EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0988-AIR-E **TCEQ ID:** RN100226455 **CASE NO.:** 33875

RESPONDENT NAME: Kinder Morgan Production Company LP

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
X AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Sacroc Carbon Dioxide Treatment Plant, 3693 County Road 226, Scurry County

TYPE OF OPERATION: Natural gas production plant

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 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Darrell Ricketson, Vice President, Permian Basin, Kinder Morgan Production Company LP, 500 West Illinois Avenue, Suite 500, Midland, Texas 79701-4579
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** January 18, 2007 **Date of NOV/NOE Relating to this Case:** April 10, 2007 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **AIR** Failed to prevent unauthorized emissions and to ensure that Flare 178 is designed and operated in accordance with 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.18 or an equivalent standard approved by the Commission. Specifically, during a severe weather event that included a lightning strike that caused a power outage, unauthorized emissions of 1,268 pounds ("lbs") of carbon monoxide, 16 lbs of hydrogen sulfide ("H2S"), 1,603 lbs of natural gas, 233 lbs of nitrogen oxides, and 1,756 lbs of sulfur dioxide were released from Flares 176 and 178 in Units 176 and 178 and Flare 178 lifted from the burner ring due to the high velocity of the gas stream during an emissions event that occurred on September 20, 2006 and lasted 16 hours (Incident 81582). Since the emissions event was part of a frequent or recurring pattern indicative of inadequate design, operation, or maintenance, the Respondent failed to meet the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.116(a)(1) and 116.620(a)(12), Standard Permit No. 45842, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $6,200 **Total Deferred:** $1,240 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $2,480 **Total Paid to General Revenue:** $2,480 **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	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure back-up electricity is available to ensure proper operation of Flares 176 and 178; and b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

Additional ID No(s).: SG0006O

Attachment A
Docket Number: 2007-0988-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Kinder Morgan Production Company LP**
Payable Penalty Amount:	**Four Thousand Nine Hundred Sixty Dollars ($4,960)**
SEP Amount:	**Two Thousand Four Hundred Eighty Dollars ($2,480)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Audubon Society-Lake Kirbey Restoration Project**
Location of SEP:	**Scurry 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 place a natural plant barrier near the lake to reduce erosion and noise from four wheeled vehicles along the lake.

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 restoring native habitat for birds and other wildlife.

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:

Ms. Marnie Francell, Program Director
Audubon Texas
427 Sterzing Street
Austin, Texas 78704

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision May 25, 2007*

TCEQ

DATES					
Assigned	11-Jun-2007				
PCW	10-Sep-2007	Screening	20-Jun-2007	EPA Due	18-Dec-2007

RESPONDENT/FACILITY INFORMATION

Respondent	Kinder Morgan Production Company LP		
Reg. Ent. Ref. No.	RN100226455		
Facility/Site Region	3-Abilene	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	33875	No. of Violations	1
Docket No.	2007-0988-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Trina Grieco
Multi-Media		EC's Team	5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 24% Enhancement *Subtotals 2, 3, & 7* $1,200

Notes: Penalty enhancement due to two NOVs issued for non-similar violations and one agreed order containing a denial of liability.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$137
Approx. Cost of Compliance	$2,000

SUM OF SUBTOTALS 1-7 *Final Subtotal* $6,200

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $6,200

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $6,200

DEFERRAL 20% Reduction *Adjustment* -$1,240

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $4,960

Screening Date 20-Jun-2007 **Docket No.** 2007-0988-AIR-E **PCW**

Respondent Kinder Morgan Production Company LP *Policy Revision 2 (September 2002)*

Case ID No. 33875 *PCW Revision May 25, 2007*

Reg. Ent. Reference No. RN100226455

Media [Statute] Air

Enf. Coordinator Trina Grieco

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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	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) 24%

>> **Repeat Violator (Subtotal 3)**

No ***Adjustment Percentage (Subtotal 3)*** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer ***Adjustment Percentage (Subtotal 7)*** 0%

>> **Compliance History Summary**

Compliance History Notes Penalty enhancement due to two NOVs issued for non-similar violations and one agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date 20-Jun-2007 **Docket No.** 2007-0988-AIR-E **PCW**

