

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1733-AIR-E **TCEQ ID:** RN100236025 **CASE NO.:** 36767

RESPONDENT NAME: Whiting Oil and Gas Corporation

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: Sable San Andres Unit, six miles west of Plains on Highway 380, Yoakum County</p> <p>TYPE OF OPERATION: Oil and gas production 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 March 9, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. James T. Brown, Senior Vice President Operations, Whiting Oil and Gas Corporation, 1700 Broadway, Suite 2300, Denver, Colorado 80290-2300 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: September 17, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 14, 2008 (NOE)</p> <p>Background Facts: This was a record review investigation.</p> <p>AIR</p> <p>1) Failure to prevent unauthorized emissions during Incident No. 108281. Specifically, during the May 26, 2008 emissions event, 4,550.3 pounds ("lbs") of unauthorized volatile organic compounds and 208.9 lbs of unauthorized hydrogen sulfide emissions were released from the flare over a period of 39 hours when the flare's flame went out. Since the emissions event was not properly reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [Federal Operating Permit No. O-02425, Special Condition (b)(7)(E)(ii), Standard Permit No. 47427, General Condition No. 2, 30 TEX. ADMIN. CODE § 116.615(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to notify the TCEQ within 24 hours after discovery of Incident No. 108281. Specifically, Incident No. 108281 was discovered on May 25, 2008 at 10:00 p.m.; however, the incident was not reported until May 27, 2008 at 6:32 p.m. [30 TEX. ADMIN. CODE §§ 101.201(a)(1) and 116.615(10) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$1,950</p> <p>Total Deferred: \$390 <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: \$1,560</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input 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 on May 30, 2008, the Respondent completed employee training on the emissions event reporting requirements.</p>

Additional ID No(s): Air YA0047A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Oct-2008	Screening	4-Nov-2008	EPA Due	11-Jul-2009
	PCW	4-Nov-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Whiting Oil and Gas Corporation
Reg. Ent. Ref. No.	RN100236025
Facility/Site Region	2-Lubbock
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36767	No. of Violations	2
Docket No.	2008-1733-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000
		EC's Team	Enforcement Team 5

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	<input type="text" value="\$0"/>
Approx. Cost of Compliance	<input type="text" value="\$100"/>

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 4-Nov-2008

Docket No. 2008-1733-AIR-E

PCW

Respondent Whiting Oil and Gas Corporation

Policy Revision 2 (September 2002)

Case ID No. 36767

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100236025

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
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)	0	0%
	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) 0%

>> **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

No adjustment due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 4-Nov-2008	Docket No. 2008-1733-AIR-E	PCW	
Respondent Whiting Oil and Gas Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36767	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN100236025			
Media [Statute] Air			
Enf. Coordinator Rebecca Johnson			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	Federal Operating Permit No. O-02425, Special Condition (b)(7)(E)(ii), Standard Permit No. 47427, General Condition No. 2, 30 Tex. Admin. Code § 116.615(2), and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to prevent unauthorized emissions during Incident No. 108281. Specifically, during the May 26, 2008 emissions event, 4,550.3 pounds ("lbs") of unauthorized volatile organic compounds and 208.9 lbs of unauthorized hydrogen sulfide emissions were released from the flare over a period of 39 hours when the flare's flame went out. Since the emissions event was not properly reported, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>
>> Programmatic Matrix			
	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>
Matrix Notes	Human health or the environment have been exposed to an insignificant amount of pollutants that did not exceed protective levels as a result of the violation.		
Adjustment		<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="2"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
One quarterly event is recommended.			<input type="text" value="\$2,500"/>
Good Faith Efforts to Comply			<input type="text" value="\$625"/>
	25.0% Reduction		
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)	
Notes	The Respondent completed corrective actions on May 30, 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="\$0"/>		Violation Final Penalty Total
			<input type="text" value="\$1,875"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,875"/>

Economic Benefit Worksheet

Respondent Whiting Oil and Gas Corporation
Case ID No. 36767
Reg. Ent. Reference No. RN100236025
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
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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

Economic benefit for this violation is included in Violation No. 2.

