

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0201-AIR-E **TCEQ ID:** RN100222330 **CASE NO.:** 37152

RESPONDENT NAME: DCP Midstream, LP

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Goldsmith Gas Plant, 0.6 mile west of Goldsmith on Highway 158, Ector County</p> <p>TYPE OF OPERATION: Natural gas processing 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 June 15, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2134; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Gregory Kardos, Environmental Manager Western Region, DCP Midstream, LP, 10 Desta Drive, Suite 400, Midland, Texas 79705 Mr. R. D. Trammell, Vice President of Operations, DCP Midstream, LP, 10 Desta Drive, Suite 400, Midland, Texas 79705 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 26, 2009</p> <p>Date of NOV/NOE Relating to this Case: February 1, 2009 (NOE)</p> <p>Background Facts: This was a record review investigation.</p> <p>AIR</p> <p>Failure to prevent the unauthorized release of air contaminants into the atmosphere. Specifically, on June 13, 2008 during a four hour and twenty-nine minute emissions event, a valve was inadvertently closed on the amine system resulting in emissions being released from the acid gas flare (EPN FLR01) and the residue compression flare (EPN FLR03) in the following amounts: 11,116.17 pounds ("lbs") of carbon monoxide, 476.78 lbs of hydrogen sulfide, 2,791.18 lbs of nitrogen oxides, 43,915.71 lbs of sulfur dioxide, and 5,679.73 lbs of natural gas. Because this emissions event could have been avoided by better operation and maintenance practices, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 could not be met [30 TEX. ADMIN. CODE §§ 116.115(b)(2) and (c), 116.615(2), Air Permit Nos. 676A, Special Condition 1, Standard Permit No. 73563, Maximum Allowable Emissions Rate Table, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$10,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,000</p> <p>Total Paid to General Revenue: \$5,000</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>Findings Orders Justification: Pollutants exceeded levels that are protective to health and the environment.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on June 14, 2008, the Respondent conducted training on the proper procedure to bypass and isolate the full flow amine filters for a filter element change out.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP") (See SEP Attachment A).</p>

Additional ID No(s): AIR - EB0053J

Attachment A
Docket Number: 2009-0201-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	DCP Midstream, LP
Penalty Amount:	Ten Thousand Dollars (\$10,000)
SEP Offset Amount:	Five Thousand Dollars (\$5,000)
Type of SEP:	Pre-approved
Third-Party Recipient:	Keep Odessa Beautiful, Inc.
Location of SEP:	Ector County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Keep Odessa Beautiful, Inc.* for the Household Hazardous Waste, Tire Collection, and Recycling program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide citizens and schools with a safe and convenient opportunity to properly dispose of harmful chemicals and prevent illegal dumping of harmful wastes or tires. The following types of materials will be accepted: batteries, oil and oil filters, paints, household and/or school chemicals, and used tires. The items collected in these events will be either reused or properly disposed. Citizens may “reuse” unused portions of properly labelled and handled chemical products through the reusable materials exchange. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the amount of materials entering the environment, prevent pollution, promote recycling of reusable materials, and educate citizens about the harmful effects of illegal dumping.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Keep Odessa Beautiful
Courtney Graves, Executive Director
P.O. Box 14156
Odessa, Texas 79768

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-Feb-2009			
	PCW	4-Mar-2009	Screening	10-Feb-2009	EPA Due 27-Oct-2009

RESPONDENT/FACILITY INFORMATION

Respondent	DCP Midstream, LP	
Reg. Ent. Ref. No.	RN100222330	
Facility/Site Region	7-Midland	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	37152	No. of Violations	1
Docket No.	2009-0201-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		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	\$10,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	51.0% Enhancement	Subtotals 2, 3, & 7	\$5,100
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Notes

The Respondent has received one Notice of Violation for same or similar violations, has received two dissimilar violations, was issued one Agreed Order containing a denial of liability, one Findings Order and has submitted three Notice of Intent to Audit letters.

