EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0799-AIR-E **TCEQ ID:** RN105212575 **CASE NO.:** 35889

RESPONDENT NAME: UCAR Pipeline Incorporated

ORDER TYPE:		
__1660 AGREED ORDER	X 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: UCAR Pipeline, Jefferson County Segments, located above Drainage District Number 7 canal near United States Highway 69, Port Arthur, Jefferson County

TYPE OF OPERATION: Pipeline

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 November 17, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: C T Corporation System, Registered Agent, UCAR Pipeline Incorporated, 350 North St. Paul Street, Dallas, Texas 75201
Mr. Kevin C. Weyer, President, UCAR Pipeline Incorporated, 1000 County Road 340, Angleton, Texas 77515
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** October 18, 2007 **Date of NOV/NOE Relating to this Case:** April 25, 2008 (NOE) **Background Facts:** This was a routine investigation. **AIR** Failure to prevent the emission of air contaminants that cause or contribute to air pollution [TEX. HEALTH & SAFETY CODE § 382.085 (a) and (b)].	**Total Assessed:** $9,000 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $4,500 **Total Paid to General Revenue:** $4,500 **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 **Findings Orders Justification:** Human health or the environment has been exposed to pollutants which exceed levels that are protective.	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant: a. Inspected all other overhead lines at crossings to determine if corrosion exists where the line is resting on the pipe support and in difficult to access areas. Seven (7) crossings were inspected from Groves, Texas to Mont Belvieu, Texas. This action to inspect the crossings was completed on May 8, 2008; b. Reviewed and updated inspection procedures to detail requirements for inspecting pipe resting on pipe supports and lines that are painted and/or wrapped. This action was completed on February 29, 2008; c. Developed a Learning Report to aid in communicating lessons learned and corrective measures from the incident to all pipeline personnel. This action was completed on January 21, 2008; d. Revised emergency response training and associated operating discipline to strengthen response scenarios for pipe ruptures and rapid pressure loss. This action was completed February 27, 2008; e. Revised abnormal operating condition procedures to ensure that both pressure and flow troubleshooting steps are clearly defined and that trending of data continues until the problem has been identified. This action was completed on March 31, 2008; and f. Reviewed entire incident with all UCAR pipeline shift teams. This action was completed December 4, 2007. **Ordering Provisions:** The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Additional ID No(s).: N/A

Attachment A
Docket Number: 2008-0799-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**UCAR Pipeline Incorporated**
Payable Penalty Amount:	**Nine Thousand Dollars ($9,000)**
SEP Amount:	**Four Thousand Five Hundred Dollars ($4,500)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Jefferson County-Southeast Texas Regional Air Monitoring Network Ambient Air Monitoring Station**
Location of SEP:	**Jefferson County**

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to install, operate, and maintain a stationary ambient air monitoring station in the vicinity of Memorial High School Ninth Grade Campus. The station will employ canister sampling, a hydrocarbon analyzer, and/or a chromatograph. Ancillary equipment will include a sample conditioning system, a ten meter meteorological tower, a climate controlled equipment shelter, a remote communications system, and have electronic data logging capabilities. The station will continuously sample and analyze the ambient air for a wide range of hydrocarbon species in accordance with Environmental Protection Agency's recommended "TO-14" list. SEP monies will be used for the cost of purchasing, installing, operating, and maintaining the air monitoring station along with its ancillary equipment.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by offering continuous assessment of ambient air quality in a sensitive area of Port Arthur that is not currently covered by existing ambient air monitoring stations. Monitoring this area of the community will help the TCEQ and local government better respond to

citizen's questions about public health as it related to air quality and will enable TCEQ to identify emission sources.

C. Minimum Expenditure

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

2. Performance Schedule

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

The Honorable Ron Walker
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision April 29, 2008*

DATES					
Assigned	5-May-2008				
PCW	14-May-2008	Screening	14-May-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	UCAR Pipeline Incorporated		
Reg. Ent. Ref. No.	RN105212575		
Facility/Site Region	10 - Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35889	No. of Violations	1
Docket No.	2008-0799-AIR-E	Order Type	Findings
Media Program(s)	Air	Enf. Coordinator	Harvey Wilson
Multi-Media		EC's Team	3
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$10,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 0.0% Enhancement — *Subtotals 2, 3, & 7* **$0**

Notes: No enhancement recommended because the Respondent is classified as a Average Performer.

