# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2008-1053-AIR-E **TCEQ ID:** RN100224674 **CASE NO.:** 36129

**RESPONDENT NAME:** Oxy Vinyls, 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:** Geon-Oxy Vinyl, 2400 Miller Cut Off Road, La Porte, Harris County

**TYPE OF OPERATION:** Chemical manufacturing plant

**SMALL BUSINESS:** ___ Yes __X__ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-1542-AIR-E.

**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 December 8, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8931; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

**Respondent:** Mr. Ted Brenneman, Principal Environmental Engineer, Oxy Vinyls, LP, 2400 Miller Cut Off Road, La Porte, Texas 77571

Mr. Scott A. King, Vice President, General Counsel & Secretary, Oxy Vinyls, LP, 2400 Miller Cut Off Road, La Porte, Texas 77571

**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:**<br>___ Complaint<br>___ Routine<br>___ Enforcement Follow-up<br>_X_ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** May 6, 2008<br><br>**Date of NOV/NOE Relating to this Case:** June 20, 2008 (NOE)<br><br>**Background Facts:** This was a record review.<br><br>**AIR**<br><br>Failure to prevent unauthorized emissions during Incident No. 105535. Specifically, during the March 27, 2008 emissions event, the following unauthorized emissions were released over a period of 18 hours and 55 minutes from diversion valves and a ruptured disc associated with the vent gas piping system when the two incinerators tripped off-line: 766 pounds ("lbs") of 1,2-dichloroethane, 497 lbs of carbon monoxide, 341 lbs of ethylene, 41 lbs of vinyl chloride, 9.8 lbs of chloroform, 9.2 lbs of carbon tetrachloride, 1.8 lbs of ethyl chloride, 1.7 lbs of ethylene dichloride, and 0.7 lbs of 1,2-trans-dichloroethylene. Since the emissions event was avoidable, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 3855B/PSD-TX-876, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | **Total Assessed:** $4,450<br><br>**Total Deferred:** $890<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid to General Revenue:** $3,560<br><br>**Site Compliance History Classification**<br>___ **High** _X_ **Average** ___ **Poor**<br><br>**Person Compliance History Classification**<br>___ **High** _X_ **Average** ___ **Poor**<br><br>**Major Source:** _X_ Yes ___ No<br><br>**Applicable Penalty Policy:** September 2002 | **Ordering Provisions:**<br><br>The Order will require the Respondent to:<br><br>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as the March 27, 2008 emissions event (Incident No. 105535); and<br><br>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 a. |

Additional ID No(s).: HG0193B

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* — *PCW Revision June 12, 2008*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 23-Jun-2008 | | | | |
| PCW | 27-Jun-2008 | Screening | 27-Jun-2008 | EPA Due | 16-Mar-2008 |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Oxy Vinyls, LP | | |
| Reg. Ent. Ref. No. | RN100224674 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 36129 | No. of Violations | 1 |
| Docket No. | 2008-1053-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Rebecca Johnson |
| | | EC's Team | Enforcement Team 5 |

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** — *Subtotal 1* $2,500

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

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

**Compliance History** 78.0% Enhancement — *Subtotals 2, 3, & 7* $1,950

Notes: Penalty enhancement due to four NOVs issued for same or similar violations, two NOVs issued for unrelated violations, and three agreed orders with a denial of liability. Penalty reduction due to six Notices of Intended Audits.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** — *Subtotal 5* $0

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

Total EB Amounts $124
Approx. Cost of Compliance $3,000
*Capped at the Total EB $ Amount

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* $4,450

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* $4,450

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* $4,450

**DEFERRAL** 20.0% Reduction — *Adjustment* -$890

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** $3,560

**Screening Date** 27-Jun-2008 **Docket No.** 2008-1053-AIR-E **PCW**

**Respondent** Oxy Vinyls, LP *Policy Revision 2 (September 2002)*

**Case ID No.** 36129 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100224674

**Media [Statute]** Air

**Enf. Coordinator** Rebecca Johnson

## 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*) | 4 | 20% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 3 | 60% |
| | 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)* | 6 | -6% |
| | 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)*** 78%

