

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0298-AIR-E **TCEQ ID:** RN102663085 and RN102495421 **CASE NO.:** 37237

**RESPONDENT NAME:** Viridis Energy (Texas), LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Viridis Energy Baytown LFGTE Facility, 4791 Tri City Beach Road, Baytown, Chambers County (the "Baytown Plant") and Atascocita LFGTE Facility, 3623 Wilson Road, Humble, Harris County (the "Atascocita Plant")</p> <p><b>TYPE OF OPERATION:</b> Landfill gas to electric generation plants</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 20, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Luong Nguyen, Vice President, Viridis Energy (Texas), LP, 7500 San Felipe Street, Suite 600, Houston, Texas 77063  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 1 and 19, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 4 and 11, 2009 (NOE)</p> <p><b>Background Facts:</b> These were record reviews.</p> <p><b>AIR</b></p> <p>1) Failure to submit a deviation report for the Atascocita Plant within thirty days of the end of the reporting period. Specifically, the report covering the period September 10, 2007 through March 9, 2008 was not submitted by April 8, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), Federal Operating Permit ("FOP") No. O-02565, General Terms and Conditions ("GTC"), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit a deviation report for the Baytown Plant within thirty days of the end of the reporting period. Specifically, the report covering the period September 10, 2007 through March 9, 2008 was not submitted by April 8, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), FOP No. O-02574, GTC, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$5,500</p> <p><b>Total Deferred:</b> \$1,100  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,400</p> <p>RN102495421 and RN102663085  <b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the deviation reports for the Plants on July 22, 2008.</p>

Additional ID No(s): CI0202T



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	17-Feb-2009			
	PCW	5-Mar-2009	Screening	3-Mar-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>					
Respondent	Viridis Energy (Texas), LP				
Reg. Ent. Ref. No.	RN102663085				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

<b>CASE INFORMATION</b>					
Ent./Case ID No.	37237	No. of Violations	1		
Docket No.	2009-0298-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Miriam Hall		
		EC's Team	Enforcement Team 4		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	<b>\$2,500</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	25.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i> <b>\$625</b>

Notes: The penalty was enhanced for one same or similar NOV and one 1660 order.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<i>Subtotal 5</i>	<b>\$625</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<i>Subtotal 6</i>	<b>\$0</b>
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Total EB Amounts: \$1  
 Approx. Cost of Compliance: \$50  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$2,500</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<i>Adjustment</i>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$2,500**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$2,500</b>
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<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	<b>-\$500</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$2,000</b>
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<b>Screening Date</b> 3-Mar-2009	<b>Docket No.</b> 2009-0298-AIR-E	<b>PCW</b>
<b>Respondent</b> Viridis Energy (Texas), LP		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37237		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN102663085		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Miriam Hall		

### 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	0	0%
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.	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 <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>	0	0%
	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)** 25%

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

No	<b>Adjustment Percentage (Subtotal 3)</b> 0%
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>> **Compliance History Person Classification (Subtotal 7)**

Average Performer	<b>Adjustment Percentage (Subtotal 7)</b> 0%
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>> **Compliance History Summary**

<b>Compliance History Notes</b>	The penalty was enhanced for one same or similar NOV and one 1660 order.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

<b>Screening Date</b> 3-Mar-2009	<b>Docket No.</b> 2009-0298-AIR-E	<b>PCW</b>		
<b>Respondent</b> Viridis Energy (Texas), LP	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 37237	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102663085				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Miriam Hall				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(C), Federal Operating Permit No. O-02574, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to submit a deviation report within thirty days of the end of the reporting period. Specifically, the report covering the period September 10, 2007 through March 9, 2008 was not submitted by April 8, 2008.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	25%	
<b>Matrix Notes</b>	The Respondent failed to meet 100% of the rule requirement.			
<b>Adjustment</b>		\$7,500		
		\$2,500		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>	
		105		
mark only one with an x	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	X		
		\$2,500		
One single event is recommended for the one report.				
<b>Good Faith Efforts to Comply</b>		25.0% Reduction		
		\$625		
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	X	<input type="checkbox"/>		
N/A	<input type="checkbox"/>	(mark with x)		
<b>Notes</b>	The report was submitted on July 22, 2008, and the NOE was issued on February 11, 2009.			
<b>Violation Subtotal</b>		\$1,875		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$1	<b>Violation Final Penalty Total</b>	\$2,500	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
		\$2,500		

## Economic Benefit Worksheet

**Respondent:** Viridis Energy (Texas), LP  
**Case ID No.:** 37237  
**Reg. Ent. Reference No.:** RN102663085  
**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)	\$50	8-Apr-2008	22-Jul-2008	0.29	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost for additional oversight and the cost of mailing from the due date to the date of compliance.

