

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0679-AIR-E **TCEQ ID:** RN105790158 **CASE NO.:** 39588
RESPONDENT NAME: Cimarex Energy Co.

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: Cimarex Energy Company Two Sisters Facility, 2613 North Major Drive, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Oil and gas production facilities</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: Four complaints were received on January 15, 22, and 26, and February 17, 2010, regarding the large flame on a gas flare, a smoking flare, a rotten egg odor in the complainant's neighborhood, and a gas flare continuously operating. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: Complaints were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 20, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Rick White, Region Production Manager, Cimarex Energy Co., 15 East 5th Street, Suite 1000, Tulsa, Oklahoma 74103 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 15, 22, and 26, and February 17, 2010</p> <p>Date of Investigation Relating to this Case: January 20 through February 18, 2010</p> <p>Date of NOV/NOE Relating to this Case: April 19, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failed to obtain authorization prior to the construction and operation of a facility. Specifically, the Respondent failed to obtain authorization prior to constructing and operating the Two Sisters No. 1 and the Amazon Queen No. 1 gas wells. Construction of Two Sisters No. 1 began June 9, 2009 and a standard permit was issued September 9, 2009; construction of Amazon Queen No. 1 began December 24, 2009, and a Permit by Rule ("PBR") authorization for both wells was obtained on March 5, 2010 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> <p>2) Failed to properly maintain a flare operation log. Specifically, the Respondent failed to document that the Two Sisters Facility Flare was observed for the period of July 1, 2009 through January 28, 2010 [30 TEX. ADMIN. CODE § 111.111(a)(4)(A)(ii) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to maintain a copy of the standard permit at the Two Sisters Facility available for review [30 TEX. ADMIN. CODE § 116.615(8) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$6,536</p> <p>Total Deferred: \$1,307 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,614</p> <p>Total Paid (Due) to General Revenue: \$2,615</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent:</p> <p>a. Obtained authorization to operate both gas wells on March 5, 2010 under PBR No. 91923;</p> <p>b. Began keeping a permit on-site for the Plant on March 5, 2010; and</p> <p>c. Began maintaining a flare log on January 28, 2010.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement measures designed to prevent visible emissions from the flare; and</p> <p>ii. Implement measures designed to ensure the proper notification prior to the commencement of operations.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a.</p>

<p>4) Failed to prevent visible emissions from the flare for greater than five minutes in a two hour period. Specifically, by utilizing Method 22 to determine visible emissions, investigators observed 13 consecutive minutes of visible emissions on February 1, 2010 and 14 consecutive minutes of visible emissions on April 13, 2010 from the Two Sisters Facility Flare [30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A) and 116.620(a)(12) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5) Failed to provide notification prior to the commencement of operations. Specifically, the Two Sisters Facility began operations on July 1, 2009, and the Amazon Queen Facility began operations on January 12, 2010, prior to providing notification of the commencement of operations [30 TEX. ADMIN. CODE § 116.615(5)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): 90297

Attachment A
Docket Number: 2010-0679-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Cimarex Energy Co.

Payable Penalty Amount: Five Thousand Two Hundred Twenty-Nine Dollars
(\$5,229)

SEP Amount: Two Thousand Six Hundred Fourteen Dollars
(\$2,614)

Type of SEP: Pre-approved

Third-Party Recipient: Southeast Texas Regional Planning Commission -
Southeast Texas Regional Air Monitoring Network
Ambient Air Monitoring Station

Location of SEP: Jefferson County

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 a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP amount to the Third-Party Recipient named above. The contribution will be to the Southeast Texas Regional Planning Commission to be used for the Southeast Texas Regional Air Monitoring Network Ambient Air Monitoring Station as set forth in agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to install, operate, and maintain a stationary ambient air monitoring station in the vicinity of Memorial High School Ninth Grade Campus. The station will employ canister sampling, a hydrocarbon analyzer, and/or a chromatograph. Ancillary equipment will include a sample conditioning system, a ten meter meteorological tower, a climate controlled equipment shelter, a remote communications system, and will have electronic data logging capabilities. The station will continuously sample and analyze the ambient air for a wide range of hydrocarbon species in accordance with Environmental Protection Agency's recommended "TO-14" list. SEP monies will be used for the cost of purchasing, installing, operating, and maintaining the air monitoring station along with its ancillary equipment.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by offering continuous assessment of ambient air quality in a sensitive area of Port Arthur that is not currently covered by existing ambient air monitoring stations. Monitoring this area of the community will help the TCEQ and local government to better respond to citizens' questions about public health as they relate to air quality and will enable TCEQ to identify emission sources.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient 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 must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Southeast Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
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 amount 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 amount.

