

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0875-AIR-E **TCEQ ID:** RN100216613 **CASE NO.:** 37766

**RESPONDENT NAME:** DCP Midstream, LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Rock Creek Gas Plant, 1000 West 10th Street, Borger, Hutchinson County</p> <p><b>TYPE OF OPERATION:</b> Gas plant</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 November 16, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423;                      Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Garrett Scribner, Environmental Specialist, DCP Midstream, LP, 9101 State Highway 136, Borger, Texas 79007                      Mr. Jerry Barnhill, Vice President EH&amp;S, DCP Midstream, LP, 9101 State Highway 136, Borger, Texas 79007  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</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> April 29, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 28, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>1) Failure to prevent unauthorized emissions. Specifically, the Respondent released 91.23 pounds ("lbs") of carbon monoxide ("CO"), 11.76 lbs of hydrogen sulfide ("H2S"), 2.29 lbs of natural gas, 1.15 lbs of nitrogen dioxide ("NO2"), 21.76 lbs of nitrogen oxide ("NOx") and 1,083.41 lbs of sulfur dioxide ("SO2") from the emergency flare during an avoidable emissions event (Incident No. 111923) that began July 31, 2008 and lasted three hours and 30 minutes. The event was the result of a slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Permit No. 5654A, Maximum Allowable Emission Rates Table ("MAERT")].</p> <p>2) Failure to prevent unauthorized emissions. Specifically, the Respondent released 205.85 lbs of CO, 26.93 lbs of H2S, 5.23 lbs of natural gas, 2.62 lbs of NO2, 49.82 lbs of NOx and 2,480.09 lbs of SO2 from the emergency flare during an avoidable emissions event (Incident No. 111927) that began August 1, 2008 and lasted eight hours and 15 minutes. The event was the result of a</p>	<p><b>Total Assessed:</b> \$12,300</p> <p><b>Total Deferred:</b> \$2,460  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$4,920</p> <p><b>Total Paid to General Revenue:</b> \$4,920</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>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, ensure that proper operating specifications for the incinerator are developed and put into place in order to prevent a shut down when excess H2S gas is introduced into the system; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision 2.a.</p>

slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 5654A, MAERT].

3) Failure to prevent unauthorized emissions. Specifically, the Respondent released 417.7 lbs of CO, 53.85 lbs of H2S, 10.46 lbs of natural gas, 5.24 lbs of NO2, 99.64 lbs of NOx and 4,960.17 lbs of SO2 from the emergency flare during an avoidable emissions event (Incident No. 117681) that began December 12, 2008 and lasted seven hours and 45 minutes. The event was the result of a slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 5654A, MAERT].

4) Failure to prevent unauthorized emissions. Specifically, the Respondent released 49.11 lbs of CO, 6.33 lbs of H2S, 1.23 lbs of natural gas, 0.62 lbs of NO2, 11.72 lbs of NOx and 583.21 lbs of SO2 from the emergency flare during an avoidable emissions event (Incident No. 117739) that began December 14, 2008 and lasted two hours and 50 minutes. The event was the result of a slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 5654A, MAERT].



**Attachment A**  
**Docket Number: 2009-0875-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>DCP Midstream, LP</b>
<b>Payable Penalty Amount:</b>	<b>Nine Thousand Eight Hundred Forty Dollars (\$9,840)</b>
<b>SEP Amount:</b>	<b>Four Thousand Nine Hundred Twenty Dollars (\$4,920)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Clean School Buses</b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 211 – Amarillo-Lubbock</b>

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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO<sub>x</sub>) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

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 reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

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:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**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.