>> **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 four NOVs issued for same or similar violations, two NOVs issued for unrelated violations, and three agreed orders with a denial of liability. Penalty reduction due to six Notices of Intended Audits.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 78%

**Screening Date** 27-Jun-2008 **Docket No.** 2008-1053-AIR-E **PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision June 12, 2008*

**Respondent** Oxy Vinyls, LP

**Case ID No.** 36129

**Reg. Ent. Reference No.** RN100224674

**Media [Statute]** Air

**Enf. Coordinator** Rebecca Johnson

**Violation Number** 1

**Rule Cite(s)** Air Permit No. 3855B/PSD-TX-876, Special Condition No. 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions during Incident No. 105535. Specifically, during the March 27, 2008 emissions event the following unauthorized emissions were released over a period of 18 hours and 55 minutes from diversion valves and a ruptured disc associated with the vent gas piping system when the two incinerators tripped off-line: 766 pounds ("lbs") of 1,2-dichloroethane, 497 lbs of carbon monoxide, 341 lbs of ethylene, 41 lbs of vinyl chloride, 9.8 lbs of chloroform, 9.2 lbs of carbon tetrachloride, 1.8 lbs of ethyl chloride, 1.7 lbs of ethylene dichloride, and 0.7 lbs of 1,2-trans-dichloroethylene. Since the emissions event was avoidable, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| OR | Release | Harm: Major | Moderate | Minor |
|---|---|---|---|---|
| | Actual | | | x |
| | Potential | | | |

**Percent** 25%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

Matrix Notes: Human health or the environment have been exposed to an insignificant amount of pollutants that did not exceed protective levels as a result of the violation.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 1 — 1 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $2,500

One quarterly event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction — $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 for this violation.

**Violation Subtotal** $2,500

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $124

## Statutory Limit Test

**Violation Final Penalty Total** $4,450

**This violation Final Assessed Penalty (adjusted for limits)** $4,450

# Economic Benefit Worksheet

**Respondent** Oxy Vinyls, LP
**Case ID No.** 36129
**Reg. Ent. Reference No.** RN100224674
**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 | | | | 0.00 | $0 | $0 | $0 |
| Buildings | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.00 | $0 | $0 | $0 |
| 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) | $3,000 | 27-Mar-2008 | 22-Jan-2009 | 0.82 | $124 | n/a | $124 |

Notes for DELAYED costs: Estimated cost to implement measures designed to prevent emissions events caused by the incinerators tripping off-line due to a faulty power line connection to the motor and a loss of flame detection. Date required based on the date of the emissions event. Final date based on the projected date corrective actions will be completed.

**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: $3,000

TOTAL: $124

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600129126 | Oxy Vinyls, LP | Classification: AVERAGE | Rating: 1.87 |
| Regulated Entity: | RN100224674 | GEON-OXY VINYL | Classification: AVERAGE | Site Rating: 4.13 |

ID Number(s):

| | | |
|---|---|---|
| AIR OPERATING PERMITS | ACCOUNT NUMBER | HG0193B |
| AIR OPERATING PERMITS | PERMIT | 1324 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD070133319 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 31077 |
| WASTEWATER | PERMIT | WQ0002097000 |
| WASTEWATER | PERMIT | TPDES0070416 |
| WASTEWATER | PERMIT | TX0070416 |
| PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 12124 |
| AIR NEW SOURCE PERMITS | PERMIT | 3855B |
| AIR NEW SOURCE PERMITS | PERMIT | 6913B |
| AIR NEW SOURCE PERMITS | PERMIT | 31148 |
| AIR NEW SOURCE PERMITS | PERMIT | 40916 |
| AIR NEW SOURCE PERMITS | PERMIT | 41432 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HG0193B |
| AIR NEW SOURCE PERMITS | PERMIT | 52249 |
| AIR NEW SOURCE PERMITS | AFS NUM | 4820100320 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX876 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 84912 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HGA064L |
| AIR NEW SOURCE PERMITS | REGISTRATION | 82629 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX1107 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83129 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 84849 |
| PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | 1011153 |
| IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 31077 |