### 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

\$50

**TOTAL**

\$1



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	9-Feb-2009			
	PCW	4-Mar-2009	Screening	3-Mar-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>					
Respondent	Viridis Energy (Texas), LP				
Reg. Ent. Ref. No.	RN102495421				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

<b>CASE INFORMATION</b>					
Enf./Case ID No.	37237	No. of Violations	1		
Docket No.	2009-0298-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Miriam Hall		
		EC's Team	Enforcement Team 4		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$2,500</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	45.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> <b>\$1,125</b>

Notes: The penalty was enhanced for one same or similar NOV and two 1660 orders.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$625</b>
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Economic Benefit	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$1  
 Approx. Cost of Compliance \$50  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$3,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$3,000**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$3,000</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$600</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$2,400</b>
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Screening Date 3-Mar-2009

Docket No. 2009-0298-AIR-E

PCW

Respondent Viridis Energy (Texas), LP

Policy Revision 2 (September 2002)

Case ID No. 37237

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102495421

Media [Statute] Air

Enf. Coordinator Miriam Hall

### 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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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%
<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)** 45%

>> 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

The penalty was enhanced for one same or similar NOV and two 1660 orders.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 45%

<b>Screening Date</b> 3-Mar-2009	<b>Docket No.</b> 2009-0298-AIR-E	<b>PCW</b>	
<b>Respondent</b> Viridis Energy (Texas), LP	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 37237	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN102495421			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Miriam Hall			
<b>Violation Number</b>	1		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(C), Federal Operating Permit No. O-02565, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to submit a deviation report within thirty days of the end of the reporting period. Specifically, the report covering the period September 10, 2007 through March 9, 2008 was not submitted by April 8, 2008.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Potential</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>			0%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major			Moderate
Minor			
<input type="checkbox"/>			<input checked="" type="checkbox"/>
<input type="checkbox"/>			<input type="checkbox"/>
<b>Percent</b>			25%
<b>Matrix Notes</b>	The Respondent failed to meet 100% of the rule requirement.		
<b>Adjustment</b>			\$7,500
			\$2,500
<b>Violation Events</b>			
<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	105
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input checked="" type="checkbox"/>	
One single event is recommended for the one report.			\$2,500
<b>Good Faith Efforts to Comply</b>			\$625
<b>25.0% Reduction</b>			
Before NOV    NOV to EDPRP/Settlement Offer			
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	(mark with x)		
<b>Notes</b>	The report was submitted on July 22, 2008, and the NOE was issued on February 4, 2009.		
<b>Violation Subtotal</b>			\$1,875
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$1	<b>Violation Final Penalty Total</b>	\$3,000
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$3,000

## Economic Benefit Worksheet

**Respondent:** Viridis Energy (Texas), LP  
**Case ID No.:** 37237  
**Reg. Ent. Reference No.:** RN102495421  
**Media:** Air  
**Violation No.:** 1

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

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

### 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)	\$50	8-Apr-2008	22-Jul-2008	0.29	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost for additional oversight and the cost of mailing from the due date to the date of compliance.

