

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0571-AIR-E **TCEQ ID:** RN100223783 **CASE NO.:** 37513

RESPONDENT NAME: Enbridge Pipelines (NE Texas) 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: Pittsburg Gas Plant, 1088 County Road 1140, Pittsburg, Camp County</p> <p>TYPE OF OPERATION: Natural gas processing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 10, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mrs. Martina Kusniadi, Enforcement Division, Enforcement Team 4, MC R-12, (713) 767-3682; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jeff Jackson, Environmental Engineer, Enbridge Pipelines (NE Texas) L.P., 2020 Bill Owens Parkway, Suite 100, Longview, Texas 75604 Mr. Charles W. Raiborn III, General Manager, G&P East Region, Enbridge Pipelines (NE Texas) L.P., 2020 Bill Owens Parkway, Suite 100, Longview, Texas 75604 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

| VIOLATION SUMMARY CHART: | | |
|---|---|---|
| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 17, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 17, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to comply with permitted emissions limits. Specifically, an emission event lasting three hours occurred on February 10, 2009 when a power outage caused by operator error led to the emergency flare [Emission Point Number ("EPN") FLAREVT-PLANT] and the thermal oxidizer (EPN THERMOX) emitting 3,108.23 pounds of unauthorized sulfur dioxide. Since these emissions could have been avoided by better operational practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b) [New Source Review No. 8986, Special Condition 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$3,000</p> <p>Total Deferred: \$600 <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: \$2,400</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, ensure the completion of additional training and/or supervision over the operational practices that address the causes leading to the emissions event that occurred on February 10, 2009; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p> |

Additional ID No(s): CE0005V



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|-------|----------|-------------|-----------|-------------|---------|-------------|
| DATES | Assigned | 20-Apr-2009 | Screening | 22-Apr-2009 | EPA Due | 12-Jan-2010 |
| | PCW | 8-May-2009 | | | | |

| | |
|--|------------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Enbridge Pipelines (NE Texas) L.P. |
| Reg. Ent. Ref. No. | RN100223783 |
| Facility/Site Region | 5-Tyler |
| Major/Minor Source | Major |

| | | | |
|-------------------------|------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37513 | No. of Violations | 1 |
| Docket No. | 2009-0571-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Martina Kusniadi |
| Admin. Penalty \$ Limit | Minimum \$0 | EC's Team | Enforcement Team 4 |
| | Maximum \$10,000 | | |

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
 Approx. Cost of Compliance

*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 22-Apr-2009

Docket No. 2009-0571-AIR-E

PCW

Respondent Enbridge Pipelines (NE Texas) L.P.

Policy Revision 2 (September 2002)

Case ID No. 37513

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100223783

Media [Statute] Air

Enf. Coordinator Martina Kusniadi

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) | 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 (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) 20%

>> **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 by one 1660-style agreed order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

