

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1490-AIR-E RN100214022 CASE NO. 38354
RESPONDENT NAME: BELVAN CORP.

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 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: approximately 20 miles northwest of Ozona on US 190, six miles from the intersection of US 190 and State Highway 137, Crockett County

TYPE OF OPERATION: natural gas processing plant

SMALL BUSINESS: Yes No

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 September 27, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Anna Treadwell, Litigation Division, MC 175, (512) 239-0974
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Ms. Audra Benoit, Air Enforcement Section, MC R-10, (409) 899-8799

TCEQ Regional Contact: Mr. Christopher Mayben, P.G., San Angelo Regional Office, MC R-8, (325) 655-9479

Respondent: Mr. J.L. Davis, President, Belvan Corp. 211 North Colorado Street, Midland, Texas 79701

Respondent's Attorney: Mr. David J. Tuckfield, Attorney, Law Office of David J. Tuckfield, P.C., 12400 Highway 71 West, Suite 35-150, Austin, Texas 78738

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 9, 2009</p> <p>Date of NOE Relating to this Case: September 3, 2009</p> <p>Background Facts: The EDRP was filed on April 19, 2010. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on May 27, 2010.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>AIR:</p> <ol style="list-style-type: none"> Failed to prevent unauthorized emissions of 15,419 pounds (lbs) of sulfur dioxide, 164 lbs of hydrogen sulfide, 16 lbs of nitrogen oxide, and 135 lbs of carbon monoxide for 72 hours [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), and Air Permit No. 9824A, General Condition No. 8]. Failed to properly report an emissions event within 24 hours of discovery [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 101.201(a)]. 	<p>Total Assessed: \$7,650</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$7,650 Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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 Respondent performed the following corrective actions at the Plant:</p> <ol style="list-style-type: none"> On June 9, 2009, rebuilt the primary and secondary blowers, and installed additional bracing support to ensure stable operations for the volume of gas the blowers need to move; and On May 26, 2009, at 10:02 a.m., submitted the late emissions event report.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Sep-2009			
	PCW	20-May-2010	Screening	14-Sep-2009	EPA Due 11-Jun-2010

RESPONDENT/FACILITY INFORMATION	
Respondent	Belvan Corp.
Reg. Ent. Ref. No.	RN100214022
Facility/Site Region	8-San Angelo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38354	No. of Violations	2
Docket No.	2009-1490-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Audra Benoit
		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	\$5,100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	75.0% Enhancement	Subtotals 2, 3, & 7	\$3,825
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Notes	Penalty enhancement due to two same or similar NOVs, two orders containing denial of liability, one order without denial of liability.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,275
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$10	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,650
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$7,650
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,650
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$7,650
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Screening Date 14-Sep-2009

Docket No. 2009-1490-AIR-E

PCW

Respondent Belvan Corp.

Policy Revision 2 (September 2002)

Case ID No. 38354

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214022

Media [Statute] Air

Enf. Coordinator Audra Benoit

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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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) 75%

>> 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 two same or similar NOVs, two orders containing denial of liability, one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 75%

Screening Date	14-Sep-2009	Docket No.	2009-1490-AIR-E	PCW		
Respondent	Belvan Corp.	<i>Policy Revision 2 (September 2002)</i>				
Case ID No.	38354	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No.	RN100214022					
Media [Statute]	Air					
Enf. Coordinator	Audra Benoit					
Violation Number	1					
Rule Cite(s)	30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b), and Air Permit No. 9824A, General Condition 8					
Violation Description	Failed to prevent unauthorized emissions of 15,419 pounds ("lbs") of sulfur dioxide, 164 lbs of hydrogen sulfide, 16 lbs of nitrogen oxide and 135 lbs of carbon monoxide for 72 hours. Specifically, on May 25, 2009, Incident No. 124640 occurred as result of the sulfur recovery unit shutting down due to the site's process conditions requiring the primary and secondary blowers to displace more volume than they could handle, causing the thrust bearings in the blowers to fail and the blowers to shut down. Since the emissions event could have been avoided by utilizing properly designed blowers, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.					
	Base Penalty	\$10,000				
>> Environmental, Property and Human Health Matrix						
OR		Harm				
	Release	Major	Moderate	Minor		
	Actual		x		Percent 50%	
	Potential					
>>Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
						Percent 0%
Matrix Notes	Human health and the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.					
	Adjustment	\$5,000				
		\$5,000				
Violation Events						
	Number of Violation Events	1	3	Number of violation days		
		daily				
		weekly				
		monthly	x			
		quarterly				
		semiannual				
		annual				
		single event				
<i>mark only one with an x</i>					Violation Base Penalty \$5,000	
	One monthly event is recommended based on the emissions event that occurred on May 25-28, 2009.					
Good Faith Efforts to Comply						
		25.0%	Reduction	\$1,250		
		Before NOV	NOV to EDRP/Settlement			
	Extraordinary					
	Ordinary	x				
	N/A		(mark with x)			
	Notes	The Respondent completed corrective actions on June 9, 2009, prior to the September 3, 2009 NOE.				
	Violation Subtotal	\$3,750				
Economic Benefit (EB) for this violation						
	Estimated EB Amount	\$10				
Statutory Limit Test						
	Violation Final Penalty Total	\$7,500				
	This violation Final Assessed Penalty (adjusted for limits)	\$7,500				

