

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2009-0400-AIR-E TCEQ ID RN100209949 CASE NO. 37344**  
**RESPONDENT NAME: ONEOK HYDROCARBON SOUTHWEST, L.L.C.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

**SITE WHERE VIOLATION(S) OCCURRED:** 9900 Farm-to-Market Road 1942, Mont Belvieu, Chambers County

**TYPE OF OPERATION:** Natural gas liquids fractionation plant

**SMALL BUSINESS:**  Yes  No  N/A

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired January 4, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Ms. Kimberly Morales, Air Enforcement Section, MC R-12, (713) 422-8938

**TCEQ Regional Contact:** Mr. Manuel Bautista, Houston Regional Office, MC R-12, (713) 767-3678

**Respondent:** Mr. Brian T. Shatwell, Manager, Processing Operations, ONEOK Hydrocarbon Southwest, L.L.C.,  
P.O. Box 550, Mont Belvieu, Texas 77580-0550

**Respondent's Attorney:** Ms. Lydia Gonzalez Gromatzky, Beveridge & Diamond, PC, 98 San Jacinto Blvd., Suite 1420,  
Austin, TX 78701-4039

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> N/A</p> <p><b>Date of Investigation Relating to this Case:</b> August 11, 2008</p> <p><b>Date of NOE Relating to this Case:</b> March 13, 2009</p> <p><b>Background Facts:</b> The case was referred to the Litigation Division on June 24, 2009. Settlement was achieved and the agreed order was signed on December 16, 2009.</p> <p><b>Current Compliance Status:</b> No outstanding Technical Requirements.</p> <p><b>AIR:</b> Failed to prevent unauthorized emissions that were determined to be excessive. Specifically, unauthorized emissions of 148,731.31 pounds of volatile organic compounds were released during an emissions event (Incident No. 109369) that began on May 22, 2008, and lasted 383.5 hours [30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 3956B, Special Condition 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$160,000</p> <p><b>Total Deferred:</b> \$80,000  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input checked="" type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$80,000</p> <p>The Respondent paid \$80,000 of the administrative penalty. The remaining amount of \$80,000 shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> The violation involves unauthorized emissions from an excessive emissions event.</p> <p><b>Excessive Emissions Event Determination Factors:</b>  <u>May 22, 2008</u> – 30 TEX. ADMIN. CODE § 116.115(c):            Unauthorized emission of 148,731.31 pounds of volatile organic compounds were released during an emission event (Incident No. 109369) that began on May 22, 2008, and lasted 383.5 hours.</p>	<p><b>Corrective Action Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted a Corrective Action Plan (“CAP”) for the May 22, 2008, emission event, which was approved by the Houston Regional Office on July 7, 2009, and implemented the CAP in accordance with the approved schedule.</p> <p><b>Ordering Provision:</b></p> <p>The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

**Attachment A**  
**Docket Number: 2009-0400-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	ONEOK Hydrocarbon Southwest, L.L.C.
<b>Total Payable Penalty:</b>	One Hundred Sixty Thousand Dollars (\$160,000)

<b>Project 1 Penalty Amount:</b>	Eighty Thousand Dollars (\$80,000)
<b>Project 1 SEP Offset Amount:</b>	Forty Thousand Dollars (\$40,000)
<b>Project 1 Type of SEP:</b>	Pre-approved
<b>Project 1 Third-Party Recipient:</b>	Barbers Hill Independent School District <i>Barbers Hill Energy Efficiency Program</i>
<b>Project 1 Location of SEP:</b>	Chambers County

<b>Project 2 Penalty Amount:</b>	Eighty Thousand Dollars (\$80,000)
<b>Project 2 SEP Offset Amount:</b>	Forty Thousand Dollars (\$40,000)
<b>Project 2 Type of SEP:</b>	Pre-approved
<b>Project 2 Third-Party Recipient:</b>	Houston-Galveston Area Emission Reduction Credit Organization (“AERCO”) <i>Clean Cities/Clean Vehicles Program</i>
<b>Project 2 Location of SEP:</b>	Texas Air Quality Control Region 216

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to Supplemental Environmental Projects (“SEP”). The offset is equal to the SEP Offset Amounts set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A.1 Project 1 Description

