

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0967-AIR-E TCEQ ID: RN102735081 CASE NO.: 37839
RESPONDENT NAME: Kinder Morgan Texas Pipeline LLC

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: Compressor Station 552, on Farm-to-Market Road 798 approximately six miles west of the intersection of Highway 181 and Farm-to-Market Road 798, Tulsita, Bee County</p> <p>TYPE OF OPERATION: 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 December 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Dennis Wamsley, Director of Gas Pipelines, Kinder Morgan Texas Pipeline LLC, 17057 Farm-to-Market Road 1485, New Caney, Texas 77357 Mr. M. Dwayne Burton, Vice President, Kinder Morgan Texas Pipeline LLC, 17057 Farm-to-Market Road 1485, New Caney, Texas 77357 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: May 27, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 19, 2009 (NOE)</p> <p>Background Facts: This was a record review investigation.</p> <p>AIR</p> <p>1) Failure to submit a renewal application at least six months prior to the expiration of Air Permit No. O-0861 and obtain authorization to operate the emissions sources at the Plant after the permit expired on December 1, 2008 [Air Permit No. O-0861, Site-Wide Requirements (b)(1), 30 TEX. ADMIN. CODE §§ 122.121, 122.241(b), 122.143(4), 122.501(f), and 122.505(c), and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].</p> <p>2) Failure to report permit deviations within 30 days after the end of the deviation reporting period. Specifically, permit deviations occurred during the December 10, 2007 to June 9, 2008 reporting period, however, a deviation report and revised permit compliance certification were not submitted until March 10, 2009 [Air Permit No. O-0861, Site-Wide Requirements (b)(1), 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), (B), and (C), 122.146(5)(D), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$8,000</p> <p>Total Deferred: \$1,600 <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: \$6,400</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 implemented the following corrective measures at the Plant:</p> <p>a. Submitted a permit application on February 13, 2009, and obtained Air Permit No. O-03267 on May 29, 2009; and</p> <p>b. Submitted a deviation report and revised permit compliance certification on March 10, 2009 for the December 10, 2007 to June 9, 2008 deviation reporting period.</p>

Additional ID No(s): BE0022P



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	22-Jun-2009	Screening	24-Jun-2009	EPA Due	16-Mar-2010
	PCW	1-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kinder Morgan Texas Pipeline LLC
Reg. Ent. Ref. No.	RN102735081
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37839	No. of Violations	2
Docket No.	2009-0967-AIR-E	Order Type	1680
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$10,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	5.0% Enhancement Subtotals 2, 3, & 7 \$500
Notes	Penalty enhancement due to one NOV issued for a similar violation.
Culpability	No 0.0% Enhancement Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$2,500
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
Total EB Amounts	\$52
Approx. Cost of Compliance	\$2,100
*Capped at the Total EB \$ Amount	
SUM OF SUBTOTALS 1-7	Final Subtotal \$8,000
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment \$0
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	
Final Penalty Amount \$8,000	
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$8,000
DEFERRAL	20.0% Reduction Adjustment -\$1,600
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	\$6,400

Screening Date 24-Jun-2009

Docket No. 2009-0967-AIR-E

PCW

Respondent Kinder Morgan Texas Pipeline LLC

Policy Revision 2 (September 2002)

Case ID No. 37839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102735081

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> 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

Penalty enhancement due to one NOV issued for a similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 24-Jun-2009	Docket No. 2009-0967-AIR-E	PCW		
Respondent Kinder Morgan Texas Pipeline LLC	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37839	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN102735C81				
Media [Statute] Air				
Enf. Coordinator Rebecca Johnson				
Violation Number	1			
Rule Cite(s)	Air Permit No. O-0861, Site-Wide Requirements (b)(1), 30 Tex. Admin. Code §§ 122.121, 122.241(b), 122.143(4), 122.501(f), and 122.505(c), and Tex. Health & Safety Code §§ 382.054 and 382.085(b)			
Violation Description	Failed to submit a renewal application at least six months prior to the expiration of Air Permit No. O-0861 and obtain authorization to operate the emissions sources at the Plant after the permit expired on December 1, 2008.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
				Percent <input type="text" value="25%"/>
Matrix Notes	100% of the rule requirements were not met.			
Adjustment		\$7,500		
		\$2,500		
Violation Events				
Number of Violation Events		3	Number of violation days	
		74		
<small>mark only one with an x</small>	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
		Violation Base Penalty <input type="text" value="\$7,500"/>		
Three monthly events are recommended based on the December 1, 2008 permit expiration date to the February 13, 2009 application submittal date.				
Good Faith Efforts to Comply		25.0%	Reduction	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary				
Ordinary	x			
N/A	(mark with x)			
Notes	The Respondent completed corrective actions on May 29, 2009, which was prior to the June 19, 2009 Notice of Enforcement.			
Violation Subtotal		\$5,625		
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		\$49	Violation Final Penalty Total <input type="text" value="\$6,000"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,000"/>		

Economic Benefit Worksheet

Respondent Kinder Morgan Texas Pipeline LLC
Case ID No. 37839
Reg. Ent. Reference No. RN102735081
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	\$2,000	1-Dec-2008	29-May-2009	0.49	\$49	n/a	\$49
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete and submit a permit renewal application. The date required is the date the permit expired. The final date is the date the new permit was issued.

