

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1476-AIR-E **TCEQ ID:** RN100213107 **CASE NO.:** 36522
RESPONDENT NAME: Channel Energy Center, LP

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Channel Energy Center, 451 Light Company Road, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Power generation plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Jim Bagley, General Manager, Channel Energy Center, LP, 12000 Lawndale Street, Houston, Texas 77252 Mr. R. Regan, Vice President, Channel Energy Center, LP, 12000 Lawndale Street, Houston, Texas 77252 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 30, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 28, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to submit an annual compliance certification report within 30 days of the end of the certification period. Specifically, the Respondent submitted an incomplete and late report on July 31, 2008 for the period of November 19, 2006 to November 17, 2007. However, the reporting period is November 18, 2006 to November 17, 2007. Therefore, the Respondent did not certify a calendar day (November 18, 2006) on the annual Permit Compliance Certification Report [30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(1), and 122.146(2), Federal Operating Permit O-02084, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to include a calendar day within the semi-annual deviation reporting period. Specifically, the Respondent failed to include November 18, 2006 within the semi-annual deviation report dated June 18, 2007 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), Federal Operating Permit O-02084, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,017</p> <p>Total Deferred: \$403 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,614</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On August 20, 2008, a complete and accurate annual compliance certification report for the November 18, 2006 to November 17, 2007 reporting period was submitted; and</p> <p>b. On September 11, 2008, a complete and accurate semi-annual deviation report including the calendar date of November 18, 2006 was submitted.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Sep-2008	Screening	10-Sep-2008	EPA Due	25-May-2009
	PCW	16-Oct-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Channel Energy Center, LP
Reg. Ent. Ref. No.	RN100213107
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36522	No. of Violations	2
Docket No.	2008-1476-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2.0% Enhancement *Subtotals 2, 3, & 7* **\$52**

Notes Penalty enhancement due to two previous non-similar NOV's. Penalty reduction due to two Notices of Intent.

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* **\$635**

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

Total EB Amounts **\$24**
 Approx. Cost of Compliance **\$500**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$2,017**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$2,017**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$2,017**

DEFERRAL 20.0% Reduction *Adjustment* **-\$403**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,614**

Screening Date 10-Sep-2008

Docket No. 2008-1476-AIR-E

PCW

Respondent Channel Energy Center, LP

Policy Revision 2 (September 2002)

Case ID No. 36522

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100213107

Media [Statute] Air

Enf. Coordinator James Nolan

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

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to two previous non-similar NOVs. Penalty reduction due to two Notices of Intent.

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

Screening Date 10-Sep-2008		Docket No. 2008-1476-AIR-E		PCW	
Respondent Channel Energy Center, LP		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36522		<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN100213107					
Media [Statute] Air					
Enf. Coordinator James Nolan					
Violation Number		<input type="text" value="1"/>			
Rule Cite(s)		30 Tex. Admin. Code §§ 122.143(4), 122.146(1), and 122.146(2), Federal Operating Permit O-02084 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)			
Violation Description		Failed to submit an annual compliance certification report within 30 days of the end of the certification period. Specifically, the Respondent submitted an incomplete and late report on July 31, 2008 for the period of November 19, 2006 to November 17, 2007. However, the reporting period is November 18, 2006 to November 17, 2007. Therefore, the Respondent did not certify a calendar day (November 18, 2006) on the annual Permit Compliance Certification Report.			
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
				Percent <input type="text" value="0%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	x	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>	
Matrix Notes		100% of the rule requirement was not met.			
Adjustment				<input type="text" value="\$7,500"/>	
				<input type="text" value="\$2,500"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="247"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	x			
				Violation Base Penalty <input type="text" value="\$2,500"/>	
One single event is recommended.					
Good Faith Efforts to Comply		<input type="text" value="25.0%"/>	Reduction		
		<input type="text"/>			
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary		<input type="text"/>	<input type="text"/>		
Ordinary		x	<input type="text"/>		
N/A		<input type="text"/>	(mark with x)		
Notes		The Respondent submitted the complete annual compliance certification report on 8/20/2008.			
Violation Subtotal				<input type="text" value="\$1,875"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$8"/>	Violation Final Penalty Total <input type="text" value="\$1,925"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$1,925"/>	

Economic Benefit Worksheet

Respondent: Channel Energy Center, LP
Case ID No.: 36522
Reg. Ent. Reference No.: RN100213107
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

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)	\$250	17-Dec-2007	20-Aug-2008	0.68	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost of preparation and submittal of an annual compliance certification. Date required is the date the report should have been submitted. Final date is the date the compliance report was received.