The Respondent shall contribute the SEP Offset Amount for Project 1 to Barbers Hill Independent School District for the Barbers Hill Energy Efficiency Program. The contribution will be used in accordance with the Supplemental Environmental Project between Barbers Hill IDS and the Texas Commission on Environmental Quality. SEP monies will be used to perform energy efficiency upgrades on public buildings and infrastructure. Specifically, the SEP funds may only be used for: 1) the cost of conducting energy efficiency audits; 2) the incremental cost for construction or implementation of energy-efficiency upgrades; 3) the incremental cost of the purchase of more energy-efficient equipment or appliances; or 4) other direct costs authorized in advance by TCEQ.

The Respondent certifies that it has no prior commitment to contribute to this project and that it is being performed solely in an effort to settle this enforcement action.

#### A.2 Project 2 Description

Respondent shall contribute the SEP Offset Amount for Project 2 to the Houston-Galveston **AERCO** for the *Clean Cities/Clean Vehicles Program*. The SEP contribution will be used as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used to aid local school districts and area transit agencies, and may be used to reach local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP funds will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. SEP funds will be used for the costs of retrofitting or replacing older diesel buses with alternative fueled or clean fuel diesel buses. The older "high emission" buses will be permanently retired and sold only for scrap. This project will be administered in accordance with federal, state, and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to contribute to this project and that it is being performed solely in an effort to settle this enforcement action.

#### B.1 Project 1 Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing fuel and electricity usage for heating and cooling and other day-to-day operations. The reductions will reduce emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel and generation of electricity

#### B.2 Project 2 Environmental Benefit

Passengers, drivers, and students in the area where school buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors nitrogen oxides ("NOx") and hydrocarbons ("HC"), diesel exhaust is known to cause or exacerbate a number of respiratory diseases, including asthma. Due to the more stringent emissions standards introduced by the Environmental Protection Agency (EPA), model 2007 and newer buses are also cleaner in terms of particulate matter (PM) emissions than model year 2004 buses. New NOx and HC standards phased in between 2007 and 2010 will result in new school bus engines being 72% cleaner for HC and 90% cleaner for NOx than a bus produced to meet the 2004 federal standards for these pollutants.

This SEP will provide a discernible environmental benefit by retiring high-emission buses from service, purchasing newer, clean fuel technology buses, and replacing newer buses with fuel treatment technology that reduces PM and HC.

#### C. Minimum Expenditure – All Projects

The Respondent shall contribute at least the SEP Offset Amounts to the Third-Party Recipients and comply with all other provisions of this SEP.

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Offset Amounts to the Third-Party Recipients. The Respondent shall mail a copy of the Agreed Order with the contribution for Project 1 to:

Barbers Hill ISD  
Attention: John Johnson  
Carl R. Griffith & Associates  
2901 Turtle Creek Drive, Suite 101  
Port Arthur, TX 77642

And the Respondent shall mail a copy of the Agreed Order with the contribution for Project 2 to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, TX 77227-277

## **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amounts, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the checks and transmittal letters indicating full payment of the SEP Offset Amounts to the Third-Party Recipients. The Respondent shall mail a copy of the checks and transmittal letters to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amounts and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amounts.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality  
Page 3 of 4

Office of Legal Services  
Attention: SEP Coordinator, MC 175  
P.O. Box 13088  
Austin, Texas 78711-3088

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amounts identified in this Agreed Order have not been, and shall not be, included as SEPs for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	16-Mar-2009			
	<b>PCW</b>	15-Oct-2009	<b>Screening</b>	23-Mar-2009	<b>EPA Due</b> 8-Dec-2009

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	ONEOK Hydrocarbon Southwest, L.L.C.				
<b>Reg. Ent. Ref. No.</b>	RN100209949				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	37344	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2009-0400-AIR-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kimberly Morales		
		<b>EC's Team</b>	Enforcement Team 5		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$160,000</b>
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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.