### 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

\$50

**TOTAL**

\$1

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601281835	Viridis Energy (Texas), LP	Classification: AVERAGE	Rating: 6.01																														
Regulated Entity:	RN102495421	ATASCOCITA LFGTE FACILITY	Classification: AVERAGE	Site Rating: 28.00																														
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR NEW SOURCE PERMITS</td> <td style="width: 20%;">REGISTRATION</td> <td style="width: 30%;">74012</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>HX2716F</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>44278</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>N032</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>EPA ID</td> <td>PSDTX973</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4820101567</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>ACCOUNT NUMBER</td> <td>HX2716F</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2565</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>87737</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXR000064584</td> </tr> </table>				AIR NEW SOURCE PERMITS	REGISTRATION	74012	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX2716F	AIR NEW SOURCE PERMITS	PERMIT	44278	AIR NEW SOURCE PERMITS	PERMIT	N032	AIR NEW SOURCE PERMITS	EPA ID	PSDTX973	AIR NEW SOURCE PERMITS	AFS NUM	4820101567	AIR OPERATING PERMITS	ACCOUNT NUMBER	HX2716F	AIR OPERATING PERMITS	PERMIT	2565	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87737	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000064584
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INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000064584																																
Location:	3623 WILSON RD, HUMBLE, TX, 77396																																	
TCEQ Region:	REGION 12 - HOUSTON																																	
Date Compliance History Prepared:	February 16, 2009																																	
Agency Decision Requiring Compliance History:	Enforcement																																	
Compliance Period:	February 16, 2004 to February 16, 2009																																	

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

Name: Miriam Hall Phone: (512) 239 - 1044

### 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: 09/21/2007

ADMINORDER 2006-1788-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter F 30.201(b)

Description: Failed to have at least one properly licensed individual who supervised or manages the operations at the landfill gas recovery facility.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter D 305.70(j)  
30 TAC Chapter 330, SubChapter G 330.150(1)

Description: Failed to comply with the facility's permit and incorporated plans or other related documents associated with the permit and failure to notify the executive director with modifications to the landfill gas collection system design.

Classification: Major

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.193(a)(1)

Description: Failed to have adequate secondary containment for hazardous waste tank.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)  
Description: Failed to update the facility's NOR.

Effective Date: 06/19/2008

ADMINORDER 2007-1475-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.340(a)  
30 TAC Chapter 117, SubChapter H 117.9020(2)(A)(i)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to install individual fuel flow-meters on Internal Combustion engines. (Category A8, Attachment A, c(1)(G) -HPV-General Criteria.  
Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: FOP O-02565, General Conditions OP  
Description: Failure to report deviations on Deviation Report.

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	01/20/2006	(439665)
2	02/06/2006	(453316)
3	08/30/2006	(453940)
4	04/03/2007	(532649)
5	08/21/2007	(556801)
6	12/14/2007	(610653)
7	03/31/2008	(614677)
8	02/04/2009	(703628)

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

Date: 01/20/2006 (439665)

CN601281835

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
FOP O-02565, Special Conditon 6 OP  
NSR Air Permit #44278/PSD-TX-973 PERMIT

Description: Failure to calibrate instruments before and after monitoring. Category B19g(1)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
FOP O-02565 General Terms and Conditions OP

Description: Failure to submit deviation reports no later than 30 days after the end of the reporting period.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
FOP O-02565 General Terms and Conditions OP

Description: Failure to submit Annual Compliance Certification no later than 30 days after the end of the certification period.

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

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601281835	Viridis Energy (Texas), LP	Classification: AVERAGE	Rating: 6.01																								
Regulated Entity:	RN102663085	VIRIDIS ENERGY BAYTOWN LFGTE FACILITY	Classification: AVERAGE	Site Rating: 9.86																								
ID Number(s):	<table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">MUNICIPAL SOLID WASTE PROCESSING</td> <td style="width: 30%;">REGISTRATION</td> <td style="width: 20%;">48011</td> </tr> <tr> <td>MUNICIPAL SOLID WASTE PROCESSING</td> <td>REGISTRATION</td> <td>48022</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>CI0202T</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>N058</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>70133</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>EPA ID</td> <td>PSDTX1035</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4807100098</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2574</td> </tr> </table>				MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	48011	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	48022	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CI0202T	AIR NEW SOURCE PERMITS	PERMIT	N058	AIR NEW SOURCE PERMITS	PERMIT	70133	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1035	AIR NEW SOURCE PERMITS	AFS NUM	4807100098	AIR OPERATING PERMITS	PERMIT	2574
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AIR NEW SOURCE PERMITS	AFS NUM	4807100098																										
AIR OPERATING PERMITS	PERMIT	2574																										
Location:	4791 TRI CITY BEACH RD, BAYTOWN, TX, 77523																											
TCEQ Region:	REGION 12 - HOUSTON																											
Date Compliance History Prepared:	March 03, 2009																											
Agency Decision Requiring Compliance History:	Enforcement																											
Compliance Period:	March 03, 2004 to March 03, 2009																											
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History																												
Name:	Miriam Hall	Phone:	(512) 239-1044																									

