

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0060-AIR-E **TCEQ ID:** RN102547957 **CASE NO.:** 37017

RESPONDENT NAME: Gregory Power Partners, L.P.

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: Gregory Power Facility, 4633 Highway 361, Gregory, San Patricio County</p> <p>TYPE OF OPERATION: Natural gas-fired electric generating, cogeneration 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 May 18, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Mike Fulcher, Plant Manager, Gregory Power Partners, L.P., P.O. Box 36, Gregory, Texas 78359 Mr. John G. Lambert, General Manager, Gregory Power Partners, L.P., P.O. Box 36, Gregory, Texas 78359 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: December 4, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 19, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to submit an application for renewal at least six months, but no earlier than 18 months, prior to expiration of a permit and continued to operate the Plant without authorization after the permit expired. Specifically, the Respondent failed to renew New Source Review ("NSR") Permit No. 34824/PSD-TX-877 before the permit expiration date of March 19, 2008 [30 TEX. ADMIN. CODE §§ 116.110(a) and 116.315(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p>Total Assessed: \$30,500</p> <p>Total Deferred: \$6,100 <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: \$24,400</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has submitted a permit application on January 2, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;</p> <p>b. Immediately upon the effective date of this Agreed Order, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the provisions in expired NSR Permit No. 34824/PSD-TX-877; and</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): SD0161L



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Jan-2009			
	PCW	13-Jan-2009	Screening	13-Jan-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Gregory Power Partners, L.P.				
Reg. Ent. Ref. No.	RN102547957				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major		

CASE INFORMATION					
Enf./Case ID No.	37017	No. of Violations	1		
Docket No.	2009-0060-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Kirk Schoppe		
		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)	<i>Subtotal 1</i>	\$25,000
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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	22.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$5,500
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Notes: The penalty was enhanced due to one NOV for dissimilar violations and one 1660-style order.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts: \$240
 Approx. Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$30,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$30,500
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$30,500
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$6,100
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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.

PAYABLE PENALTY	\$24,400
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Screening Date 13-Jan-2009

Docket No. 2009-0060-AIR-E

PCW

Respondent Gregory Power Partners, L.P.

Policy Revision 2 (September 2002)

Case ID No. 37017

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102547957

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

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>)	0	0%
	Other written NOVs	1	2%
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 judgments 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) 22%

>> **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 due to one NOV for dissimilar violations and one 1660-style order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 13-Jan-2009	Docket No. 2009-0060-AIR-E	PCW		
Respondent Gregory Power Partners, L.P.		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37017		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN102547957				
Media [Statute] Air				
Enf. Coordinator Kirk Schoppe				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code §§ 116.110(a) and 116.315(a), and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)			
Violation Description	Failed to submit an application for renewal at least six months, but no earlier than 18 months, prior to expiration of a permit and continued to operate the Plant without authorization after the permit expired. Specifically, the Respondent failed to renew New Source Review ("NSR") Permit No. 34824/PSD-TX-877 before the permit expiration date of March 19, 2008, as documented during a record review investigation conducted on December 4, 2008.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>	
Matrix Notes	100% of the rule was not met.			
	Adjustment	<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="10"/>	<input type="text" value="301"/>	Number of violation days
	<small>mark only one with an x</small>	daily	<input type="text"/>	
		weekly	<input type="text"/>	
		monthly	x	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input type="text"/>	
		Violation Base Penalty	<input type="text" value="\$25,000"/>	
	Ten monthly events are recommended from the permit expiration date of March 19, 2008 to the screening date of January 13, 2009.			
Good Faith Efforts to Comply				
		<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
	Notes	The Respondent does not meet the good faith criteria for this violation.		
		Violation Subtotal	<input type="text" value="\$25,000"/>	
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$240"/>	Statutory Limit Test	
			Violation Final Penalty Total	<input type="text" value="\$30,500"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$30,500"/>

Economic Benefit Worksheet

Respondent: Gregory Power Partners, L.P.
Case ID No.: 37017
Reg. Ent. Reference No.: RN102547957
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	19-Mar-2008	4-Mar-2009	0.96	\$240	n/a	\$240
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost for the preparation and submittal of a new permit application. Date required is the date the permit expired. Final date is the date of prospective 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	\$5,000	TOTAL	\$240
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Compliance History Report

Customer/Respondent/Owner-Operator: CN600254031 Gregory Power Partners, L.P. Classification: AVERAGE Rating: 5.86

Regulated Entity: RN102547957 GREGORY POWER FACILITY Classification: AVERAGE Site Rating: 8.71

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	SD0161L
AIR OPERATING PERMITS	PERMIT	1809
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	SD0161L
AIR NEW SOURCE PERMITS	EPA ID	PSDTX877
AIR NEW SOURCE PERMITS	AFS NUM	4840900052
<u>AIR NEW SOURCE PERMITS</u>	<u>PERMIT</u>	<u>87153</u>

Location: 4633 Hwy 361, GREGORY, TX, 78359

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: January 06, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 06, 2004 to January 06, 2009

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

Name: Kirk Schoppe Phone: 239 - 0489

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: 04/29/2006

ADMINORDER 2005-1746-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(B)
 5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to submit complete and/or accurate deviation reports for the periods of January 27, 2003 through July 26, 2003 and January 27, 2004 through July 26, 2004.

Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(F)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01809 OP

Description: Failed to demonstrate compliance with the Federal Operating Permit No. O-01809, Special Condition 4.A iii

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	03/24/2004	(260877)
2	08/27/2004	(291505)
3	08/24/2005	(398080)
4	08/16/2006	(489280)
5	06/19/2007	(562908)
6	02/29/2008	(637622)
7	12/19/2008	(721224)

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

Date: 08/16/2006 (489280)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Da 60.49Da(l)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.48b(e)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.49b(g)
Federal Operating Permit O-01809 OP
Special Condition 18 PERMIT

Description: Failure to utilize a certified audit gas during a data accuracy assessment.

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
GREGORY POWER PARTNERS, L.P.
RN102547957

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§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0060-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 Gregory Power Partners, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a natural gas-fired electric generating, cogeneration plant at 4633 Highway 361 in Gregory, San Patricio 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 December 24, 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 Thirty Thousand Five Hundred Dollars (\$30,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Four Thousand Four Hundred Dollars (\$24,400) of the administrative penalty and Six Thousand One Hundred Dollars (\$6,100) 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 has submitted a permit application on January 2, 2009.
 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 failed to submit an application for renewal at least six months, but no earlier than 18 months, prior to expiration of a permit and continued to operate the Plant without authorization after the permit expired, in violation of 30 TEX. ADMIN. CODE §§ 116.110(a) and 116.315(a), and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during a record review investigation conducted on December 4, 2008. Specifically, the Respondent failed to renew New Source Review ("NSR") Permit No. 34824/PSD-TX-877 before the permit expiration date of March 19, 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: Gregory Power Partners, L.P., Docket No. 2009-0060-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
 - b. Immediately upon the effective date of this Agreed Order, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the provisions in expired NSR Permit No. 34824/PSD-TX-877; and
 - c. Within 180 days after the effective date of this Agreed Order, submit written certification as described below and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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. 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sullivan
For the Executive Director

7/9/2009
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.

John G. Lambert
Signature

3/24/2009
Date

JOHN G. LAMBERT
Name (Printed or typed)
Authorized Representative of
Gregory Power Partners, L.P.

GENERAL MANAGER
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.