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	\$2,500
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Economic Benefit

Total EB Amounts	\$0
Approx. Cost of Compliance	\$500

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$12,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
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DEFERRAL

0.0%

Reduction

Adjustment

\$0

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

Notes

No deferral recommended as this is a findings order.

PAYABLE PENALTY	\$10,000
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Screening Date 10-Feb-2009	Docket No. 2009-0201-AIR-E	PCW
Respondent DCP Midstream, LP		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37152		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN100222330		
Media [Statute] Air		
Enf. Coordinator Suzanne Walrath		

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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) 51%

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

Adjustment Percentage (Subtotal 3) 0%

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

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent has received one Notice of Violation for same or similar violations, has received two dissimilar violations, was issued one Agreed Order containing a denial of liability, one Findings Order and has submitted three Notice of Intent to Audit letters.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 51%

Screening Date 10-Feb-2009	Docket No. 2009-0201-AIR-E	PCW		
Respondent DCP Midstream, LP		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37152		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN100222330				
Media [Statute] Air				
Enf. Coordinator Suzanne Walrath				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(b)(2) and (c), 116.615(2), Air Permit Nos. 676A, Special Condition 1, Standard Permit No. 73563, Maximum Allowable Emissions Rate Table, and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to prevent the unauthorized release of air contaminants into the atmosphere. Specifically, on June 13, 2008 during a four hour and twenty-nine minute emissions event, a valve was inadvertently closed on the amine system resulting in emissions being released from the acid gas flare ("EPN FLR01") and the residue compression flare ("EPN FLR03") in the following amounts: 11,116.17 pounds ("lbs") of carbon monoxide, 476.78 lbs of hydrogen sulfide, 2,791.18 lbs of nitrogen oxides, 43,915.71 lbs of sulfur dioxide, and 5,679.73 lbs of natural gas. Because this emissions event could have been avoided by better operation and maintenance practices, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 could not be met			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	<input type="text" value="100%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors.			
	Adjustment	<input type="text" value="\$0"/>		
		Penalty	<input type="text" value="\$10,000"/>	
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="1"/>		
<small>mark only one with an x</small>	daily	<input checked="" type="checkbox"/>	Violation Base Penalty	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
	<input type="text" value="\$10,000"/>			
	One daily event is recommended.			
Good Faith Efforts to Comply				
	<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$2,500"/>	
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
N/A	<input type="checkbox"/>	(mark with x)		
Notes	The Respondent achieved compliance for this violation on June 14, 2008.			
	Violation Subtotal	<input type="text" value="\$7,500"/>		
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	
			<input type="text" value="\$12,600"/>	
		This violation Final Assessed Penalty (adjusted for limits)		
		<input type="text" value="\$10,000"/>		

Economic Benefit Worksheet

Respondent DCP Midstream, LP
Case ID No. 37152
Reg. Ent. Reference No. RN100222330
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)	\$500	13-Jun-2008	14-Jun-2008	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

This is the actual cost of the training which occurred on the proper procedure to bypass and isolate the full flow amine filters for a filter element change out, beginning on the date of the emission event, and ending on the date compliance was achieved.

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

\$500

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN601229917 DCP Midstream, LP Classification: AVERAGE Rating: 2.70
 Regulated Entity: RN100222330 GOLDSMITH GAS PLANT Classification: AVERAGE Site Rating: 11.65

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	EB0053J
	AIR OPERATING PERMITS	PERMIT	2585
	AIR NEW SOURCE PERMITS	PERMIT	10321
	AIR NEW SOURCE PERMITS	PERMIT	10532
	AIR NEW SOURCE PERMITS	PERMIT	12612A
	AIR NEW SOURCE PERMITS	PERMIT	676A
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EB0053J
	AIR NEW SOURCE PERMITS	REGISTRATION	54944
	AIR NEW SOURCE PERMITS	REGISTRATION	73563
	AIR NEW SOURCE PERMITS	AFS NUM	4813500022
	AIR NEW SOURCE PERMITS	PERMIT	73567
	AIR NEW SOURCE PERMITS	REGISTRATION	76810
	AIR NEW SOURCE PERMITS	REGISTRATION	85276