Culpability — No — 0.0% Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 10.0% Reduction — *Subtotal 5* **$1,000**

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

Notes: The Respondent completed reviewing and updating inspection procedures and the training of personnel by May 8, 2008.

0.0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$195
Approx. Cost of Compliance	$5,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$9,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0.0% — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$9,000**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$9,000**

DEFERRAL — 0.0% Reduction — *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$9,000**

Screening Date	14-May-2008	**Docket No.** 2008-0799-AIR-E	**PCW**
Respondent	UCAR Pipeline Incorporated		*Policy Revision 2 (September 2002)*
Case ID No.	35889		*PCW Revision April 29, 2008*
Reg. Ent. Reference No.	RN105212575		
Media [Statute]	Air		
Enf. Coordinator	Harvey Wilson		

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

No enhancement recommended because the Respondent is classified as a Average Performer.

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

Screening Date 14-May-2008 **Docket No.** 2008-0799-AIR-E **PCW**

Respondent UCAR Pipeline Incorporated *Policy Revision 2 (September 2002)*

Case ID No. 35889 *PCW Revision April 29, 2008*

Reg. Ent. Reference No. RN105212575

Media [Statute] Air

Enf. Coordinator Harvey Wilson

Violation Number 1

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

Violation Description Failed to prevent the emission of air contaminants that cause or contribute to air pollution. Specifically, on October 18, 2007 a six inch ethylene pipeline ruptured and 8,658 pounds of ethylene, 4,839 pounds of carbon monoxide, and 2,424 pounds of nitrogen oxide were emitted into the atmosphere; this emissions event lasted 1 hour and 57 minutes. In addition, due to this pipeline rupture, two pipelines owned by Texas Petrochemical Corporation ruptured and released unknown quantities of the following contaminants: 1,3 butadiene, 3-methyl-1-butane, butene, carbon monoxide, cis-2-butene, ethyl benzene, hexane, isobutane, isobutylene, isopentane, methyl acetylene, neo-pentane, nitrogen oxide, pentanes, propane, propylene, trans-2-butene, and vinyl acetylene. The shelter-in-place issued by the Port Arthur Fire Department required people to remain inside their residences, thus interferring with the normal use of their property. Because the Respondent failed to satisfiy the criteria stated in 30 Tex. Admin. Code § 101.222(b)(5) and (b)(11) the emissions event is not subject to an affirmative defense.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
	Actual	x		
OR	Potential			

Percent 100%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment $0

$10,000

Violation Events

Number of Violation Events 1 — 1 Number of violation days

mark only one with an x

daily	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

One daily event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $195

Statutory Limit Test

Violation Final Penalty Total $9,000

This violation Final Assessed Penalty (adjusted for limits) $9,000

Economic Benefit Worksheet

Respondent UCAR Pipeline Incorporated
Case ID No. 35889
Reg. Ent. Reference No. RN105212575
Media Air
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				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$5,000	18-Oct-2007	8-May-2008	0.56	$9	$185	$195
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	The estimated additional annual cost of inspecting and maintaining the pipeline so that it does not rupture. Date Required is the date the pipeline ruptured. Final Date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $5,000

TOTAL $195

Compliance History

Customer/Respondent/Owner-Operator:	CN601068653	UCAR Pipeline Incorporated	Classification: AVERAGE	Rating: 2.45
Regulated Entity:	RN105212575	UCAR Pipeline, Jefferson County Segments	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):				
Location:	located above the Drainage District Number 7 canal near U.S. Highway 69 in Port Arthur, Jefferson County, Texas		Rating Date: September 01 07 Repeat Violator: NO	

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: May 07, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 07, 2003 to May 07, 2008

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

Name: Harvey Wilson Phone: 239-0321

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 04/25/2008 (610723)

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

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**
UCAR PIPELINE INCORPORATED	§	
RN105212575	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0799-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding UCAR Pipeline Incorporated ("the Respondent") 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 the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a pipeline located above Drainage District Number 7 canal near United States Highway 69 in Port Arthur, Jefferson County, Texas (the "Plant").

