

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1490-AIR-E **TCEQ ID:** RN100209949 **CASE NO.:** 34616

**RESPONDENT NAME:** ONEOK Hydrocarbon Southwest, LLC

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Mont Belvieu Fractionator, 9900 Farm-to-Market Road 1942, Chambers County</p> <p><b>TYPE OF OPERATION:</b> Plant that separates a demethanized gas into separate products</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 3, 2008. No comments were received.</p>		
<p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney/SEP Coordinator:</b> None</p> <p><b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p><b>Respondent:</b> Mr. Scott Schingen, Area Manager-Operations, ONEOK Hydrocarbon Southwest, LLC, P. O. Box 550, Mont Belvieu, Texas 77580</p> <p><b>Respondent's Attorney:</b> Ms. Lydia Gonzalez Gromatzky, Beveridge &amp; Diamond, P.C., 98 San Jacinto Boulevard, Suite 1420, Austin, Texas 78701-4030</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 30, 2007</p> <p><b>Date of NOE Relating to this Case:</b> August 29, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>AIR</b></p> <p>1) Failure to report an emission event timely. Specifically, the final report for Incident No. 90654 which occurred on May 3, 2007, was not submitted until July 30, 2007 [30 TEX. ADMIN. CODE § 101.201(b)].</p> <p>2) Failure to prevent the release of unauthorized air contaminants emitted into the atmosphere. Specifically, 310 pounds (lbs) of Nitrogen Oxide ("NOx"), 619 lbs of Carbon Monoxide ("CO"), and 1172 lbs of Volatile Organic Compounds (VOCs) were emitted into the air during an emission event that occurred on May 3, 2007, lasting 12 hours 45 minutes. Since these emission events were avoidable, an affirmative defense as defined by 30 TEX. ADMIN. CODE § 101.222 may not be claimed for the emissions [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Permit No. 3956B, Maximum Allowable Emission Sources - Special Condition 1].</p>	<p><b>Total Assessed:</b> \$2,808</p> <p><b>Total Deferred:</b> \$561  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,247</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent submitted the final report for Incident No. 90654 on July 30, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i. Conduct a review of the adequacy of Plant measures designed to minimize unauthorized flare emissions during upset events resulting from the loss of third party electrical power supply during severe storm events. If this review identified additional measures that are warranted, prepare a plan to implement such measures; and</p> <p>ii. Implement measures designed to ensure proper reporting of emissions events.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public.</p>

Additional ID No(s): Air New Source Permit No. 3956B, CI0005A, 39568, and 4707100004



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

<b>DATES</b>	Assigned	4-Sep-2007	<b>Screening</b>	13-Sep-2007	<b>EPA Due</b>	25-May-2008
	PCW	13-Sep-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	ONEOK Hydrocarbon Southwest, LLC
Reg. Ent. Ref. No.	RN100209949
Facility/Site Region	12-Houston
Major/Minor Source	Major

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34616	No. of Violations	2	
Docket No.	2007-1490-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	J. Craig Fleming	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$2,600**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 8% Enhancement *Subtotals 2, 3, & 7* **\$208**

Notes: An enhancement is recommended for having one NOV that is same/similar, three NOVs that are non-similar, one letter of intended audit, and one disclosure of violation.

**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.

**Total EB Amounts** \$6 **Approx. Cost of Compliance** \$200 **0% Enhancement\*** *Subtotal 6* **\$0**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$2,808**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** *Adjustment* **\$0**

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

Notes:

*Final Penalty Amount* **\$2,808**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$2,808**

**DEFERRAL** 20% Reduction *Adjustment* **-\$561**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$2,247**

<b>Screening Date</b> 13-Sep-2007	<b>Docket No.</b> 2007-1490-AIR-E	<b>PCW</b>
<b>Respondent</b> ONEOK Hydrocarbon Southwest, LLC	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 34616	<i>PCW Revision June 26, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN100209949		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> J. Craig Fleming		

### 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>	1	5%
	Other written NOVs	3	6%
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 <i>(number of events)</i>	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 submitted)</i>	1	-1%
	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>	1	-2%
<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)** 8%

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

<span style="border: 1px solid black; padding: 2px;">No</span>	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">Average Performer</span>	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Summary**