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

\$250

TOTAL

\$8

Screening Date 10-Sep-2008 Respondent Channel Energy Center, LP Case ID No. 36522 Reg. Ent. Reference No. RN100213107 Media [Statute] Air Enf. Coordinator James Nolan Violation Number 2 Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(B), Federal Operating Permit O-02084 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)	Docket No. 2008-1476-AIR-E <div style="text-align: right;">PCW</div> <small>Policy Revision 2 (September 2002) PCW Revision June 12, 2008</small>																			
Violation Description Failed to include a calendar day within the semi-annual deviation reporting period. Specifically, the Respondent failed to include November 18, 2006 within the semi-annual deviation report dated June 18, 2007.																				
Base Penalty \$10,000																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="4" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>	Harm					Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Falsification																				
Major	Moderate	Minor																		
<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>		Percent <input type="text" value="1%"/>																
Adjustment \$9,900																				
\$100																				
Violation Events																				
Number of Violation Events <input type="text" value="1"/> <input type="text" value="452"/> Number of violation days																				
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Extraordinary	<input type="text"/>	<input type="text"/>																		
Ordinary	<input type="text"/>	<input type="text" value="x"/>																		
N/A	(mark with x)																			
Notes: The corrected deviation report including November 18, 2006 was submitted on September 11, 2008, after the NOE was delivered.																				
Violation Subtotal \$90																				
Economic Benefit (EB) for this violation																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">Estimated EB Amount</td> <td style="text-align: center;"><input type="text" value="\$15"/></td> <td style="text-align: right;">Statutory Limit Test</td> <td></td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;">Violation Final Penalty Total</td> <td style="text-align: center;"><input type="text" value="\$92"/></td> </tr> <tr> <td colspan="3" style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits)</td> <td style="text-align: center;"><input type="text" value="\$92"/></td> </tr> </table>		Estimated EB Amount	<input type="text" value="\$15"/>	Statutory Limit Test				Violation Final Penalty Total	<input type="text" value="\$92"/>	This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$92"/>							
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Economic Benefit Worksheet

Respondent Channel Energy Center, LP
Case ID No. 36522
Reg. Ent. Reference No. RN100213107
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

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)	\$250	18-Jun-2007	11-Sep-2008	1.24	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost of preparation and submittal of a semi-annual deviation Report. Date required is the date the incomplete report was submitted. Final date is the date the corrected report was received.

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

\$250

TOTAL

\$15

Compliance History Report

Customer/Respondent/Owner-Operator: CN601549132 - Channel Energy Center, LP Classification: AVERAGE Rating: 0.16
 Regulated Entity: RN100213107 CHANNEL ENERGY CENTER Classification: AVERAGE Site Rating: 0.16

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HX2690V
AIR OPERATING PERMITS	PERMIT	2084
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000042192
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	86715
AIR NEW SOURCE PERMITS	PERMIT	71872
AIR NEW SOURCE PERMITS	PERMIT	42179
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX2690V
AIR NEW SOURCE PERMITS	AFS NUM	4820101537
AIR NEW SOURCE PERMITS	EPA ID	PSDTX955
AIR NEW SOURCE PERMITS	PERMIT	49710
AIR NEW SOURCE PERMITS	PERMIT	N021
AIR NEW SOURCE PERMITS	EPA ID	PSDTX955M1
AIR NEW SOURCE PERMITS	PERMIT	N021M1
AIR NEW SOURCE PERMITS	PERMIT	PAL31

Location: 451 LIGHT COMPANY RD, PASADENA, TX, 77506 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 14, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 10, 2003 to September 10, 2008

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

Name: James Nolan Phone: (512) 239-6634

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Channel Energy Center, LP
4. If Yes, who was/were the prior owner(s)?
 Calpine Channel Energy Center GP, LLC
 Freestone Power Generation LP
 Calpine Corporation
5. When did the change(s) in ownership occur?
 06/02/2004
 12/27/2004

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 N/A
- B. Any criminal convictions of the state of Texas and the federal government.
 N/A
- C. Chronic excessive emissions events.
 N/A
- D. The approval dates of investigations. (CCEDS Inv., Track. No.)