Location: 2400 MILLER CUT OFF RD, LA PORTE, TX, 77571 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 27, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 27, 2003 to June 27, 2008

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

Name: Rebecca Johnson Phone: (713) 422-8931

## 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: 08/13/2004** **ADMINORDER 2003-0441-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.182(d)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 4.C. PERMIT
Description: Failure to submit 40CFR Subpart H semi annual reports.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 43F PERMIT
Description: Failure to maintain fugitive monitoring records for 2,302 accessible valves in the Crack-Pu Unit.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 63, Subpart H 63.181(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 4.C. PERMIT
Description: Failure to maintain annual fugitive monitoring records for connectors in gas/vapor or light liquid service.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(i)(3)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 4.C. PERMIT
Description: Failure to provide a written plan for the monitoring of Difficult to Monitor components.

**Effective Date: 05/11/2007** **ADMINORDER 2006-0573-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

Rqmt Prov: 3855B and PSD-TX-876, SC 43E PERMIT
O-01324, SC 1A OP

O-01324, SC 21 OP

Description: Failed to seal open-ended lines in volatile organic compound service.

Classification: Moderate

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

Rqmt Prov: 3855B and PSD-TX-876, SC 32 PERMIT
O-01324, SC 21 OP

Description: Failed to maintain the pH level above the required minimum permit limit of 8 for Scrubbers IND101A and IND101B.

Classification: Moderate

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

Rqmt Prov: 3855B and PSD-TX-876, SC 10D PERMIT
O-01324, SC 21 OP

Description: Failed to maintain the firing rate at the permitted limit of 72 MM BTU per hour on August 24, 2005 and September 13, 2005 for furnace IND108.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.203(a)(6)(D)

Description: Failed to limit the operation of emergency diesel pump engine (E1:Pump A) for operational, testing, or maintenance purposes within the allowable 52 hours per year based on a rolling 12-month average.

Classification: Moderate

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

Rqmt Prov: O-01324, SC 3A(iv)(1) OP

Description: Failed to monitor visible emissions for the 1st quarter ( January 10, 2005 through March 31, 2005) for the A& B catalytic oxidizer catalyst traps and 1 diesel engine (E5).

**Effective Date: 04/28/2008** **ADMINORDER 2007-1731-AIR-E**

Classification: Moderate

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

Rqmt Prov: Permit No. 3855B and PSD-TX-876, MAERT PERMIT

Description: Failure to prevent an unauthorized emission due to operation issues.

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 | 07/22/2003 | (196702) |
| 2 | 08/22/2003 | (311755) |
| 3 | 09/22/2003 | (311757) |
| 4 | 10/23/2003 | (311759) |
| 5 | 11/24/2003 | (311760) |
| 6 | 12/29/2003 | (311761) |
| 7 | 01/26/2004 | (311762) |
| 8 | 02/23/2004 | (311744) |
| 9 | 03/11/2004 | (260325) |
| 10 | 03/22/2004 | (311747) |
| 11 | 03/30/2004 | (332991) |
| 12 | 04/23/2004 | (311748) |
| 13 | 05/06/2004 | (265013) |
| 14 | 05/24/2004 | (311750) |
| 15 | 05/27/2004 | (273904) |
| 16 | 06/04/2004 | (258033) |
| 17 | 06/22/2004 | (311752) |
| 18 | 07/01/2004 | (274250) |
| 19 | 07/20/2004 | (358707) |
| 20 | 08/24/2004 | (358708) |
| 21 | 09/18/2004 | (358713) |
| 22 | 09/23/2004 | (358709) |
| 23 | 10/22/2004 | (358710) |
| 24 | 11/09/2004 | (339927) |
| 25 | 11/23/2004 | (358711) |
| 26 | 12/09/2004 | (339090) |
| 27 | 12/20/2004 | (358712) |
| 28 | 02/23/2005 | (385515) |
| 29 | 02/24/2005 | (348525) |
| 30 | 03/04/2005 | (371341) |
| 31 | 03/04/2005 | (371799) |
| 32 | 03/22/2005 | (385516) |
| 33 | 04/13/2005 | (377233) |
| 34 | 04/18/2005 | (423530) |
| 35 | 05/23/2005 | (423531) |
| 36 | 06/20/2005 | (423532) |
| 37 | 07/08/2005 | (395131) |
| 38 | 07/08/2005 | (394840) |
| 39 | 07/15/2005 | (444346) |
| 40 | 08/22/2005 | (444347) |
| 41 | 08/23/2005 | (404921) |

