Company
dba SWEPCO

Attachment A
Docket No.: 2004-1364-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Southwestern Electric Power Company dba SWEPCO

Penalty Amount: Ninety-eight thousand one hundred seventy-six dollars (\$98,176.00)

Type of SEP: Pre-approved SEP

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Clean School Bus*

SEP Amount: Forty-nine thousand eighty-eight dollars (\$49,088.00)

Location of SEP: Titus County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contributions will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Clean School Bus* program in Titus County. Specifically, SEP monies for the *Clean School Bus* program will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of retrofitting or replacing older diesel buses with alternative fueled or clean diesel buses to reduce emissions. SEP funds may be used in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program.

The projects will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Passengers, drivers, and students in the area where school buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors NOx and HC, diesel exhaust is known to contain particular matter (PM) and may cause or exacerbate a number of respiratory diseases, including asthma. Due to the more stringent emissions standards introduced by the Environmental Protection Agency (EPA), a model year 2007 bus will be 90% cleaner in terms of PM emissions than a model year 2004 bus. New HC and NOx standards phased in between 2007 and 2010 will result in new school bus

engines being 72% cleaner for HC and 90% cleaner for NOx than a bus produced to meet the 2004 federal standards for these pollutants.

C. Minimum Expenditure

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, Respondent shall contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

Respondent shall concurrently mail a copy of the payment (as described in Section 3, below) to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. Records and Reporting

Concurrent with the payment of the SEP Amount, 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. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If 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. In the event of incomplete performance, the Respondent shall submit a check for the remaining amount due made payable to "Texas Commission on

Southwestern Electric Power Company dba SWEPCO
Agreed Order – Attachment A Docket No. 2004-1364-AIR-E

Environmental Quality” with the notation “SEP Refund” and the docket number of the case, and shall send it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.