1	10/17/2003	(249203)
2	10/17/2003	(249239)
3	02/13/2004	(250938)

4	06/07/2004	(250946)
5	04/27/2005	(372598)
6	04/10/2006	(456504)
7	08/27/2007	(543544)
8	09/28/2007	(566294)
9	09/28/2007	(566335)
10	03/07/2008	(614034)
11	03/10/2008	(614254)
12	03/10/2008	(614260)
13	03/10/2008	(614270)
14	03/10/2008	(614294)
15	03/10/2008	(614298)
16	03/17/2008	(613974)
17	03/17/2008	(614066)
18	03/17/2008	(614111)
19	03/17/2008	(614141)
20	04/29/2008	(637595)
21	04/29/2008	(639623)
22	04/29/2008	(639638)
23	07/07/2008	(657035)
24	08/28/2008	(685473)

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

Date: 04/10/2006 (456504)
 Self NO Classification Moderate
 Citation: 30 TAC Chapter 117, SubChapter B 117.214(a)(1)
 Rqmt Prov: OP O-02084
 Description: Failure to comply with the requirements of 30 TEX. ADMIN. CODE Chapter 117.214(a)(1)(D)(ii).

Date: 08/27/2007 (543544)
 Self NO Classification Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PERMIT 42179, SC 21A
 OP O-02084, SC 5
 Description: Failure to keep NOx emission rate limits below of 22.8Lbs/hr and CO emission rate limits below 26.2 for Aux Boiler # 3, as state in the MAER Table of the NSR permit No. 42179, PSD-TX-955 Special Condition (SC) 21A.

F. Environmental audits.

Notice of Intent Date: 09/01/2004 (334543)
 No DOV Associated
 Notice of Intent Date: 02/01/2005 (371576)
 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
CHANNEL ENERGY CENTER, LP
RN100213107

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1476-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 Channel Energy Center, 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 power generation plant at 451 Light Company Road in Pasadena, 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 September 2, 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 Two Thousand Seventeen Dollars (\$2,017) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Fourteen Dollars (\$1,614) of the administrative

- penalty and Four Hundred Three Dollars (\$403) 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 recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On August 20, 2008, a complete and accurate annual compliance certification report for the November 18, 2006 to November 17, 2007 reporting period was submitted; and
 - b. On September 11, 2008, a complete and accurate semi-annual deviation report including the calendar date of November 18, 2006 was submitted.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to submit an annual compliance certification report within 30 days of the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(1), and 122.146(2), Federal Operating Permit O-02084 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 30, 2008. Specifically, the Respondent submitted an incomplete and late report on July 31, 2008 for the period of November 19, 2006 to November 17, 2007. However, the reporting period is November 18, 2006 to November 17, 2007. Therefore, the Respondent did not certify a calendar day (November 18, 2006) on the annual Permit Compliance Certification Report.
2. Failed to include a calendar day within the semi-annual deviation reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), Federal Operating Permit O-02084 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented

during an investigation conducted on July 30, 2008. Specifically, the Respondent failed to include November 18, 2006 within the semi-annual deviation report dated June 18, 2007.

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: Channel Energy Center, LP, Docket No. 2008-1476-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 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.
3. 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.
4. 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.
5. 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

John S. ...
For the Executive Director

3/24/2009
Date

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

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

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

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

RWB
R. Regan
Signature

12-1-08
Date

R REGAN
Name (Printed or typed)
Authorized Representative of
Channel Energy Center, LP

V PRES
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.