<b>Compliance History</b>	<b>33.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$52,800</b>
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Notes: Penalty enhancement due to one NOV issued for same or similar violations, four NOVs issued for dissimilar violations, and one agreed order issued with a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$148
Approx. Cost of Compliance	\$2,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$212,800</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$212,800</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$160,000</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$160,000</b>
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**Screening Date** 23-Mar-2009

**Docket No.** 2009-0400-AIR-E

**PCW**

**Respondent** ONEOK Hydrocarbon Southwest, L.L.C.

*Policy Revision 2 (September 2002)*

**Case ID No.** 37344

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN100209949

**Media [Statute]** Air

**Enf. Coordinator** Kimberly Morales

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 33%

**>> 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 same or similar violations, four NOVs issued for dissimilar violations, and one agreed order issued with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 33%

**Screening Date** 23-Mar-2009 **Docket No.** 2009-0400-AIR-E **PCW**  
**Respondent** ONEOK Hydrocarbon Southwest, L.L.C. *Policy Revision 2 (September 2002)*  
**Case ID No.** 37344 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN100209949  
**Media [Statute]** Air  
**Enf. Coordinator** Kimberly Morales

**Violation Number** 1

**Rule Cite(s)**

30 Tex. Admin. Code § 116.115(c), New Source Review Permit No. 3956B, Special Condition 1 and Tex. Health & Safety Code § 382.085(b)

**Violation Description**

Failed to prevent unauthorized emissions that were determined to be excessive. Specifically, unauthorized emissions of 148,731.31 pounds of volatile organic compound were released during an emissions event (Incident No. 109369) that began on May 22, 2008 and lasted 383.5 hours. Since the emissions from this event were not minimized in amount or duration, but could have been, by isolating a faulty reboiler tube from the process in a timely manner, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	x				100%
Potential					

**>>Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of contaminants that exceeded protective levels as a result of the violation (fence line ambient air concentration of propane, iso-butane, n-butane, 1-pentane, n-pentane, hexane, and benzene exceeded the TCEQ one-hour short term Effects Screening Level).

**Adjustment** \$0

\$10,000

**Violation Events**

Number of Violation Events 16 16 Number of violation days

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

*mark only one with an x*

**Violation Base Penalty** \$160,000

Sixteen daily events are recommended for the 16 days over which the event occurred.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

	Before NOV	NOV to EDP/RRP Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$160,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$148

**Violation Final Penalty Total** \$212,800

**This violation Final Assessed Penalty (adjusted for limits)** \$160,000

## Economic Benefit Worksheet

**Respondent** ONEOK Hydrocarbon Southwest, L.L.C.

**Case ID No.** 37344

**Reg. Ent. Reference No.** RN100209949

**Media** Air

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	22-May-2008	15-Nov-2009	1.48	\$148	n/a	\$148

Notes for DELAYED costs

Estimated cost of isolating a faulty reboiler tube from the process in a timely manner. The date required is the date the event began. The final date is the date corrective actions are projected to be completed.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000

**TOTAL** \$148

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601669849 ONEOK Hydrocarbon Southwest, LLC Classification: AVERAGE Rating: 1.98  
Regulated Entity: RN100209949 MONT BELVIEU FRACTIONATOR Classification: AVERAGE Site Rating: 3.97

ID Number(s): AIR OPERATING PERMITS ACCOUNT NUMBER CI0005A  
AIR OPERATING PERMITS PERMIT 107  
INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXD054458773  
INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # (SWR) 30305  
AIR NEW SOURCE PERMITS PERMIT 3956  
AIR NEW SOURCE PERMITS PERMIT 3956B  
AIR NEW SOURCE PERMITS PERMIT 11843A  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER CI0005A  
AIR NEW SOURCE PERMITS REGISTRATION 84532  
AIR NEW SOURCE PERMITS REGISTRATION 86353  
AIR NEW SOURCE PERMITS AFS NUM 4807100004

Location: 9900 FM 1942, MONT BELVIEU, TX, 77580

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 19, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 19, 2004 to March 19, 2009

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

Name: Trina Grieco Phone: (210) 403-4006

## 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 of ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Koch Hydrocarbon Company  
Diamond-Koch LLP
4. If Yes, who was/were the prior owner(s)? ONEOK Hydrocarbon Southwest, LLC
5. When did the change(s) in ownership occur? 7/29/2005
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/28/2008

ADMINORDER 2007-1490-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)

Description: Failed to report an emission event timely.

Classification: Moderate

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

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 3956B SC 1 PERMIT

Description: Failure to prevent the release of unauthorized air contaminants emitted into the atmosphere.