DCP Midstream, LP  
Agreed Order - Attachment A

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 October 30, 2008

<b>DATES</b>	<b>Assigned</b>	1-Jun-2009	<b>Screening</b>	10-Jun-2009	<b>EPA Due</b>	22-Feb-2010
	<b>PCW</b>	10-Jun-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	DCP Midstream, LP
<b>Reg. Ent. Ref. No.</b>	RN100216613
<b>Facility/Site Region</b>	1-Amarillo
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37766	<b>No. of Violations</b>	4
<b>Docket No.</b>	2009-0875-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	John Muennink
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	23.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$2,300

Notes: Enhancement due to two NOVs with unrelated violations and one 1660 Agreed Order. Reduction due to one notice of audit letter submitted.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
<small>Total EB Amounts</small>	\$133	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$2,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$12,300
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$12,300
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$2,460
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$9,840
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**Screening Date** 10-Jun-2009

**Docket No.** 2009-0875-AIR-E

**PCW**

**Respondent** DCP Midstream, LP

Policy Revision 2 (September 2002)

**Case ID No.** 37766

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN100216613

**Media [Statute]** Air

**Enf. Coordinator** John Muennink

### 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 judgments 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)	1	-1%
	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%
<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)** 23%

>> **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**

Enhancement due to two NOVs with unrelated violations and one 1660 Agreed Order. Reduction due to one notice of audit letter submitted.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 23%

<b>Screening Date:</b> 10-Jun-2009	<b>Docket No.:</b> 2009-0875-AIR-E	<b>PCW</b>			
<b>Respondent:</b> DCP Midstream, LP		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.:</b> 37766		<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.:</b> RN100216613					
<b>Media [Statute]:</b> Air					
<b>Enf. Coordinator:</b> John Muennink					
<b>Violation Number:</b> 1					
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b) and Permit No. 5654A, Maximum Allowable Emission Rates Table ("MAERT")				
<b>Violation Description:</b>	Failed to prevent unauthorized emissions. Specifically, the Respondent released 91.23 pounds ("lbs") of carbon monoxide ("CO"), 11.76 lbs of hydrogen sulfide ("H2S"), 2.29 lbs of natural gas, 1.15 lbs of nitrogen dioxide ("NO2"), 21.76 lbs of nitrogen oxide ("NOx") and 1,083.41 lbs of sulfur dioxide ("SO2") from the emergency flare during an avoidable emissions event (Incident No. 111923) that began July 31, 2008 and lasted three hours and 30 minutes. The event was the result of a slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.				
	<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="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.				
	<b>Adjustment</b>	\$7,500			
<b>\$2,500</b>					
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="1"/>	<b>Number of violation days</b>	
	<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
		weekly	<input type="checkbox"/>		
		monthly	<input type="checkbox"/>		
		quarterly	<input checked="" type="checkbox"/>		
		semiannual	<input type="checkbox"/>		
		annual	<input type="checkbox"/>		
		single event	<input type="checkbox"/>		
	One quarterly event is recommended based on the July 31, 2008 emissions event.				
<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>					
<b>Good Faith Efforts to Comply</b>					
	<b>0.0% Reduction</b>			<b>\$0</b>	
		Before NOV	NOV to EDPRP/Settlement Offer		
	Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
	Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
	N/A	<input checked="" type="checkbox"/>	(mark with x)		
	<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b> <input type="text" value="\$2,500"/>					
<b>Economic Benefit (EB) for this violation</b>					
	<b>Estimated EB Amount</b>	<input type="text" value="\$133"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$3,075"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$3,075"/>	

## Economic Benefit Worksheet

**Respondent:** DCP Midstream, LP  
**Case ID No.:** 37766  
**Reg. Ent. Reference No.:** RN100218613  
**Media:** Air  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$2,000	31-Jul-2008	30-Nov-2009	1.33	\$133	n/a	\$133