## 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?   | <u>Viridis Energy (Texas), LP</u>           |
| 4. If Yes, who was/were the prior owner(s)?  | <u>Reliant Energy Renewables Baytown LP</u> |
| 5. When did the change(s) in ownership occur?  | <u>01/11/2006</u>                           |
| 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: 04/28/2008   | ADMINORDER 2007-1470-AIR-E |
| Classification: Moderate   |                            |
| Citation: 30 TAC Chapter 117, SubChapter B 117.340(a)  |                            |
| 30 TAC Chapter 117, SubChapter H 117.9020(2)(A)(i)   |                            |
| 5C THC Chapter 382, SubChapter D 382.085(b)  |                            |
| Description: Failure to install individual fuel flow-meters on internal combustion engines. (Category A8, Attachment A:c(1)(G)- HPV-General Criteria |                            |
| Classification: Minor  |                            |
| Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)   |                            |
| 5C THC Chapter 382, SubChapter D 382.085(b)  |                            |
| Rqmt Prov: FOP O-02574 GC OP   |                            |
| Description: Failure to report deviations on Deviation Report.   |                            |
- 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 | 08/21/2006 | (479924) |
| 2 | 04/03/2007 | (532647) |
| 3 | 08/21/2007 | (556808) |

- 4 03/19/2008 (614673)
- 5 04/17/2008 (638669)
- 6 08/14/2008 (685341)
- 7 02/11/2009 (703596)

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

Date: 08/21/2006 (479924)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-02574 OP

Description: Failure to submit Permit Compliance Certification Report within 30 days after the end of the certification period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-02574 OP

Description: Failure to submit deviation reports within 30 days after the end of the reporting period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)  
70133 PERMIT

Description: Failure to calibrate portable analyzer before and after monitoring engine performance evaluations.

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  
VIRIDIS ENERGY (TEXAS), LP  
RN102495421 AND RN102663085

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

**AGREED ORDER**  
**DOCKET NO. 2009-0298-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 Viridis Energy (Texas), 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 landfill gas to electric generation plants (the "Plants") located at:
  - a. 3623 Wilson Road in Humble, Harris County, Texas (the "Atascocita Plant"); and
  - b. 4791 Tri City Beach Road in Baytown, Chambers County, Texas (the "Baytown Plant").
2. The Plants 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 notices of the violations alleged in Section II ("Allegations") on or about February 9 and 16, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Five Hundred Dollars (\$5,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Four Hundred Dollars (\$4,400) of the administrative penalty and One Thousand One Hundred Dollars (\$1,100) 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 submitted the deviation reports for the Plants on July 22, 2008.
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 Plants, the Respondent is alleged to have:

1. Failed to submit a deviation report for the Atascocita Plant within thirty days of the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), Federal Operating Permit ("FOP") No. O-02565, General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 19, 2008. Specifically, the report covering the period September 10, 2007 through March 9, 2008 was not submitted by April 8, 2008.
2. Failed to submit a deviation report for the Baytown Plant within thirty days of the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C), FOP No. O-02574, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 1, 2008. Specifically, the report covering the period September 10, 2007 through March 9, 2008 was not submitted by April 8, 2008.

### 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: Viridis Energy (Texas), LP, Docket No. 2009-0298-AIR-E" to:

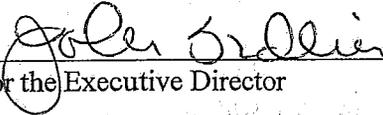
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

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 Plants 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 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.
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

6/15/2009  
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.

  
\_\_\_\_\_  
Signature

18 May 2009  
Date

LUONG NGYEN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Viridis Energy (Texas), LP

VICE PRESIDENT  
\_\_\_\_\_  
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.