<b>Compliance History Notes</b>	An enhancement is recommended for having one NOV that is same/similar, three NOVs that are non-similar, one letter of intended audit, and one disclosure of violation.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 8%

**Screening Date** 13-Sep-2007 **Docket No.** 2007-1490-AIR-E **PCW**  
**Respondent** ONEOK Hydrocarbon Southwest, LLC *Policy Revision 2 (September 2002)*  
**Case ID No.** 34616 *PCW Revision June 26, 2007*  
**Reg. Ent. Reference No.** RN100209949  
**Media [Statute]** Air  
**Enf. Coordinator** J. Craig Fleming

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>Matrix Notes</b>	<input type="text" value="Much, but not all (at least 70 percent) of a rule is met."/>				

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

Economic Benefit (EB) for this violation

Statutory Limit Test

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

Respondent: ONEOK Hydrocarbon Southwest, LLC  
 Case ID No. 34616  
 Reg. Ent. Reference No. RN100209949  
 Media: Air  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### 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	\$100	17-May-2007	30-Jul-2007	0.2	\$1	n/a	\$1
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 approximate cost to train personnel on how to use the automated reporting system to ensure that all emission events are reported timely and accurately. The Date Required was the date the final report was due. The Final Date is the date the final report was submitted.

### 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

NA

Approx. Cost of Compliance

\$100

TOTAL

\$1

<b>Screening Date</b>	13-Sep-2007	<b>Docket No.</b>	2007-1490-AIR-E	<b>PCW</b>
<b>Respondent</b>	ONEOK Hydrocarbon Southwest, LLC	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	34616	<i>PCW Revision June 26, 2007</i>		
<b>Reg. Ent. Reference No.</b>	RN100209949			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	J. Craig Fleming			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and Permit No. 3956B, Maximum Allowable Emission Sources - Special Condition 1			
<b>Violation Description</b>	Failed to prevent the release of unauthorized air contaminants emitted into the atmosphere. Specifically, 310 lbs of NOx, 619 lbs of CO, and 1172 lbs of VOCs were emitted into the air during an emission event that occurred on May 3, 2007, lasting 12 hours 45 minutes. Since these emission events were avoidable, an affirmative defense as defined by 30 Tex. Admin. Code § 101.222 may not be claimed for the emissions.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major      Moderate      Minor				
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>				
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Emissions above the permitted limit have exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
<b>Adjustment</b>				\$7,500
				\$2,500
<b>Violation Events</b>				
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="1"/>		
	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"/>		
				\$2,500
One quarterly event is recommended.				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
Estimated EB Amount <input type="text" value="\$5"/>			Violation Final Penalty Total <input type="text" value="\$2,700"/>	
			This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,700"/>	

### Economic Benefit Worksheet

Respondent: ONEOK Hydrocarbon Southwest, LLC  
 Case ID No: 34616  
 Reg. Ent. Reference No. RN100209949  
 Media Air  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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	\$100	3-May-2007	30-Apr-2008	1.0	\$5	n/a	\$5
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 approximate cost to develop and implement operating procedures to abate emissions in a timely manner during power outages in order to minimize the release of unauthorized air contaminants. The Date Required was the date when the violation first occurred. The Final 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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 NA

Approx. Cost of Compliance	\$100	<b>TOTAL</b>	\$5
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# Compliance History

Customer/Respondent/Owner-Operator: CN601669849 ONEOK Hydrocarbon Southwest, LLC Classification: Average Rating: 0.34

Regulated Entity: RN100209949 MONT BELVIEU FRACTIONATOR Classification: Average Site Rating: 0.68

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	CI0005A
AIR OPERATING PERMITS	PERMIT	107
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD054458773
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30305
AIR NEW SOURCE PERMITS	PERMIT	3956
AIR NEW SOURCE PERMITS	PERMIT	3956B
AIR NEW SOURCE PERMITS	PERMIT	11843A
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CI0005A
AIR NEW SOURCE PERMITS	PERMIT	39568
AIR NEW SOURCE PERMITS	AFS NUM	4807100004

Location: 9900 FM 1942, CHAMBERS COUNTY, TEXAS, 77580 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 11, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 11, 2002 to September 11, 2007