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	12/09/2004	(335141)
2	12/09/2004	(336197)
3	12/09/2004	(336198)
4	12/09/2004	(336229)
5	12/20/2004	(341711)
6	01/19/2005	(333881)
7	03/09/2005	(372970)
8	07/15/2005	(397571)
9	07/25/2005	(401186)
10	10/08/2005	(567838)
11	11/18/2005	(435039)
12	12/30/2005	(440217)
13	05/19/2006	(463751)
14	05/26/2006	(461960)
15	05/26/2006	(462757)
16	05/26/2006	(462758)
17	06/07/2006	(457084)
18	08/30/2006	(480008)
19	09/11/2006	(464961)
20	10/31/2006	(515248)
21	11/29/2006	(532159)
22	01/25/2007	(512511)
23	08/03/2007	(543641)
24	08/29/2007	(571021)
25	10/25/2007	(572857)
26	01/17/2008	(599741)
27	08/07/2008	(685373)
28	08/20/2008	(636278)
29	12/11/2008	(721057)
30	01/22/2009	(723646)
31	01/28/2009	(723934)
32	03/13/2009	(683347)

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

1	Date: 01/19/2005	(333881)	CN601669849
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 115, SubChapter D 115.354(2)(C) 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter F 122.511(b)(2) 30 TAC Chapter 122, SubChapter F 122.511(c)(7) General Operating Permit No. O-00204 OP TECQ Air Permit No. 3956B, SC #15(F) PERMIT	
	Description:	Failure to monitor 3% of fugitive components at least quarterly since 2000 at the Mont Belvieu Fractionator.	

2

Date: 11/18/2005 (435039) CN601669849

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 335, SubChapter A 335.4(1)

Description: During the investigation releases of oil and/or chemicals from process units and equipment were noted.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failure to update notice of registration

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.5(a)(1)  
30 TAC Chapter 335, SubChapter A 335.5(a)(2)  
30 TAC Chapter 335, SubChapter A 335.8(a)(1)

Description: Failure to deed record and /or close or remediate an abandoned waste pile.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.69(d)(1)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)

Description: Failure to close a waste container.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(1)  
30 TAC Chapter 335, SubChapter A 335.10(b)(2)

Description: Failure to properly complete the manifest.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter Q 335.475(3)(A)

Description: Failure to implement source reduction and waste minimization plan.

3

Date: 06/06/2006 (457084) CN601669849

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
No. 3956B, SC 15F PERMIT  
No. O-00107, SC 11A OP

Description: Failure to remonitor a valve within 15 days of the day it was placed back into service.

4

Date: 08/03/2007 (543641) CN601669849

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
3956B, SC # 12 PERMIT  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-00107, SC # 11 OP  
O-00107, SC # 1A OP

Description: Failure to maintain a constant pilot flame for the flare.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(i)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
3956B, SC # 12 PERMIT  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-00107, SC # 11 OP  
O-00107, SC # 1A OP

Description: Failure to prevent flare visible emissions from exceeding five minutes in any consecutive two-hour period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
3956B, SC # 1 PERMIT  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-00107, SC # 11 OP

Description: Failure to prevent CO emissions from exceeding the MAERT (less than or equal to 3.98 lbs/hr) due to insufficient oxygen for Heater 1 (H-1) and for Heater 2 (H-2).  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 3956B, SC # 1 PERMIT  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 O-00107, SC # 11 OP

Description: Failure to prevent NOx emissions from exceeding the MAERT (less than or equal to 6.97 lbs/hr) due to excess oxygen for H-2.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 3956B, SC # 21B PERMIT  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 O-00107, SC # 11 OP

Description: Failure to provide timely replacement notification for Turbine # 21108.

5 Date: 08/20/2008 (636278) CN601669849  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 3956B, SC #13B PERMIT  
 3956B, SC #17E PERMIT  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT JJJ 60.632(a)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to seal open ended lines containing volatile organic compounds.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP O-00107 SC #1A OP

Description: Failure to maintain flow monitoring records for heaters 1&2 and all turbines(12).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(f)  
 5C THSC Chapter 382 382.085(b)  
 FOP O-00107 SC 6A OP

Description: Failure to maintain flow monitoring records for flare FL-1.