Respondent Kinder Morgan Production Company LP *Policy Revision 2 (September 2002)*

Case ID No. 33875 *PCW Revision May 25, 2007*

Reg. Ent. Reference No. RN100226455

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.116(a)(1) and 116.620(a)(12), Standard Permit No. 45842, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions and to ensure that Flare 178 is designed and operated in accordance with 40 CFR § 60.18 or an equivalent standard approved by the Commission. Specifically, during a severe weather event that included a lightning strike that caused a power outage, unauthorized emissions of 1,268 pounds ("lbs") of carbon monoxide, 16 lbs of H2S, 1,603 lbs of natural gas, 233 lbs of nitrogen oxides, and 1,756 lbs of sulfur dioxide were released from Flares 176 and 178 in Units 176 and 178 and Flare 178 lifted from the burner ring due to the high velocity of the gas stream during an emissions event that occurred on September 20, 2006 and lasted 16 hours (Incident 81582). Since the emissions event was part of a frequent or recurring pattern indicative of inadequate design, operation, or maintenance, Kinder Morgan failed to meet the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health and the environment has been exposed to 2.44 tons of pollutants as a result of the violation.

Adjustment $5,000

Violation Events

Number of Violation Events 1 — 1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $5,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $137

Statutory Limit Test

Violation Final Penalty Total $6,200

This violation Final Assessed Penalty (adjusted for limits) $6,200

Economic Benefit Worksheet

Respondent Kinder Morgan Production Company LP
Case ID No. 33875
Reg. Ent. Reference No. RN100226455
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
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)	$2,000	20-Sep-2006	1-Feb-2008	1.4	$137	n/a	$137

Notes for DELAYED costs: Estimated cost to implement measures designed to ensure back-up electricity is available to ensure proper operation of Flares 176 and 178. Date required is the date of the release. Final date is the date corrective actions are projected to be completed.

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: $2,000

TOTAL: $137

Compliance History

Customer/Respondent/Owner-Operator:	CN601652894	Kinder Morgan Production Company LP	Classification: AVERAGE	Rating: 3.92
Regulated Entity:	RN100226455	SACROC CARBON DIOXIDE TREATMENT PLANT	Classification: AVERAGE	Site Rating: 4.95

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	SG0006O
AIR OPERATING PERMITS	ACCOUNT NUMBER	SG0006O
AIR OPERATING PERMITS	PERMIT	2829
AIR OPERATING PERMITS	PERMIT	2842
AIR NEW SOURCE PERMITS	PERMIT	408C
AIR NEW SOURCE PERMITS	PERMIT	34330
AIR NEW SOURCE PERMITS	PERMIT	45842
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	SG0006O
AIR NEW SOURCE PERMITS	REGISTRATION	55512
AIR NEW SOURCE PERMITS	REGISTRATION	74249
AIR NEW SOURCE PERMITS	AFS NUM	4841500012
AIR NEW SOURCE PERMITS	PERMIT	80052

Location: 3693 COUNTY ROAD 226, SCURRY COUNTY, TX, 79549 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: July 09, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 14, 2002 to June 14, 2007

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

Name: Trina Grieco Phone: (210) 403-4006

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.

Effective Date: 11/06/2005 ADMINORDER 2005-0037-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Kinder Morgan failed to report the emissions events to the TCEQ within 24 hours of discovery.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Air Standard Permit No. 55512 PERMIT
Description: Kinder Morgan did not meet the Demonstration Criteria set forth in of 30 Tex. Admin. Code § 101.222(b) and is not subject to an affirmative defense.

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 05/12/2004 (269210)
2 10/04/2004 (335404)
3 10/08/2004 (334739)
4 11/15/2004 (341089)
5 11/22/2004 (338960)

6	11/22/2004	(338962)
7	11/22/2004	(338957)
8	04/28/2005	(375022)
9	04/28/2005	(377144)
10	05/16/2005	(375023)
11	05/16/2005	(375019)
12	05/16/2005	(375026)
13	06/30/2005	(396792)
14	06/30/2005	(396793)
15	07/15/2005	(399681)
16	10/15/2005	(418894)
17	01/17/2006	(451553)
18	01/17/2006	(451546)
19	01/17/2006	(451536)
20	01/17/2006	(451543)
21	12/04/2006	(482082)
22	03/26/2007	(531614)
23	04/10/2007	(531613)
24	06/14/2007	(563298)

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

Date 05/12/2004 (269210)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

Description: Kinder Morgan failed to report the emissions events to the TCEQ within 24 hours of discovery as required by 30 Texas Admin Code 101.201(a)(1)(B).