Economic Benefit Worksheet

Respondent Belvan Corp.
Case ID No. 38354
Reg. Ent. Reference No. RN100214022
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	\$3,500	25-May-2009	9-Jun-2009	0.04	\$0	\$10	\$10
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to rebuild primary and secondary blowers, and install additional bracing support to ensure stable operations for the volume of gas the blowers need to move. The date required is the initial date of noncompliance. The final date is the date corrective actions were 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

\$3,500

TOTAL

\$10

Screening Date 14-Sep-2009 **Docket No.** 2009-1490-AIR-E **PCW**
Respondent Belvan Corp. *Policy Revision 2 (September 2002)*
Case ID No. 38354 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100214022
Media [Statute] Air
Enf. Coordinator Audra Benoit

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input type="text"/>	<input type="text"/>	
Matrix Notes	<input type="text" value="At least 70% of the rule requirement was met."/>				
Adjustment					<input type="text" value="\$9,900"/>

Violation Events

Number of Violation Events 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 type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)	
Notes	<input type="text" value="The Respondent completed corrective actions on May 26, 2009, prior to the September 3, 2009 NOE."/>		
Violation Subtotal			<input type="text" value="\$75"/>

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**
This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Belvan Corp.
Case ID No. 38354
Reg. Ent. Reference No. RN100214022
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
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	\$500	25-May-2009	26-May-2009	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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the late report. The date required is the date of the emission event. The final date is the date the 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

\$500

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600127187 Belvan Corp. Classification: AVERAGE Rating: 35.17
Regulated Entity: RN100214022 BELVAN MIDWAY LANE GAS PLANT Classification: POOR Site Rating: 99.50
ID Number(s): AIR OPERATING PERMITS ACCOUNT NUMBER CZ0006F
AIR OPERATING PERMITS PERMIT 326
AIR OPERATING PERMITS PERMIT 3149
AIR OPERATING PERMITS PERMIT 3149
AIR NEW SOURCE PERMITS PERMIT 9824A
AIR NEW SOURCE PERMITS PERMIT 39301
AIR NEW SOURCE PERMITS ACCOUNT NUMBER CZ0006F
AIR NEW SOURCE PERMITS PERMIT 51748
AIR NEW SOURCE PERMITS EPA ID PSDTX749
AIR NEW SOURCE PERMITS AFS NUM 4810500006
AIR EMISSIONS INVENTORY ACCOUNT NUMBER CZ0006F

Location: 20 mi NW of Ozona on US 190, six mi from intersection of US 190 and SH 137
TCEQ Region: REGION 08 - SAN ANGELO
Date Compliance History Prepared: September 10, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 10, 2004 to September 10, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Audra Benoit Phone: (409) 899-8799

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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 10/19/2006

ADMINORDER 2002-0898-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Part 60, Subpart KKK 60.632(a)

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

Rqmt Prov: GOP No. 514 OP

Description: Failure to conduct the fugitive emissions leak detection and repair program in accordance with New Source Performance Standard

(NSPS) Subpart KKK. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

30 TAC Chapter 116, SubChapter B 116.115(c) 40

CFR Part 60, Subpart LLL 60.642(b)

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

Rqmt Prov: GOP No. 514 OP

Description: Failure to comply with the required minimum sulfur dioxide emission reduction efficiency.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter W 106.512(2)(C)(iii)

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

Rqmt Prov: GOP No. 514 OP

Description: Failure to conduct an initial performance test within 60 days of the initial start-up of an engine.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

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

Rqmt Prov: GOP No. 514 OP

Description: Failure to maintain a daily flare operation log that denotes when the process flare was observed and whether or not it was smoking.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H)

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

Rqmt Prov: GOP No. 514 OP

Description: Failure to maintain all air pollution emission capture and abatement equipment in good working order.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

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

Rqmt Prov: GOP No. 514 OP

Description: Failure to report all instances of deviations for three six month reporting periods.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)

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

Rqmt Prov: GOP No. 514 OP

Description: Failure to submit a complete and accurate deviation report no later than 30 days after the end of the reporting period.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

5C THC Chapter 382, SubChapter D 382.085(b) Rqmt Prov: GOP No. 514 OP

Description: Failure to submit a compliance certification report no later than 30 days after the end of the certification period.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter F 122.503(a)(1)

30 TAC Chapter 122, SubChapter F 122.503(c)(2) 5C
THC Chapter 382, SubChapter D 382.085(b) Rqmt
Prov: GOP No. 514 OP

Description: Failure to submit a revised general operating permit (GOP) application prior to the operation of a change in applicability determinations at a site.