**Notes for DELAYED costs:** Estimated expense to ensure the proper design specifications for the incinerator. The Date Required is the date of the emissions event. The Final Date is the estimated date that corrective measures 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	\$2,000	<b>TOTAL:</b>	\$133
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<b>Screening Date:</b> 10-Jun-2009	<b>Docket No.:</b> 2009-0875-AIR-E	<b>PCW</b>	
<b>Respondent:</b> DCP Midstream, LP	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.:</b> 37766	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.:</b> RN100216613			
<b>Media [Statute]:</b> Air			
<b>Enf. Coordinator:</b> John Muennink			
<b>Violation Number:</b> 2			
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b) and Permit No. 5854A, MAERT		
<b>Violation Description:</b>	Failed to prevent unauthorized emissions. Specifically, the Respondent released 205.85 lbs of CO, 26.93 lbs of H2S, 5.23 lbs of natural gas, 2.62 lbs of NO2, 49.82 lbs of NOx and 2,480.09 lbs of SO2 from the emergency flare during an avoidable emissions event (Incident No. 111927) that began August 1, 2008 and lasted eight hours and 16 minutes. The event was the result of a slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.		
<b>Base Penalty:</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>			25%
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
Falsification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>			0%
<b>Matrix Notes:</b>	Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.		
<b>Adjustment:</b>			\$7,500
			<b>\$2,500</b>
<b>Violation Events</b>			
<b>Number of Violation Events:</b>	1	<b>Number of violation days:</b>	1
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty:</b> \$2,500
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
One quarterly event is recommended based on the August 1, 2008 emissions event.			
<b>Good Faith Efforts to Comply</b>			<b>\$0</b>
0.0% Reduction			
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>	
<b>Notes:</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal:</b>			\$2,500
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount:</b>	\$0		<b>Violation Final Penalty Total:</b> \$3,075
<b>This violation Final Assessed Penalty (adjusted for limits):</b>			\$3,075

### Economic Benefit Worksheet

**Respondent:** DCP Midstream, LP  
**Case ID No.:** 37766  
**Reg. Ent. Reference No.:** RN100216613  
**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
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated expense to ensure proper design specifications for the incinerator included in the Economic Benefit for Violation No. 1.

**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 TOTAL \$0

<b>Screening Date</b> 10-Jun-2009	<b>Docket No.</b> 2009-0875-AIR-E	<b>PCW</b>	
<b>Respondent</b> DCP Midstream, LP		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 37766		<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN100216613			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> John Muennink			
<b>Violation Number</b> 3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b) and Permit No. 6854A, MAERT.		
<b>Violation Description</b>	Failed to prevent unauthorized emissions. Specifically, the Respondent released 417.7 lbs of CO, 53.85 lbs of H2S, 10.48 lbs of natural gas, 5.24 lbs of NO2, 99.64 lbs of NOx and 4,980.17 lbs of SO2 from the emergency flare during an avoidable emissions event (Incident No. 117681) that began December 12, 2008 and lasted seven hours and 45 minutes. The event was the result of a slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.		
	<b>Base Penalty</b>	\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>		25%
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>		0%
<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.		
	<b>Adjustment</b>		\$7,500
			<b>\$2,500</b>
<b>Violation Events</b>			
	Number of Violation Events	1	Number of violation days
	1		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> \$2,500
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
	One quarterly event is recommended based on the December 12, 2008 emissions event.		
<b>Good Faith Efforts to Comply</b>			<b>\$0</b>
	0.0% Reduction		
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
	<b>Violation Subtotal</b>		\$2,500
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
	<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b> \$3,075
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$3,075

## Economic Benefit Worksheet

**Respondent** DCP Midstream, LP  
**Case ID No.** 37766  
**Reg. Ent. Reference No.** RN100216613  
**Media** Air  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to ensure proper design specifications for the incinerator included in the Economic Benefit for Violation No. 1.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$0