| | | | | | | | | | | | | | | | | |
|---|---|---|----------------------|--------|----------------------|---------|----------------------|-----------|-------------------------------------|------------|----------------------|--------|----------------------|--------------|----------------------|--|
| Screening Date 22-Apr-2009 | Docket No. 2009-0571-AIR-E | PCW | | | | | | | | | | | | | | |
| Respondent Enbridge Pipelines (NE Texas) L.P. | | Policy Revision 2 (September 2002) | | | | | | | | | | | | | | |
| Case ID No. 37513 | | PCW Revision October 30, 2008 | | | | | | | | | | | | | | |
| Reg. Ent. Reference No. RN100223783 | | | | | | | | | | | | | | | | |
| Media [Statute] Air | | | | | | | | | | | | | | | | |
| Enf. Coordinator Martina Kusniadi | | | | | | | | | | | | | | | | |
| Violation Number <input type="text" value="1"/> | | | | | | | | | | | | | | | | |
| Rule Cite(s) | New Source Review Permit No. 8986, Special Condition 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085 (b) | | | | | | | | | | | | | | | |
| Violation Description | Failed to comply with permitted emissions limits, as documented during an investigation conducted on March 17, 2009. Specifically, an emission event lasting three hours occurred on February 10, 2009 when a power outage caused by operator error led to the emergency flare [Emission Point Number ("EPN") FLAREVT-PLANT] and the thermal oxidizer (EPN THERMOX) emitting 3,108.23 pounds of unauthorized sulfur dioxide. Since these emissions could have been avoided by better operational practices, the emissions are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b). | | | | | | | | | | | | | | | |
| | Base Penalty | <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | |
| OR | Harm | | | | | | | | | | | | | | | |
| | Major Moderate Minor | | | | | | | | | | | | | | | |
| Release | Major | Minor | | | | | | | | | | | | | | |
| Actual | <input type="text"/> | <input checked="" type="checkbox"/> | | | | | | | | | | | | | | |
| Potential | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | |
| | Percent | <input type="text" value="25%"/> | | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | |
| | Falsification Major Moderate Minor | | | | | | | | | | | | | | | |
| | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | |
| | Percent | <input type="text" value="0%"/> | | | | | | | | | | | | | | |
| Matrix Notes | Human health or the environment was exposed to insignificant amounts of pollutants that did not exceed levels protective of human health or environmental receptors. | | | | | | | | | | | | | | | |
| | Adjustment | <input type="text" value="\$7,500"/> | | | | | | | | | | | | | | |
| | | <input type="text" value="\$2,500"/> | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | |
| | Number of Violation Events <input type="text" value="1"/> | <input type="text" value="1"/> Number of violation days | | | | | | | | | | | | | | |
| mark only one with an x | <table style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table> | daily | <input type="text"/> | 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"/> | Violation Base Penalty <input type="text" value="\$2,500"/> |
| daily | <input type="text"/> | | | | | | | | | | | | | | | |
| 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, based on the emissions event that occurred on February 10, 2009. | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | <input type="text" value="0.0%"/> Reduction | <input type="text" value="\$0"/> | | | | | | | | | | | | | | |
| | Before NOV NOV to EDPRP/Settlement | | | | | | | | | | | | | | | |
| Extraordinary | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | |
| Ordinary | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | |
| N/A | <input checked="" type="checkbox"/> | (mark with x) | | | | | | | | | | | | | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | | | | | | | | | | | | | |
| | Violation Subtotal | <input type="text" value="\$2,500"/> | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | | | | | | | | | | | | | | | |
| Statutory Limit Test | | | | | | | | | | | | | | | | |
| Estimated EB Amount | <input type="text" value="\$201"/> | Violation Final Penalty Total <input type="text" value="\$3,000"/> | | | | | | | | | | | | | | |
| | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$3,000"/> | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent Enbridge Pipelines (NE Texas) L.P.
Case ID No. 37513
Reg. Ent. Reference No. RN100223783
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 | \$5,000 | 10-Feb-2009 | 1-Dec-2009 | 0.81 | \$201 | n/a | \$201 |
| 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 costs to ensure additional personnel training and/or oversight is provided. The Date Required is the date of the event, and the Final Date is the date of expected 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

\$201

Compliance History Report

Customer/Respondent/Owner-Operator: CN601521925 Enbridge Pipelines (NE Texas) L.P. Classification: AVERAGE Rating: 2.69
Regulated Entity: RN100223783 PITTSBURG GAS PLANT Classification: HIGH Site Rating: 0.00
ID Number(s): AIR OPERATING PERMITS ACCOUNT NUMBER CE0005V
AIR OPERATING PERMITS PERMIT 2961
AIR NEW SOURCE PERMITS REGISTRATION 71046
AIR NEW SOURCE PERMITS ACCOUNT NUMBER CE0005V
AIR NEW SOURCE PERMITS AFS NUM 4806300002
AIR NEW SOURCE PERMITS PERMIT 8986
Location: 1088 COUNTY ROAD 1140, PITTSBURG, TX, 75686
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: April 21, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 21, 2004 to April 21, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Martina Kusniadi Phone: (713) 767-3682

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator 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: 11/06/2008 ADMINORDER 2008-0342-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: GOP 514, O-00875, SR (b)(2) OP

GOP 514, O-00875, SR (b)(7)(B) OP

Permit No. 8986, Special Condition 1 PA

Description: Failed to maintain an emission rate below the maximum allowable emission limit for the tail gas thermal oxidizer ("TGTO") [emission point number ("EPN THERMOX")]. Specifically, the sulfur dioxide ("SO2") limit of 37.58 pounds per hour ("lbs/hr") was exceeded. The SO2 exceedances for these time periods varied from 37.63 to 144.67 lbs/hr.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: GOP 514, O-00875, SR (b)(2) OP