Effective Date: 09/22/2008

ADMINORDER 2007-1548-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit a 2006 annual emissions inventory update.

Effective Date: 03/23/2009

ADMINORDER 2008-1389-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
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 No. O-00326, Condition (b)(8) ORDER

Permit No. 9824A, Special Condition 2 PERMIT

Permit No. 9824A, Special Condition 3 PERMIT

Permit No. 9824A, Special Condition 6 PERMIT

Permit No. 9824A, Special Condition 7 PERMIT

Description: Failed to maintain records.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit No. 9824A, Special Condition 5 PERMIT

Description: Failed to monitor the pilot flame of the emergency flare, EPN 1, with a thermocouple or infrared monitor.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit No. 9824A, General Condition 8 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)
5C THSC Chapter 382 382.085(b)

Description: Failed to report a reportable emissions event within 24 hours after the discovery of the event (Incident No. 111569).

Classification: Moderate

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

Rqmt Prov: GOP No. O-00326 PERMIT

Description: Failed to report deviations.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	08/12/2005	(404790)
2	12/29/2005	(449977)
3	01/31/2007	(538646)
4	07/13/2007	(567631)
5	09/13/2007	(594150)
6	08/15/2008	(688291)
7	05/26/2009	(746807)
8	09/03/2009	(763885)

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

Date: 07/18/2007(567631)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit a 2006 annual emissions inventory update.

Date: 05/26/2009

(746807)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit a certification of compliance with the terms and conditions of the Title V permit no later than 30 days after the end of the annual compliance certification period

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BELVAN CORP.;
RN100214022**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1490-AIR-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Belvan Corp. (“Belvan”) 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 Belvan, represented by David Tuckfield of the Law Office of David J. Tuckfield, P.C., appear before the Commission and together stipulate that:

1. Belvan owns and operates a natural gas processing plant located approximately 20 miles northwest of Ozona, on U.S. Highway 190, six miles east of the intersection of U.S. Highway 190 and State Highway 137, Crockett County, Texas (the “Plant”). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Belvan agree that the Commission has jurisdiction to enter this Agreed Order, and that Belvan is subject to the Commission’s jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Belvan of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of seven thousand six hundred fifty dollars (\$7,650.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Belvan paid seven thousand six hundred fifty dollars (\$7,650.00) of the administrative penalty.

6. 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.
7. The Executive Director of the TCEQ and Belvan agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Belvan implemented the following corrective measures at the Plant:
 - a. Rebuilt the primary and secondary blowers, and installed additional bracing support to ensure stable operations for the volume of gas the blowers need to move on June 9, 2009; and
 - b. Submitted the late report on May 26, 2009, at 10:02 a.m.
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 Belvan 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

1. During an investigation conducted on July 9, 2009, a TCEQ San Angelo Regional Office investigator documented that Belvan violated:
 - a. TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), and Air Permit No. 9824A, General Condition No. 8, by failing to prevent unauthorized emissions of 15,419 pounds ("lbs") of sulfur dioxide, 164 lbs of hydrogen sulfide, 16 lbs of nitrogen oxide, and 135 lbs of carbon monoxide for 72 hours. Specifically, on May 25, 2009, Incident No. 124640 occurred as a result of the sulfur recovery unit shutting down due to the Plant's process conditions requiring the primary and secondary blowers to displace more volume than they could handle, causing the thrust bearings in the blowers to fail and the blowers to shut down. Since

the emissions event could have been avoided by utilizing properly designed blowers, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

- b. TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 101.201(a), by failing to properly report an emissions event within 24 hours of discovery. Specifically, Incident 124640 was discovered on May 25, 2009, at 5:00 a.m. and the initial report was due to be reported by May 26, 2009, at 5:00 a.m. Belvan did not submit the initial report until 10:02 a.m. on May 26, 2009.
2. Belvan received notice of the violations on or about September 8, 2009.

III. DENIALS

Belvan generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Belvan pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Belvan’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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Belvan Corp., Docket No. 2009-1490-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 Belvan.
3. This Agreed Order, issued by the Commission, shall not be admissible against Belvan 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.

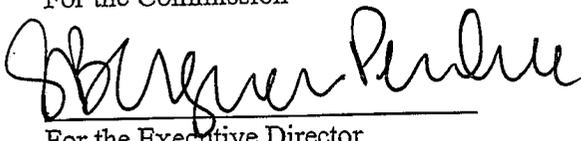
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to Belvan, or three days after the date on which the Commission mails notice of this Agreed Order to Belvan, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/24/2010

Date.

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 Belvan's compliance history;
- Greater scrutiny of any permit applications submitted by Belvan;
- 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 Belvan;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Belvan; 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

Signature

J. L. Davis
Name (Printed or typed)
Authorized representative of
Belvan Corp.

Date

Title

5-27-10

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