Location: 0.6 mi. west of Goldsmith on Highway 158, Ector County
 TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: February 09, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: February 09, 2004 to February 09, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Suzanne Walrath Phone: 239 - 2134

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |
| 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: 04/14/2008 ADMINORDER 2006-0958-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. 1 PERMIT

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

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

Rqmt Prov: Permit No. 676A/Special Condition 2 PERMIT

Description: Failed to maintain the sulfur recovery efficiency in the SRU of at least 98 percent based on a rolling seven-day average.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

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

Description: Failed to submit complete and accurate deviation reports for the periods of January 1, 2005 through June 30, 2005, and July 1, 2005 through December 31, 2005

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(a)

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

Rqmt Prov: Permit No. 676A/Special Condition 7 PERMIT

Description: Failed to submit a startup and a construction notification for modifications to the amine treater unit during 2002 as required.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)

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

Description: Failed to plug, cap, or double-valve an unreported number of open ended VOC lines and valves.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.121

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

Description: Failed to revise FOP No. O-00804 to include one turbine, and two compressor engines (EPN Nos. TUR-B, 22R-1 and 29R-2) prior to the startup of the units.

Classification: Minor

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

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

Description: Failure to include the correct authorized emissions limits on Scheduled Maintenance Incident #77400 for the residue compression flare and on Emissions Event Incident #79882 for the residue compression flare.

Effective Date: 11/17/2008

ADMINORDER 2008-0497-AIR-E

Classification: Major

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

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC No. 1 PERMIT

Description: Failed to comply with the emission limit for SO2 contained in the maximum allowable emission rate table at EPN No. INCIN.

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	08/02/2004	(283655)
2	07/11/2005	(371946)
3	09/13/2005	(431404)
4	12/21/2005	(449721)
5	01/09/2006	(449672)
6	03/01/2006	(457744)
7	03/24/2006	(460425)
8	06/01/2006	(480998)
9	06/27/2006	(481095)
10	10/05/2006	(514299)
11	10/17/2006	(516382)
12	10/18/2006	(516632)
13	06/05/2007	(563142)
14	06/07/2007	(563372)

15 06/13/2007 (563873)
 16 06/22/2007 (560161)
 17 07/16/2007 (567798)
 18 08/31/2007 (574418)
 19 09/05/2007 (593409)
 20 09/06/2007 (593567)
 21 09/13/2007 (594421)
 22 10/12/2007 (597703)
 23 10/15/2007 (597759)
 24 10/24/2007 (598983)
 25 10/31/2007 (599671)
 26 11/27/2007 (609951)
 27 12/19/2007 (612293)
 28 01/11/2008 (614194)
 29 02/14/2008 (618547)
 30 03/14/2008 (638082)
 31 04/15/2008 (646520)
 32 05/12/2008 (670700)
 33 05/28/2008 (681144)
 34 06/02/2008 (681405)
 35 06/02/2008 (681632)
 36 06/24/2008 (681411)
 37 10/01/2008 (704323)
 38 10/03/2008 (704406)
 39 10/03/2008 (704486)
 40 10/06/2008 (704616)
 41 12/18/2008 (721515)
 42 01/15/2009 (723941)
 43 01/15/2009 (723956)
 44 01/16/2009 (724053)
 45 01/16/2009 (724083)
 46 01/21/2009 (724405)
 47 01/22/2009 (724553)
 48 02/02/2009 (725086)

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

Date: 07/23/2004 (283655)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 106, SubChapter W 106.512(1)
 Description: Facility operating without required permit by rule authorization.

Date: 05/23/2007 (560161)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to install the device to monitor the combustion temperature/exhaust gas temperature for the tail gas incinerator in the combustion chamber or immediately downstream as required by Federal Operating Permit No. O2585.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to properly record the tail gas incinerator firebox temperature from midnight on November 17, 2006 through 0900 hours on November 22, 2006. The Compliance Assurance Monitoring requirement of Federal Operating Permit No. O2585 requires that 4 data points for this parameter be recorded and averaged every hour.