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  
ONEOK HYDROCARBON  
SOUTHWEST, L. L. C.  
RN100209949

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0400-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ONEOK Hydrocarbon Southwest, L.L.C. ("ONEOK") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and ONEOK, represented by Lydia Gonzalez Gromatzky of the law firm of Beveridge & Diamond PC, presented this agreement to the Commission.

ONEOK understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, ONEOK agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon ONEOK.

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. ONEOK operates a natural gas liquids fractionation plant at 9900 Farm-to-Market Road 1942 in Mont Belvieu, Chambers County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During a record review conducted on August 11, 2008, TCEQ Houston Regional Office staff documented that ONEOK failed to prevent unauthorized emissions that were determined to be excessive. Specifically, unauthorized emissions of 148,731.31 pounds of volatile organic compounds were released during an emissions event (Incident No. 109369) that began on May 22, 2008 and lasted 383.5 hours.
4. ONEOK received notice of the violation on or about March 18, 2009.
5. The Executive Director recognizes that ONEOK submitted a Corrective Action Plan ("CAP") for the May 22, 2008, emission event, which was approved by the Houston Regional Office on July 7, 2009, and implemented the CAP in accordance with the approved schedule.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, ONEOK is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, ONEOK failed to prevent unauthorized emissions that were determined to be excessive, in violation of 30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 3956B, Special Condition 1 and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against ONEOK for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of one hundred sixty thousand dollars (\$160,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. ONEOK has paid eighty thousand dollars (\$80,000.00) of the administrative penalty. Pursuant to TEX. WATER CODE § 7.067, eighty thousand dollars (\$80,000.00) of the administrative penalty shall be conditionally offset by ONEOK's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. ONEOK's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

## ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. ONEOK is assessed an administrative penalty in the amount of one hundred sixty thousand dollars (\$160,000.00) as set forth in Conclusion of Law No. 4 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and ONEOK's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.
2. ONEOK shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Conclusion of Law No. 4, eighty thousand dollars (\$80,000.00) of the assessed administrative penalty shall be offset with the condition that ONEOK implement the SEP defined in Attachment A, incorporated herein by reference. ONEOK's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. Administrative penalty payments for any portion of the administrative penalty not offset by a SEP or for any portion of the SEP deemed by the Executive Director as not complete shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: ONEOK Hydrocarbon Southwest, L.L.C.; Docket No. 2009-0400-AIR-E; Enforcement ID No. 37344" 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
4. The provisions of this Agreed Order shall apply to and be binding upon ONEOK. ONEOK is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to ONEOK if the Executive Director determines that ONEOK has not complied with one or more of the terms or conditions in this Agreed Order.

6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against ONEOK 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to ONEOK, or three days after the date on which the Commission mails notice of this Agreed Order to ONEOK, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Handwritten Signature]*

For the Executive Director

12/22/09

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of ONEOK Hydrocarbon Southwest, L.L.C. I represent that I am authorized to agree to the attached Agreed Order on behalf of ONEOK Hydrocarbon Southwest, L.L.C., and do agree to the specified terms and conditions. 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 in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on ONEOK's compliance history;
- Greater scrutiny of any permit applications submitted by ONEOK;
- 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 against ONEOK;
- Automatic referral to the Attorney General's Office of any future enforcement actions against ONEOK; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

*[Handwritten Signature]*  
Signature

12/16/09

Date

WESLEY J. CARSTENSEN  
Name (printed or typed)  
Authorized Representative  
ONEOK Hydrocarbon Southwest, L.L.C.



SENIOR V.P. - NGL OPERATIONS  
Title

Attachment A  
Docket Number: 2009-0400-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

<b>Respondent:</b>	ONEOK Hydrocarbon Southwest, L.L.C.
<b>Total Payable Penalty:</b>	One Hundred Sixty Thousand Dollars (\$160,000)

<b>Project 1 Penalty Amount:</b>	Eighty Thousand Dollars (\$80,000)
<b>Project 1 SEP Offset Amount:</b>	Forty Thousand Dollars (\$40,000)
<b>Project 1 Type of SEP:</b>	Pre-approved
<b>Project 1 Third-Party Recipient:</b>	Barbers Hill Independent School District <i>Barbers Hill Energy Efficiency Program</i>
<b>Project 1 Location of SEP:</b>	Chambers County