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

Name: J. Craig Fleming Phone: (512) 239-5806

## Site Compliance History Components

- |                                                                                              |                                 |
|----------------------------------------------------------------------------------------------|---------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes                             |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | Yes                             |
| 3. If Yes, who is the current owner?                                                         | ONEOK Hydrocarbon Southwest LLC |
| 4. If Yes, who was/were the prior owner(s)?                                                  | Koch Hydrocarbon Company        |
| 5. When did the change(s) in ownership occur?                                                | 7/29/2005                       |

### 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  | 01/31/2003 | (11819)  |
| 2  | 02/14/2003 | (20416)  |
| 3  | 03/12/2003 | (21772)  |
| 4  | 04/04/2003 | (11806)  |
| 5  | 07/28/2003 | (453173) |
| 6  | 09/05/2003 | (151643) |
| 7  | 10/23/2003 | (251878) |
| 8  | 11/13/2003 | (250335) |
| 9  | 02/12/2004 | (250328) |
| 10 | 12/09/2004 | (336197) |
| 11 | 12/09/2004 | (336229) |

12 12/09/2004 (335141)  
 13 12/09/2004 (336198)  
 14 12/20/2004 (341711)  
 15 01/19/2005 (333881)  
 16 03/09/2005 (372970)  
 17 07/15/2005 (397571)  
 18 07/25/2005 (401186)  
 19 10/08/2005 (567838)  
 20 11/18/2005 (435039)  
 21 12/30/2005 (440217)  
 22 05/19/2006 (463751)  
 23 05/26/2006 (462757)  
 24 05/26/2006 (462758)  
 25 05/26/2006 (461960)  
 26 06/07/2006 (457084)  
 27 08/30/2006 (480008)  
 28 09/11/2006 (464961)  
 29 10/31/2006 (515248)  
 30 11/29/2006 (532159)  
 31 01/25/2007 (512511)  
 32 08/03/2007 (543641)  
 33 08/29/2007 (571021)

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

Date 01/19/2005 (333881)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(C)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter F 122.511(b)(2)  
 30 TAC Chapter 122, SubChapter F 122.511(c)(7)  
 Rqmt Prov: OP General Operating Permit No. O-00204  
 PERMIT TECQ Air Permit No. 3956B, SC #15(F)  
 Description: Failure to monitor 3% of fugitive components at least quarterly since 2000 at the  
 Mont Belvieu Fractionator.  
 Date 11/18/2005 (435039)  
 Self Report? NO Classification Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 335, SubChapter A 335.4(1)  
 Description: During the investigation releases of oil and/or chemicals from process units and  
 equipment were noted.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)  
 Description: Failure to update notice of registration  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 335, SubChapter A 335.5(a)(1)  
 30 TAC Chapter 335, SubChapter A 335.5(a)(2)  
 30 TAC Chapter 335, SubChapter A 335.8(a)(1)  
 Description: Failure to deed record and /or close or remediate an abandoned waste pile.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(d)(1)  
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(i)  
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)  
 Description: Failure to close a waste container.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(1)  
 30 TAC Chapter 335, SubChapter A 335.10(b)(2)  
 Description: Failure to properly complete the manifest  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 335, SubChapter Q 335.475(3)(A)  
 Description: Failure to implement source reduction and waste minimization plan.  
 Date 06/06/2006 (457084)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT No. 3956B, SC 15F  
OP No. O-00107, SC 11A

Description: failure to remonitor a valve within 15 days of the day it was placed back into service.

Date 08/03/2007 (543641)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
PERMIT 3956B, SC # 12  
OP O-00107, SC # 11  
OP O-00107, SC # 1A

Description: Failure to maintain a constant pilot flame for the flare.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(i)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT 3956B, SC # 12  
OP O-00107, SC # 11  
OP O-00107, SC # 1A

Description: Failure to prevent flare visible emissions from exceeding five minutes in any consecutive two-hour period.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT 3956B, SC # 1  
OP O-00107, SC # 11

Description: Failure to prevent CO emissions from exceeding the MAERT (less than or equal to 3.98 lbs/hr) due to insufficient oxygen for Heater 1 (H-1) and for Heater 2 (H-2)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT 3956B, SC # 1  
OP O-00107, SC # 11

Description: Failure to prevent NOx emissions from exceeding the MAERT (less than or equal to 6.97 lbs/hr) due to excess oxygen for H-2.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PERMIT 3956B, SC # 21B  
OP O-00107, SC # 11

Description: Failure to provide timely replacement notification for Turbine # 21108.