Date: 03/14/2008 (638083)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)
 Permit No. 676A Special Condition No. 5 PERMIT

Description: The failure to comply with the sulfur production limit established by Special Condition 5 of Permit No. 676A.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)

Description: The failure to submit a revision application to codify the applicable requirements of 40 CFR Part 63 Subpart ZZZZ as required by Special Condition No. 1.G. of Federal Operating Permit No. O2685.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the MAER Table of Permit No. 676A by exceeding the short term limit for sulfur dioxide emissions from the tail gas incinerator.

F. Environmental audits.

Notice of Intent Date: 02/16/2004 (265236)
 No DOV Associated

Notice of Intent Date: 03/04/2004 (2689590)
 No DOV Associated

Notice of Intent Date: 02/18/2008 9639391)
 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
RN100222330**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0201-AIR-E

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, presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a natural gas processing plant at 0.6 mile west of Goldsmith on Highway 158, Ector County, Texas (the “Plant”).
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During a record review on January 26, 2009, TCEQ staff documented that on June 13, 2008, during a four hour and twenty-nine minute emissions event, a valve was inadvertently closed on the amine system resulting in emissions being released from the acid gas flare ("EPN FLR01") and the residue compression flare ("EPN FLR03") in the following amounts: 11,116.17 pounds ("lbs") of carbon monoxide, 476.78 lbs of hydrogen sulfide, 2,791.18 lbs of nitrogen oxides, 43,915.71 lbs of sulfur dioxide, and 5,679.73 lbs of natural gas. Because this emissions event could have been avoided by better operation and maintenance practices, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 could not be met.
4. The Respondent received notice of the violations on February 6, 2009.
5. The Executive Director recognizes that on June 14, 2008, the Respondent conducted training on the proper procedure to bypass and isolate the full flow amine filters for a filter element change out.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized release of air contaminants into the atmosphere, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2) and (c), 116.615(2), Air Permit Nos. 676A, Special Condition 1, Standard Permit No. 73563, Maximum Allowable Emissions Rate Table, and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Five Thousand Dollars (\$5,000) of the administrative penalty. Five Thousand Dollars (\$5,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state

statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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. 2009-0201-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 II, Paragraph 4 in Conclusions of Law, Five Thousand Dollars (\$5,000) 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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.

8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]
For the Executive Director

5/19/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of DCP Midstream, LP. I am authorized to agree to the attached Agreed Order on behalf of DCP Midstream, LP, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, DCP Midstream, LP waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

R.D. Trammell
Signature

4-6-09
Date

R.D. Trammell
Name (Printed or typed)
Authorized Representative of
DCP Midstream, LP

V.P. Operations
Title

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

Attachment A
Docket Number: 2009-0201-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: DCP Midstream, LP
Penalty Amount: Ten Thousand Dollars (\$10,000)
SEP Offset Amount: Five Thousand Dollars (\$5,000)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Odessa Beautiful, Inc.
Location of SEP: Ector County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Keep Odessa Beautiful, Inc.* for the Household Hazardous Waste, Tire Collection, and Recycling program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide citizens and schools with a safe and convenient opportunity to properly dispose of harmful chemicals and prevent illegal dumping of harmful wastes or tires. The following types of materials will be accepted: batteries, oil and oil filters, paints, household and/or school chemicals, and used tires. The items collected in these events will be either reused or properly disposed. Citizens may "reuse" unused portions of properly labelled and handled chemical products through the reusable materials exchange. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the amount of materials entering the environment, prevent pollution, promote recycling of reusable materials, and educate citizens about the harmful effects of illegal dumping.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Keep Odessa Beautiful
Courtney Graves, Executive Director
P.O. Box 14156
Odessa, Texas 79768

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