| | | |
|---|---|---|
| 42 | 08/23/2005 | (401982) |
| 43 | 08/23/2005 | (404446) |
| 44 | 08/25/2005 | (406044) |
| 45 | 08/31/2005 | (418946) |
| 46 | 08/31/2005 | (418950) |
| 47 | 08/31/2005 | (418878) |
| 48 | 09/20/2005 | (444348) |
| 49 | 09/28/2005 | (418665) |
| 50 | 11/28/2005 | (474875) |
| 51 | 12/20/2005 | (474876) |
| 52 | 01/23/2006 | (474877) |
| 53 | 02/22/2006 | (455182) |
| 54 | 02/22/2006 | (474873) |
| 55 | 02/25/2006 | (455900) |
| 56 | 02/25/2006 | (456977) |
| 57 | 02/27/2006 | (456938) |
| 58 | 02/28/2006 | (457156) |
| 59 | 02/28/2006 | (457174) |
| 60 | 02/28/2006 | (457147) |
| 61 | 03/20/2006 | (474874) |
| 62 | 04/20/2006 | (460418) |
| 63 | 04/24/2006 | (502550) |
| 64 | 05/22/2006 | (502551) |
| 65 | 05/26/2006 | (467563) |
| 66 | 05/26/2006 | (467526) |
| 67 | 06/23/2006 | (502552) |
| 68 | 07/21/2006 | (524869) |
| 69 | 08/18/2006 | (524870) |
| 70 | 09/06/2006 | (487733) |
| 71 | 09/19/2006 | (524871) |
| 72 | 09/28/2006 | (512141) |
| 73 | 10/05/2006 | (487698) |
| 74 | 10/20/2006 | (549775) |
| 75 | 11/01/2006 | (512136) |
| 76 | 11/03/2006 | (515153) |
| 77 | 11/27/2006 | (549776) |
| 78 | 12/29/2006 | (533496) |
| 79 | 12/29/2006 | (533497) |
| 80 | 01/08/2007 | (549777) |
| 81 | 01/23/2007 | (549778) |
| 82 | 02/28/2007 | (583976) |
| 83 | 03/22/2007 | (583977) |
| 84 | 03/22/2007 | (583982) |
| 85 | 04/23/2007 | (583978) |
| 86 | 05/09/2007 | (559347) |
| 87 | 05/21/2007 | (583979) |
| 88 | 06/18/2007 | (583980) |
| 89 | 07/20/2007 | (583981) |
| 90 | 07/20/2007 | (583983) |
| 91 | 08/22/2007 | (604115) |
| 92 | 08/31/2007 | (573381) |
| 93 | 09/19/2007 | (623027) |
| 94 | 10/04/2007 | (596408) |
| 95 | 10/16/2007 | (597441) |
| 96 | 10/18/2007 | (623028) |
| 97 | 10/23/2007 | (594714) |
| 98 | 10/23/2007 | (596411) |
| 99 | 11/02/2007 | (595129) |
| 100 | 11/19/2007 | (623029) |
| 101 | 12/13/2007 | (610860) |
| 102 | 12/20/2007 | (623030) |
| 103 | 12/20/2007 | (599139) |
| 104 | 02/19/2008 | (674447) |
| 105 | 03/17/2008 | (674448) |
| 106 | 04/28/2008 | (638348) |
| 107 | 04/30/2008 | (641245) |