GOP 514, O-00875, SR (b)(7)(B) OP

Permit No. 8986, Special Condition 9 PA

Description: Failed to maintain the TGTO oxygen ("O2") content at no less than 3%. Specifically, O2 content was below 3% as follows: 9 times during the month of January 2007, 248 times during the month of February 2007, 177 times during the month of March 2007, 9 times during the month of April 2007, and 1 time during the month of June 2007. The O2 exceedances for these time periods varied from 0.35 to 2.44% content.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: GOP 514, O-00875, SR (b)(2) OP
GOP 514, O-00875, SR (b)(7)(B) OP
Permit No. 8986, Special Condition 9 PA

Description: Failed to maintain the TGTO firebox chamber temperature at a minimum of 1,000 degrees Fahrenheit. Specifically, temperature was below 1,000 degrees Fahrenheit as follows: 5 times during the month of January 2007 and 3 times during the month of March 2007. The temperature exceedances for these time periods varied from 619.66 to 935.42 degrees Fahrenheit.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GOP 514, O-00875, SR (b)(2) OP
GOP 514, O-00875, SR (b)(7)(B) OP
Permit No. 8986, Special Condition 13(D) PA

Description: Failed to properly maintain records for a period of two years and make them readily available upon request. Specifically, records were missing for March 6-15, 2007, May 19, 2007, and June 23-24, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GOP 514, O-00875, SR (b)(2) OP

Description: Failed to report all instances of deviations. Specifically, failure to report on the semiannual deviation report for the period covering January 1, 2007 to June 30, 2007 the SO₂ and O₂ temperature exceedances and the failure to properly maintain daily operating records.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

| | | | | | |
|----|------------|----------|----|------------|----------|
| 1 | 10/15/2004 | (451234) | 15 | 09/20/2006 | (512074) |
| 2 | 02/02/2005 | (349534) | 16 | 11/29/2006 | (531309) |
| 3 | 02/28/2005 | (372505) | 17 | 11/29/2006 | (531354) |
| 4 | 03/17/2005 | (373788) | 18 | 02/28/2007 | (542096) |
| 5 | 03/24/2005 | (375323) | 19 | 03/15/2007 | (543485) |
| 6 | 07/05/2005 | (397519) | 20 | 03/27/2007 | (554010) |
| 7 | 07/28/2005 | (402006) | 21 | 11/06/2007 | (599364) |
| 8 | 08/29/2005 | (418524) | 22 | 01/23/2008 | (614698) |
| 9 | 11/18/2005 | (434945) | 23 | 02/21/2008 | (599358) |
| 10 | 01/25/2006 | (449940) | 24 | 10/14/2008 | (705154) |
| 11 | 03/13/2006 | (458818) | 25 | 01/06/2009 | (721719) |
| 12 | 03/30/2006 | (460880) | 26 | 03/25/2009 | (738950) |
| 13 | 04/03/2006 | (460649) | 27 | 04/03/2009 | (741152) |
| 14 | 05/01/2006 | (463135) | 28 | 04/17/2009 | (738945) |

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

N/A

F. Environmental audits.

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
ENBRIDGE PIPELINES (NE TEXAS)
L.P.
RN100223783

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0571-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 Enbridge Pipelines (NE Texas) 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 processing plant at 1088 County Road 1140 in Pittsburg, Camp 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 April 22, 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 Three Thousand Dollars (\$3,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Four Hundred Dollars (\$2,400) of the administrative penalty and Six

Hundred Dollars (\$600) 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 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.
10. 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.
11. 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 comply with permitted emissions limits, in violation of New Source Review No. 8986, Special Condition 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 17, 2009. Specifically, an emission event lasting three hours occurred on February 10, 2009 when a power outage caused by operator error led to the emergency flare [Emission Point Number ("EPN") FLAREVT-PLANT] and the thermal oxidizer (EPN THERMOX) emitting 3,108.23 pounds of unauthorized sulfur dioxide. Since these emissions could have been avoided by better operational practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b).

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: Enbridge Pipelines (NE Texas) L.P., Docket No. 2009-0571-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. Within 30 days after the effective date of this Agreed Order, ensure the completion of additional training and/or supervision over the operational practices that address the causes leading to the emissions event that occurred on February 10, 2009; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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. Soler
For the Executive Director

Date 7/13/2009

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.

Andrew Kao
Signature

Date 7/4/09

CHARLES W. RAIBORN III
Name (Printed or typed)
Authorized Representative of
Enbridge Pipelines (NE Texas) L.P.

Title GENERAL MANAGER
GAP EAST REGION

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.