<b>Project 2 Penalty Amount:</b>	Eighty Thousand Dollars (\$80,000)
<b>Project 2 SEP Offset Amount:</b>	Forty Thousand Dollars (\$40,000)
<b>Project 2 Type of SEP:</b>	Pre-approved
<b>Project 2 Third-Party Recipient:</b>	Houston-Galveston Area Emission Reduction Credit Organization ("AERCO") <i>Clean Cities/Clean Vehicles Program</i>
<b>Project 2 Location of SEP:</b>	Texas Air Quality Control Region 216

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to Supplemental Environmental Projects ("SEP"). The offset is equal to the SEP Offset Amounts set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A.1 Project 1 Description

The Respondent shall contribute the SEP Offset Amount for Project 1 to Barbers Hill Independent School District for the Barbers Hill Energy Efficiency Program. The contribution will be used in accordance with the Supplemental Environmental Project between Barbers Hill IDS and the Texas Commission on Environmental Quality. SEP monies will be used to perform energy efficiency upgrades on public buildings and infrastructure. Specifically, the SEP funds may only be used for: 1) the cost of conducting energy efficiency audits; 2) the incremental cost for construction or implementation of energy-efficiency upgrades; 3) the incremental cost of

the purchase of more energy-efficient equipment or appliances; or 4) other direct costs authorized in advance by TCEQ.

The Respondent certifies that it has no prior commitment to contribute to this project and that it is being performed solely in an effort to settle this enforcement action.

#### A.2 Project 2 Description

Respondent shall contribute the SEP Offset Amount for Project 2 to the Houston-Galveston **AERCO** for the *Clean Cities/Clean Vehicles Program*. The SEP contribution will be used as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used to aid local school districts and area transit agencies, and may be used to reach local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP funds will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. SEP funds will be used for the costs of retrofitting or replacing older diesel buses with alternative fueled or clean fuel diesel buses. The older "high emission" buses will be permanently retired and sold only for scrap. This project will be administered in accordance with federal, state, and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to contribute to this project and that it is being performed solely in an effort to settle this enforcement action.

#### B.1 Project 1 Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing fuel and electricity usage for heating and cooling and other day-to-day operations. The reductions will reduce emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel and generation of electricity

#### B.2 Project 2 Environmental Benefit

Passengers, drivers, and students in the area where school buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors nitrogen oxides ("NOx") and hydrocarbons ("HC"), diesel exhaust is known to cause or exacerbate a number of respiratory diseases, including asthma. Due to the more stringent emissions standards introduced by the Environmental Protection Agency (EPA), model 2007 and newer buses are also cleaner in terms of particulate matter (PM) emissions than model year 2004 buses. New NOx and HC standards phased in between 2007 and 2010 will result in new school bus engines being 72% cleaner for HC and 90% cleaner for NOx than a bus produced to meet the 2004 federal standards for these pollutants.

This SEP will provide a discernible environmental benefit by retiring high-emission buses from service, purchasing newer, clean fuel technology buses, and replacing newer buses with fuel treatment technology that reduces PM and HC.

C. Minimum Expenditure – All Projects

The Respondent shall contribute at least the SEP Offset Amounts to the Third-Party Recipients and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Offset Amounts to the Third-Party Recipients. The Respondent shall mail a copy of the Agreed Order with the contribution for Project 1 to:

Barbers Hill ISD  
Attention: John Johnson  
Carl R. Griffith & Associates  
2901 Turtle Creek Drive, Suite 101  
Port Arthur, TX 77642

And the Respondent shall mail a copy of the Agreed Order with the contribution for Project 2 to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, TX 77227-277

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amounts, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the checks and transmittal letters indicating full payment of the SEP Offset Amounts to the Third-Party Recipients. The Respondent shall mail a copy of the checks and transmittal letters to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amounts and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amounts.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the

docket number of the case, and shall send it to:

Texas Commission on Environmental Quality  
Office of Legal Services  
Attention: SEP Coordinator, MC 175  
P.O. Box 13088  
Austin, Texas 78711-3088

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amounts identified in this Agreed Order have not been, and shall not be, included as SEPs for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.