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

Screening Date 4-Nov-2008	Docket No. 2008-1733-AIR-E	PCW														
Respondent Whiting Oil and Gas Corporation		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 36767		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN100236025																
Media [Statute] Air																
Enf. Coordinator Rebecca Johnson																
Violation Number 2																
Rule Cite(s)	30 Tex. Admin Code §§ 101.201(a)(1) and 116.615(10) and Tex. Health & Safety Code § 382.085(b)															
Violation Description	Failed to notify the TCEQ within 24 hours after discovery of Incident No. 108281. Specifically, Incident No. 108281 was discovered on May 25, 2008 at 10:00 p.m., however, the incident was not reported until May 27, 2008 at 6:32 p.m.															
	Base Penalty	\$10,000														
>> Environmental, Property and Human Health Matrix																
OR	Harm															
	Release Major Moderate Minor															
	Actual															
	Potential															
	Percent	0%														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	x															
	Percent	1%														
Matrix Notes	Less than 30% of the reporting requirements were not met.															
	Adjustment	\$9,900														
		\$100														
Violation Events																
	Number of Violation Events 1	2 Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty
daily																
weekly																
monthly																
quarterly																
semiannual																
annual																
single event	x															
		\$100														
	One single event is recommended.															
Good Faith Efforts to Comply																
	25.0% Reduction	\$25														
	Before NOV NOV to EDPRP/Settlement Offer															
Extraordinary	x															
Ordinary	(mark with x)															
N/A																
Notes	The Respondent completed corrective actions on May 30, 2008.															
	Violation Subtotal	\$75														
Economic Benefit (EB) for this violation																
	Estimated EB Amount	\$0														
Statutory Limit Test																
	Violation Final Penalty Total	\$75														
	This violation Final Assessed Penalty (adjusted for limits)															
		\$75														

Economic Benefit Worksheet

Respondent Whiting Oil and Gas Corporation
Case ID No. 36767
Reg. Ent. Reference No. RN100236025
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$100	26-May-2008	30-May-2008	0.01	\$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 cost to train employees on the emissions event reporting requirements. Date required is the date the incident was due to be reported. Final date is the date corrective actions were 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

\$100

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600132757	Whiting Oil and Gas Corporation	Classification: AVERAGE	Rating: 2.88																								
Regulated Entity:	RN100236025	SABLE SAN ANDRES UNIT	Classification: HIGH	Site Rating: 0.00																								
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER</td> <td style="width: 25%;">YA0047A</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2425</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>15550</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>39294</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>YA0047A</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>47427</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4850100022</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>YA0047A</td> </tr> </table>				AIR OPERATING PERMITS	ACCOUNT NUMBER	YA0047A	AIR OPERATING PERMITS	PERMIT	2425	AIR NEW SOURCE PERMITS	PERMIT	15550	AIR NEW SOURCE PERMITS	PERMIT	39294	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	YA0047A	AIR NEW SOURCE PERMITS	REGISTRATION	47427	AIR NEW SOURCE PERMITS	AFS NUM	4850100022	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	YA0047A
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AIR NEW SOURCE PERMITS	AFS NUM	4850100022																										
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	YA0047A																										
Location:	SIX MILES WEST OF PLAINS ON HWY 380, YOAKUM COUNTY		Rating Date: 9/1/2008 Repeat Violator: NO																									
TCEQ Region:	REGION 02 - LUBBOCK																											
Date Compliance History Prepared:	November 03, 2008																											
Agency Decision Requiring Compliance History:	Enforcement																											
Compliance Period:	November 03, 2003 to November 03, 2008																											
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History																												
Name:	Rebecca Johnson		Phone:	(713) 422-8931																								

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
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	08/16/2004	(289259)
2	08/29/2005	(401758)
3	07/25/2006	(487537)
4	07/09/2007	(566636)
5	07/09/2008	(685507)
6	10/14/2008	(700102)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- 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
WHITING OIL AND GAS
CORPORATION
RN100236025

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1733-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 Whiting Oil and Gas Corporation ("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 an oil and gas production plant located six miles west of Plains on Highway 380, Yoakum 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 October 19, 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 One Thousand Nine Hundred Fifty Dollars (\$1,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Sixty Dollars (\$1,560) of the

administrative penalty and Three Hundred Ninety Dollars (\$390) 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 on May 30, 2008, the Respondent completed employee training on the emissions event reporting requirements.
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 prevent unauthorized emissions during Incident No. 108281, in violation of Federal Operating Permit No. O-02425, Special Condition (b)(7)(E)(ii), Standard Permit No. 47427, General Condition No. 2, 30 TEX. ADMIN. CODE § 116.615(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 17, 2008. Specifically, during the May 26, 2008 emissions event, 4,550.3 pounds ("lbs") of unauthorized volatile organic compounds and 208.9 lbs of unauthorized hydrogen sulfide emissions were released from the flare over a period of 39 hours when the flare's flame went out. Since the emissions event was not properly reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
2. Failed to notify the TCEQ within 24 hours after discovery of Incident No. 108281, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a)(1) and 116.615(10) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 17, 2008. Specifically, Incident No. 108281 was discovered on May 25, 2008 at 10:00 p.m., however, the incident was not reported until May 27, 2008 at 6:32 p.m.

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: Whiting Oil and Gas Corporation, Docket No. 2008-1733-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



For the Executive Director

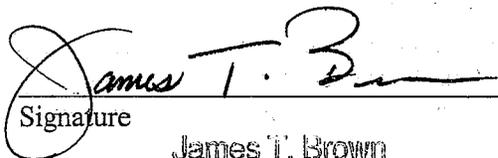
Date 5/5/2009

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

James T. Brown
Senior Vice President

Date 12/23/08

Name (Printed or typed)
Authorized Representative of
Whiting Oil and Gas Corporation

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.