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

3. During an investigation on October 18, 2007, TCEQ staff documented that a six inch pipeline carrying ethylene ruptured and 8,658 pounds of ethylene, 4,839 pounds of carbon monoxide, and 2,424 pounds of nitrogen oxide were emitted into the atmosphere; the emission event lasted 1 hour and 57 minutes. In addition, due to this pipeline rupture, two other pipelines owned by Texas Petrochemical Corporation ruptured and released unknown quantities of the following contaminants: 1,3 butadiene, 3-methyl-1-butane, butene, carbon monoxide, cis-2-butene, ethyl benzene, hexane, isobutane, isobutylene, isopentane, methyl acetylene, neo-pentane, nitrogen oxide, pentanes, propane, propylene, trans-2-butene, and vinyl acetylene. The shelter-in-place issued by the Port Arthur Fire Department required people to remain inside their residences, thus interferring with the normal use of their property. Because the Respondent failed to satisfiy the criteria stated in 30 TEX. ADMIN. CODE § 101.222(b)(5) and (b)(11), the emissions event is not subject to an affirmative defense.

4. The Respondent received notice of the violations on April 30, 2008.

5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:

   a. Inspected all other overhead lines at crossings to determine if corrosion exists where line is resting on the pipe support and in difficult to access areas. Seven (7) crossings were inspected from Groves, Texas to Mont Belvieu, Texas. This action to inspect the crossings was completed on May 8, 2008;

   b. Reviewed and updated inspection procedures to detail requirements for inspecting pipe resting on pipe supports and lines that are painted and/or wrapped. This action was completed on February 29, 2008;

   c. Developed a Learning Report to aid in communicating lessons learned and corrective measures from the incident to all pipeline personnel. This action was completed on January 21, 2008;

   d. Revised emergency response training and associated operating discipline to strengthen response scenarios for pipe ruptures and rapid pressure loss. This action was completed February 27, 2008;

   e. Revised abnormal operating condition procedure to ensure that both pressure and flow troubleshooting steps are clearly defined and that trending of data continues until the problem has been identified. This action was completed on March 31, 2008; and

   f. Reviewed entire incident with all UCAR pipeline shift teams. This action was completed December 4, 2007.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the emission of air contaminants that cause or contribute to air pollution, in violation of TEX. HEALTH & SAFETY CODE § 382.085 (a) and (b).

3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Nine Thousand Dollars ($9,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Four Thousand Five Hundred Dollars ($4,500) shall be conditionally offset by the Respondent's completion of a Supplement Environmental Project. The Respondent has paid Four Thousand Five Hundred Dollars ($4,500) of the administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Nine Thousand Dollars ($9,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: UCAR Pipeline Incorporated, Docket No. 2008-0799-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 Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4, Conclusions of Law above, Four Thousand Five Hundred Dollars ($4,500) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

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

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

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

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

7. 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.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.

9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 10/30/2008
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of UCAR Pipeline Incorporated. I am authorized to agree to the attached Agreed Order on behalf of UCAR Pipeline Incorporated, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, UCAR Pipeline Incorporated waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Kevin C Weyer _____ 10/14/2008
Signature Date

Kevin C. Weyer _____ President
Name (Printed or typed) Title
Authorized Representative of
UCAR Pipeline Incorporated

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

Attachment A
Docket Number: 2008-0799-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**UCAR Pipeline Incorporated**
Payable Penalty Amount:	**Nine Thousand Dollars ($9,000)**
SEP Amount:	**Four Thousand Five Hundred Dollars ($4,500)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Jefferson County-Southeast Texas Regional Air Monitoring Network Ambient Air Monitoring Station**
Location of SEP:	**Jefferson County**

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to install, operate, and maintain a stationary ambient air monitoring station in the vicinity of Memorial High School Ninth Grade Campus. The station will employ canister sampling, a hydrocarbon analyzer, and/or a chromatograph. Ancillary equipment will include a sample conditioning system, a ten meter meteorological tower, a climate controlled equipment shelter, a remote communications system, and have electronic data logging capabilities. The station will continuously sample and analyze the ambient air for a wide range of hydrocarbon species in accordance with Environmental Protection Agency's recommended "TO-14" list. SEP monies will be used for the cost of purchasing, installing, operating, and maintaining the air monitoring station along with its ancillary equipment.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by offering continuous assessment of ambient air quality in a sensitive area of Port Arthur that is not currently covered by existing ambient air monitoring stations. Monitoring this area of the community will help the TCEQ and local government better respond to

citizen's questions about public health as it related to air quality and will enable TCEQ to identify emission sources.

C. Minimum Expenditure

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

2. Performance Schedule

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

The Honorable Ron Walker
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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