108 06/19/2008 (657150)

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

**Date: 03/30/2004 (332991)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

**Date: 06/07/2004 (258033)**

Self Report? NO Classification: Moderate

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

Rqmt Prov: PA 3855B, SC#28

Description: Failure to maintain hourly average pH of scrubbing solution above 8.0.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)

Rqmt Prov: PA 3855B, General Condition No. 7

Description: Failure to maintain data sufficient to demonstrate compliance with the permit.

**Date: 09/06/2006 (487733)**

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT Permit No. 3855B and PSD-TX-876

Description: Failure to prevent an electrical short that resulted from a temporary repair with electrical tape to a junction box.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

Description: Failure to list the permit number for the facility involved in the emissions event.

**Date: 09/28/2006 (512141)**

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT Permit No. 3855B and PSD-TX-876

Description: Failure to conduct maintenance on air intakes that would have prevented water infiltration causing this emissions event.

Self Report? NO Classification: Minor

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

Description: Failure to submit the initial incident within the 24 hour time period.

**Date: 11/01/2006 (512136)**

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT Permit No. 3855B and PSD-TX-876, MAERT

Description: Failure to conduct regular maintenance on a valve that has been in service for 20 years.

**Date: 04/28/2008 (638348)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: PERMIT 3855-B, Special Condition 1.

Description: Oxy Vinyls LP failed to prevent unauthorized emissions necessary to establish an affirmative defense.

F. Environmental audits.

Notice of Intent Date: 12/01/2003 (263135)
No DOV Associated

Notice of Intent Date: 02/25/2004 (265138)
No DOV Associated

Notice of Intent Date: 04/21/2004 (274330)
No DOV Associated

Notice of Intent Date: 04/25/2005 (438736)
No DOV Associated

Notice of Intent Date: 04/26/2006 (465306)
No DOV Associated

Notice of Intent Date: 01/04/2007 (538766)
No DOV Associated

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** |
| **OXY VINYLS, LP** | § | |
| **RN100224674** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2008-1053-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 Oxy Vinyls, LP ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 2400 Miller Cut Off Road in La Porte, Harris 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 25, 2008.

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

6. An administrative penalty in the amount of Four Thousand Four Hundred Fifty Dollars ($4,450) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Five Hundred Sixty Dollars ($3,560) of the administrative penalty and Eight Hundred Ninety Dollars ($890) is deferred contingent

upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent 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, the Respondent is alleged to have failed to prevent unauthorized emissions during Incident No. 105535, in violation of Air Permit No. 3855B/PSD-TX-876, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 6, 2008. Specifically, during the March 27, 2008 emissions event the following unauthorized emissions were released over a period of 18 hours and 55 minutes from diversion valves and a ruptured disc associated with the vent gas piping system when the two incinerators tripped off-line: 766 pounds ("lbs") of 1,2-dichloroethane, 497 lbs of carbon monoxide, 341 lbs of ethylene, 41 lbs of vinyl chloride, 9.8 lbs of chloroform, 9.2 lbs of carbon tetrachloride, 1.8 lbs of ethyl chloride, 1.7 lbs of ethylene dichloride, and 0.7 lbs of 1,2-trans-dichloroethylene. Since the emissions event was avoidable, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Oxy Vinyls, LP, Docket No. 2008-1053-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 the Respondent shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as the March 27, 2008 emissions event (Incident No. 105535); 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. 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

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. 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.

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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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 11/24/2008

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 11/7/08

S. A. King

Name (Printed or typed)
Authorized Representative of
Oxy Vinyls, LP

V.P. & General Counsel

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.