**TOTAL**

\$0

<b>Screening Date:</b> 10-Jun-2009	<b>Docket No.:</b> 2009-0875-AIR-E	<b>PCW</b>		
<b>Respondent:</b> DCP Midstream, LP	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.:</b> 37766	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.:</b> RN100216613				
<b>Media [Statute]:</b> Air				
<b>Enf. Coordinator:</b> John Muennink				
<b>Violation Number:</b> 4				
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b) and Permit No. 5654A, MAERT			
<b>Violation Description:</b>	Failed to prevent unauthorized emissions. Specifically, the Respondent released 49.11 lbs of CO, 6.33 lbs of H2S, 1.23 lbs of natural gas, 0.62 lbs of NO2, 11.72 lbs of NOx and 583.21 lbs of SO2 from the emergency flare during an avoidable emissions event (Incident No. 117739) that began December 14, 2008 and lasted two hours and 50 minutes. The event was the result of a slug of untreated H2S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.			
	<b>Base Penalty:</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>			25%
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>			0%
<b>Matrix Notes:</b>	Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.			
	<b>Adjustment:</b>			\$7,500
				\$2,500
<b>Violation Events</b>				
	<b>Number of Violation Events:</b>	1	<b>Number of violation days:</b>	1
<small>mark only one with an x</small>		daily	<input type="checkbox"/>	
		weekly	<input type="checkbox"/>	
		monthly	<input type="checkbox"/>	
		quarterly	<input checked="" type="checkbox"/>	
		semiannual	<input type="checkbox"/>	
		annual	<input type="checkbox"/>	
		single event	<input type="checkbox"/>	
	<b>Violation Base Penalty:</b>			\$2,500
One quarterly event is recommended based on the December 14, 2008 emissions event.				
<b>Good Faith Efforts to Comply</b>				
	<b>0.0% Reduction</b>			\$0
	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
<b>Notes:</b>	The Respondent does not meet the good faith criteria for this violation.			
	<b>Violation Subtotal:</b>			\$2,500
<b>Economic Benefit (EB) for this violation</b>				
	<b>Estimated EB Amount:</b>	\$0		
<b>Statutory Limit Test</b>				
	<b>Violation Final Penalty Total:</b>			\$3,075
<b>This violation Final Assessed Penalty (adjusted for limits):</b>				\$3,075

### Economic Benefit Worksheet

**Respondent** DCP Midstream, LP  
**Case ID No.** 37766  
**Reg. Ent. Reference No.** RN100216613  
**Media** Air  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to ensure proper design specifications for the incinerator included in the Economic Benefit for Violation No. 1.

**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

\$0

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601229917 DCP Midstream, LP Classification: AVERAGE Rating: 2.68  
 Regulated Entity: RN100216613 ROCK CREEK GAS PLANT Classification: AVERAGE Site Rating: 5.25

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HW0020F
	AIR OPERATING PERMITS	PERMIT	2449
	AIR NEW SOURCE PERMITS	PERMIT	3131A
	AIR NEW SOURCE PERMITS	PERMIT	33452
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HW0020F
	AIR NEW SOURCE PERMITS	AFS NUM	4823300006
	AIR NEW SOURCE PERMITS	REGISTRATION	81946
	AIR NEW SOURCE PERMITS	REGISTRATION	85317

Location: 1000 W 10TH ST, BORGER, TX, 79007

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: June 02, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 02, 2004 to June 02, 2009

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

Name: John Muennink Phone: (361) 825-3423

### 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### 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: 10/19/2006

ADMINORDER 2006-0674-AIR-E

Classification: Major

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

Rqmt Prov: Spec. Cond. No. 2 PERMIT

Description: Failed to prevent the unauthorized release of air contaminants into the atmosphere.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 04/27/2005 (377647)
- 2 07/08/2005 (399275)
- 3 07/25/2005 (399803)
- 4 08/19/2005 (404924)
- 5 01/18/2006 (451605)

6 04/05/2006 (461840)  
7 04/24/2006 (462657)  
8 05/31/2006 (454779)  
9 11/09/2006 (518600)  
10 01/18/2007 (533641)  
11 08/17/2007 (562545)  
12 03/20/2008 (639057)  
13 04/16/2008 (641289)  
14 05/28/2009 (726839)

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

Date: 07/22/2005 (399803)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
Description: Failed to monitor the flame on the flare in accordance with 40 CFR 60.18(f)(2).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
Description: Failed to cap, plug or flange seven (7) open ended lines in accordance with 40 CFR 60.482.6(a)(1).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
Description: Failed to do subsequently do the two month monitoring on valves identified as leakers, in accordance with §40 CFR 60.486(b)(2).

Date: 08/19/2005 (404924)  
Self Report? NO Classification: Moderate  
Citation: 40 CFR Part 60, Subpart KKK 60.632(a)  
40 CFR Part 60, Subpart VV 60.482-1(a)  
Description: Failure to incorporate affected valves into fugitive monitoring program

F. Environmental audits.

Notice of Intent Date: 10/27/2008 (722198)