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

\$2,000

TOTAL

\$49

Screening Date 24-Jun-2009	Docket No. 2009-0967-AIR-E	PCW			
Respondent Kinder Morgan Texas Pipeline LLC	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 37839	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN102735081					
Media [Statute] Air					
Enf. Coordinator Rebecca Johnson					
Violation Number 2					
Rule Cite(s)	Air Permit No. O-0861, Site-Wide Requirements (b)(1), 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A), (B), and (C), 122.146(5)(D), and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to report permit deviations within 30 days after the end of the deviation reporting period. Specifically, permit deviations occurred during the December 10, 2007 to June 9, 2008 reporting period, however, a deviation report and revised permit compliance certification were not submitted until March 10, 2009.				
Base Penalty		\$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"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>	
Matrix Notes	100% of the rule requirements were not met.				
Adjustment				\$7,500	
				\$2,500	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="243"/>	Number of violation days	
mark only one with an x	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	<input checked="" type="text" value="x"/>				
				Violation Base Penalty	\$2,500
One single event is recommended based on the deviation report that was not properly submitted.					
Good Faith Efforts to Comply		25.0% Reduction		\$625	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input checked="" type="text" value="x"/>				
N/A	<input type="text"/>	(mark with x)			
Notes	The Respondent completed corrective actions on March 10, 2009, which was prior to the June 19, 2009 Notice of Enforcement.				
Violation Subtotal				\$1,875	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$3"/>	Violation Final Penalty Total		\$2,000
This violation Final Assessed Penalty (adjusted for limits)					\$2,000

Economic Benefit Worksheet

Respondent Kinder Morgan Texas Pipeline LLC
Case ID No. 37839
Reg. Ent. Reference No. RN102735081
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<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)	\$100	10-Jul-2008	10-Mar-2009	0.67	\$3	n/a	\$3

Notes for DELAYED costs Estimated cost to prepare and submit a deviation report. The date required is the date the deviation report was due to be submitted. The final date is the date the deviation report was submitted.

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 **TOTAL**
\$100 \$3

Compliance History Report

Customer/Respondent/Owner-Operator: CN603338880 Kinder Morgan Texas Pipeline LLC Classification: AVERAGE Rating: 3.01
 Regulated Entity: RN102735081 COMPRESSOR STATION 552 Classification: AVERAGE Site Rating: 0.50

ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	8180
	AIR NEW SOURCE PERMITS	PERMIT	46858
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BE0022P
	AIR NEW SOURCE PERMITS	AFS NUM	4802500012
	AIR OPERATING PERMITS	ACCOUNT NUMBER	BE0022P
	AIR OPERATING PERMITS	PERMIT	3267
	AIR OPERATING PERMITS	PERMIT	3267

Location: ON FM 798 APPROX. 6 MILES WEST OF THE INTERSECTION OF HWY 181 AND FM 798, TULSITA, TEXAS, 78146

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: July 08, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 08, 2004 to July 08, 2009

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

Name: Rebecca Johnson Phone: (361) 825-3420

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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/16/2005	(395928)
2	03/21/2006	(459460)
3	12/28/2006	(535188)
4	01/25/2008	(615905)
5	02/16/2009	(735463)
6	06/19/2009	(747499)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/21/2006	(459460)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.10(e)		
Description:	Failure to submit Emissions Inventory in a timely manner.		

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
KINDER MORGAN TEXAS PIPELINE
LLC
RN102735081

§
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§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0967-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 Kinder Morgan Texas Pipeline LLC ("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 gas processing plant on Farm-to-Market Road 798 approximately six miles west of the intersection of Highway 181 and Farm-to-Market Road 798 in Tulsita, Bee 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 June 24, 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 Eight Thousand Dollars (\$8,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent

has paid Six Thousand Four Hundred Dollars (\$6,400) of the administrative penalty and One Thousand Six Hundred Dollars (\$1,600) 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 recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. Submitted a permit application on February 13, 2009, and obtained Air Permit No. O-03267 on May 29, 2009; and
 - b. Submitted a deviation report and revised permit compliance certification on March 10, 2009 for the December 10, 2007 to June 9, 2008 deviation reporting period.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit a renewal application at least six months prior to the expiration of Air Permit No. O-0861 and obtain authorization to operate the emissions sources at the Plant after the permit expired on December 1, 2008, in violation of Air Permit No. O-0861, Site-Wide Requirements (b)(1), 30 TEX. ADMIN. CODE §§ 122.121, 122.241(b), 122.143(4), 122.501(f), and 122.505(c), and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during a record review conducted on May 27, 2009.
2. Failed to report permit deviations within 30 days after the end of the deviation reporting period, in violation of Air Permit No. O-0861, Site-Wide Requirements (b)(1), 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), (B), and (C), 122.146(5)(D), and TEX. HEALTH & SAFETY CODE §

382.085(b), as documented during a record review conducted on May 27, 2009. Specifically, permit deviations occurred during the December 10, 2007 to June 9, 2008 reporting period, however, a deviation report and revised permit compliance certification were not submitted until March 10, 2009.

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: Kinder Morgan Texas Pipeline LLC, Docket No. 2009-0967-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This 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.

Kinder Morgan Texas Pipeline LLC
 DOCKET NO. 2009-0967-AIR-E
 Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission

John Szallier
 For the Executive Director

11/13/2009
 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.

M. Dwayne Burton
 Signature

10-15-2009
 Date

M. Dwayne Burton
 Name (Printed or typed)
 Authorized Representative of
 Kinder Morgan Texas Pipeline LLC

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.