F. Environmental audits.

1 Notice of Intent Date: 12/20/2002 (35091)  
Disclosure Date: 05/19/2003

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A

Description: Failure to submit correct emission inventories for calendar years 1997 through 2001.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A

Description: Failure to pay correct annual emissions fees for Cooling Tower 1 and Turbines 13 and 14.

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  
CONCERNING  
ONEOK HYDROCARBON  
SOUTHWEST, LLC  
RN100209949**

§  
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§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-1490-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 ONEOK Hydrocarbon Southwest, LLC ("ONEOK") 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 ONEOK, represented by Ms. Lydia Gonzalez Gromatzky of the law firm of Beveridge & Diamond, P.C., appear before the Commission and together stipulate that:

1. ONEOK owns and operates a plant that separates a demethanized gas into separate products at 9900 Farm-to-Market Road 1942, Chambers 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 ONEOK agree that the Commission has jurisdiction to enter this Agreed Order, and that ONEOK is subject to the Commission's jurisdiction.
4. ONEOK received notice of the violations alleged in Section II ("Allegations") on or about September 3, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by ONEOK of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Two Thousand Eight Hundred Eight Dollars (\$2,808) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). ONEOK has paid Two Thousand Two Hundred Forty-Seven Dollars (\$2,247) of the administrative penalty and Five Hundred Sixty-One Dollars (\$561) is deferred contingent upon ONEOK'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 ONEOK fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require ONEOK to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and ONEOK have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that ONEOK has submitted the final report for Incident No. 90654 on July 30, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that ONEOK has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, ONEOK is alleged to have:

1. Failed to report an emission event timely, in violation of 30 TEX. ADMIN. CODE § 101.201(b), as documented during a record review conducted on July 30, 2007. Specifically, the final report for Incident No. 90654 which occurred on May 3, 2007, was not submitted until July 30, 2007.
2. Failed to prevent the release of unauthorized air contaminants emitted into the atmosphere, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 3956B, Maximum Allowable Emission Sources - Special Condition 1, as documented during a record review conducted on July 30, 2007. Specifically, 310 pounds of Nitrogen Oxide, 619 pounds of Carbon Monoxide, and 1172 pounds of Volatile Organic Compounds were emitted into the air during an emission event that occurred on May 3, 2007, lasting 12 hours 45 minutes. Since these emission events were avoidable, an affirmative defense as defined by 30 TEX. ADMIN. CODE § 101.222 may not be claimed for the emissions.



### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that ONEOK pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and ONEOK'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: ONEOK Hydrocarbon Southwest, LLC, Docket No. 2007-1490-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. It is further ordered that ONEOK shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Conduct a review of the adequacy of Plant measures designed to minimize unauthorized flare emissions during upset events resulting from the loss of third party electrical power supply during severe storm events. If this review identifies additional measures that are warranted, prepare a plan to implement such measures; and
    - ii. Implement measures designed to ensure proper reporting of emissions events.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

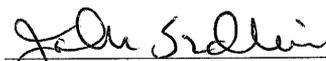
3. The provisions of this Agreed Order shall apply to and be binding upon ONEOK. ONEOK is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If ONEOK fails to comply with any of the Ordering Provisions 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, ONEOK's failure to comply is not a violation of this Agreed Order. ONEOK shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. ONEOK shall notify the Executive Director within seven days after ONEOK 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 ONEOK shall be made in writing to the Executive Director. Extensions are not effective until ONEOK receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against ONEOK 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to ONEOK, or three days after the date on which the Commission mails notice of the Order to ONEOK, 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

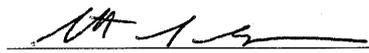
3/5/2008  
Date

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 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

12-14-2007  
Date

SCOTT SCHINGEN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
ONEOK Hydrocarbon Southwest, LLC

AREA MANAGER - OPERATIONS  
\_\_\_\_\_  
Title

**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.