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  
ENFORCEMENT ACTION  
CONCERNING  
DCP MIDSTREAM, LP  
RN100216613**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-0875-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 DCP Midstream, 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 gas plant at 1000 West 10th Street in Borger, Hutchinson 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 2, 2009.
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 Twelve Thousand Three Hundred Dollars (\$12,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Nine Hundred Twenty Dollars (\$4,920) of the administrative penalty and Two Thousand Four Hundred Sixty Dollars (\$2,460) 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. Four Thousand Nine Hundred Twenty Dollars (\$4,920) shall be conditionally offset by the Respondent'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 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:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 5654A, Maximum Allowable Emission Rates Table ("MAERT"), as documented during a record review conducted on April 29, 2009. Specifically, the Respondent released 91.23 pounds ("lbs") of carbon monoxide ("CO"), 11.76 lbs of hydrogen sulfide ("H<sub>2</sub>S"), 2.29 lbs of natural gas, 1.15 lbs of nitrogen dioxide ("NO<sub>2</sub>"), 21.76 lbs of nitrogen oxide ("NO<sub>x</sub>") and 1,083.41 lbs of sulfur dioxide ("SO<sub>2</sub>") from the emergency flare during an avoidable emissions event (Incident No. 111923) that began July 31, 2008 and lasted three hours and 30 minutes. The event was the result of a slug of untreated H<sub>2</sub>S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
2. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 5654A, MAERT, as documented during a record review conducted on April 29, 2009. Specifically, the Respondent released 205.85 lbs of CO, 26.93 lbs of H<sub>2</sub>S, 5.23 lbs of natural gas, 2.62 lbs of NO<sub>2</sub>, 49.82 lbs of NO<sub>x</sub> and 2,480.09 lbs of SO<sub>2</sub> from the emergency flare during an avoidable emissions event (Incident No. 111927) that began August 1, 2008 and lasted eight hours and 15

minutes. The event was the result of a slug of untreated H<sub>2</sub>S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

3. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 5654A, MAERT, as documented during a record review conducted on April 29, 2009. Specifically, the Respondent released 417.7 lbs of CO, 53.85 lbs of H<sub>2</sub>S, 10.46 lbs of natural gas, 5.24 lbs of NO<sub>2</sub>, 99.64 lbs of NO<sub>x</sub> and 4,960.17 lbs of SO<sub>2</sub> from the emergency flare during an avoidable emissions event (Incident No. 117681) that began December 12, 2008 and lasted seven hours and 45 minutes. The event was the result of a slug of untreated H<sub>2</sub>S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
4. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 5654A, MAERT, as documented during a record review conducted on April 29, 2009. Specifically, the Respondent released 49.11 lbs of CO, 6.33 lbs of H<sub>2</sub>S, 1.23 lbs of natural gas, 0.62 lbs of NO<sub>2</sub>, 11.72 lbs of NO<sub>x</sub> and 583.21 lbs of SO<sub>2</sub> from the emergency flare during an avoidable emissions event (Incident No. 117739) that began December 14, 2008 and lasted two hours and 50 minutes. The event was the result of a slug of untreated H<sub>2</sub>S gas being introduced into the system which led to the shutdown of the incinerator. Since this emissions event was the result of the inadequate design of the incinerator and is indicative of a continuing and reoccurring pattern, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense 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: DCP Midstream, LP, Docket No. 2009-0875-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Nine Hundred Twenty Dollars (\$4,920) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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, ensure that proper operating specifications for the incinerator are developed and put into place in order to prevent a shut down when excess H2S gas is introduced into the system; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision 3.a.

The certification shall be notarized by a State of Texas Notary Public and contain the following 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 fines 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  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

4. 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.
5. 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.
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 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.
7. 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. 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 10/12/2009

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 8/26/09

Jerry Baughill  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
DCP Midstream, LP

\_\_\_\_\_  
Title VP EHS

**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: 2009-0875-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>DCP Midstream, LP</b>
<b>Payable Penalty Amount:</b>	<b>Nine Thousand Eight Hundred Forty Dollars (\$9,840)</b>
<b>SEP Amount:</b>	<b>Four Thousand Nine Hundred Twenty Dollars (\$4,920)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Clean School Buses</b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 211 – Amarillo-Lubbock</b>

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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO<sub>x</sub>) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

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 reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

**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:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**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.

DCP Midstream, LP  
Agreed Order - Attachment A

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.