Date 10/08/2004 (334739)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)

Description: Kinder Morgan failed to prevent an over current condition when compression unit C23 was installed and started.

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**
KINDER MORGAN PRODUCTION	§	
COMPANY LP	§	**ENVIRONMENTAL QUALITY**
RN100226455		

AGREED ORDER
DOCKET NO. 2007-0988-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 Kinder Morgan Production Company LP ("Kinder Morgan") 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 Kinder Morgan appear before the Commission and together stipulate that:

1. Kinder Morgan owns and operates a natural gas production plant at 3693 County Road 226 in Scurry County, Texas (the "Plant").

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

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

4. Kinder Morgan received notice of the violations alleged in Section II ("Allegations") on or about April 15, 2007.

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

6. An administrative penalty in the amount of Six Thousand Two Hundred Dollars ($6,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Kinder Morgan has paid Two Thousand Four Hundred Eighty Dollars ($2,480) of the administrative penalty and One Thousand Two Hundred Forty Dollars ($1,240) is deferred contingent upon Kinder Morgan's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Kinder Morgan fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Kinder Morgan to pay all or part of the deferred penalty. Two Thousand Four Hundred Eighty Dollars ($2,480) shall be conditionally offset by Kinder Morgan's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Kinder Morgan have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. 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 Kinder Morgan has not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Kinder Morgan is alleged to have failed to prevent unauthorized emissions and to ensure that Flare 178 is designed and operated in accordance with 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.18 or an equivalent standard approved by the Commission, in violation of 30 TEX. ADMIN. CODE §§ 116.116(a)(1) and 116.620(a)(12), Standard Permit No. 45842, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 18, 2007. Specifically, during a severe weather event that included a lightning strike that caused a power outage, unauthorized emissions of 1,268 pounds ("lbs") of carbon monoxide, 16 lbs of Hydrogen Sulfide ("H2S"), 1,603 lbs of natural gas, 233 lbs of nitrogen oxides, and 1,756 lbs of sulfur dioxide were released from Flares 176 and 178 in Units 176 and 178 and Flare 178 lifted from the burner ring due to the high velocity of the gas stream during an emissions event that occurred on September 20, 2006 and lasted 16 hours (Incident 81582). Since the emissions event was part of a frequent or recurring pattern indicative of inadequate design, operation, or maintenance, Kinder Morgan failed to meet the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Kinder Morgan pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Kinder Morgan's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kinder Morgan Production Company LP, Docket No. 2007-0988-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. Kinder Morgan shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Four Hundred Eighty Dollars ($2,480) of the assessed administrative penalty shall be offset with the condition that Kinder Morgan implement the SEP defined in Attachment A, incorporated herein by reference. Kinder Morgan'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. It is further ordered that Kinder Morgan shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure back-up electricity is available to ensure proper operation of Flares 176 and 178; and

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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:

Air Section, Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

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

Date 1/29/2008

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Signature

Date 9/17/07

Name (Printed or typed)
Authorized Representative of
Kinder Morgan Production Company LP

Title VP - Permian Basin

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

Attachment A
Docket Number: 2007-0988-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Kinder Morgan Production Company LP**
Payable Penalty Amount:	**Four Thousand Nine Hundred Sixty Dollars ($4,960)**
SEP Amount:	**Two Thousand Four Hundred Eighty Dollars ($2,480)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Audubon Society-Lake Kirbey Restoration Project**
Location of SEP:	**Scurry 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 place a natural plant barrier near the lake to reduce erosion and noise from four wheeled vehicles along the lake.

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 restoring native habitat for birds and other wildlife.

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:

Ms. Marnie Francell, Program Director
Audubon Texas
427 Sterzing Street
Austin, Texas 78704

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.