Cimarex Energy Co.
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

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 identified in this Agreed Order has not been, and shall not be, included as an SEP 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

DATES	Assigned	26-Apr-2010	Screening	29-Apr-2010	EPA Due	
	PCW	27-Apr-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Cimarex Energy Co.		
Reg. Ent. Ref. No.	RN105790158		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39588	No. of Violations	5
Docket No.	2010-0679-AJR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Muennink
		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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 29-Apr-2010

Docket No. 2010-0679-AIR-E

PCW

Respondent Cimarex Energy Co.

Policy Revision 2 (September 2002)

Case ID No. 39588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105790158

Media [Statute] Air

Enf. Coordinator John Muennink

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 29-Apr-2010

Docket No. 2010-0679-AIR-E

PCW

Respondent Cimarex Energy Co.

Policy Revision 2 (September 2002)

Case ID No. 39588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105790158

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain authorization prior to the construction and operation of a facility. Specifically, the Respondent failed to obtain authorization prior to constructing and operating the Two Sisters No. 1 and the Amazon Queen No. 1 gas wells. Construction of Two Sisters No. 1 began June 9, 2009 and a standard permit was issued September 9, 2009; construction of Amazon Queen No. 1 began December 24, 2009, and a Permit by Rule ("PBR") authorization for both wells was obtained on March 5, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 162

Table for event frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$2,000

Two quarterly events are recommended based on June 9, 2009 to September 9, 2009 and December 24, 2009 to March 5, 2010.

Good Faith Efforts to Comply

25.0% Reduction \$500

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (mark with x).

Notes The Respondent completed corrective measures on March 5, 2010, prior to the April 19, 2010 NOE.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$74

Statutory Limit Test

Violation Final Penalty Total \$1,634

This violation Final Assessed Penalty (adjusted for limits) \$1,634

Economic Benefit Worksheet

Respondent Cimarex Energy Co.
Case ID No. 39588
Reg. Ent. Reference No. RN105790158
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	\$2,000	9-Jun-2009	5-Mar-2010	0.74	\$74	n/a	\$74
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to obtain PBR authorization. The Date Required is the date that construction started on the facility. The Final Date is the date that authorization was obtained.

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

\$74

Screening Date 29-Apr-2010

Docket No. 2010-0679-AIR-E

PCW

Respondent Cimarex Energy Co.

Policy Revision 2 (September 2002)

Case ID No. 39588

PCW Revision October 30, 2000

Reg. Ent. Reference No. RN105790158

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 111.111(a)(4)(A)(II) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly maintain a flare operation log. Specifically, the Respondent failed to document that the Two Sisters Facility Flare was observed for the period of July 1, 2009 through January 28, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

212 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on the missing records.

Good Faith Efforts to Comply

25.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent completed corrective measures on January 28, 2010, prior to the April 19, 2010 NOE.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$817

This violation Final Assessed Penalty (adjusted for limits) \$817

Economic Benefit Worksheet

Respondent Cimarex Energy Co.
Case ID No. 39588
Reg. Ent. Reference No. RN105790158
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	\$1,500	1-Jul-2009	28-Jan-2010	0.58	\$43	n/a	\$43
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 expense to maintain a dally flare log. The Date Required is the date that operations began. The Final Date is the date that the Respondent started to maintain the daily log.

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
 (Empty box for notes)

Approx. Cost of Compliance	\$1,500	TOTAL	\$43
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Screening Date 29-Apr-2010

Docket No. 2010-0679-AIR-E

PCW

Respondent Cimarex Energy Co.

Policy Revision 2 (September 2002)

Case ID No. 39688

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105790158

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 116.615(8) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain a copy of the standard permit at the Two Sisters Facility available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

Before NOV NOV to EDCRP/Saltlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent completed corrective measures on March 5, 2010, prior to the April 19, 2010 NOE date.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$817

This violation Final Assessed Penalty (adjusted for limits) \$817

Economic Benefit Worksheet

Respondent Cimarex Energy Co.
Case ID No. 39588
Reg. Ent. Reference No. RN105790158
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$250	20-Jan-2010	5-Mar-2010	0.12	\$2	n/a	\$2
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 expense to maintain a copy of the applicable permit on-site and available upon request. The Date Required is the date of the investigation. The Final Date is the date that a permit started being kept on-site.

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

\$250

TOTAL

\$2

Screening Date 29-Apr-2010

Docket No. 2010-0679-AIR-E

PCW

Respondent Cimarex Energy Co.

Policy Revision 2 (September 2002)

Case ID No. 39588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105790158

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 111.111(a)(4)(A) and 116.620(a)(12) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent visible emissions from the flare for greater than five minutes in a two hour period. Specifically, by utilizing Method 22 to determine visible emissions, investigators observed 13 consecutive minutes of visible emissions on February 1, 2010 and 14 consecutive minutes of visible emissions on April 13, 2010 from the Two Sisters Facility Flare.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 2

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
single event		

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$1,089

This violation Final Assessed Penalty (adjusted for limits) \$1,089

Economic Benefit Worksheet

Respondent Cimarex Energy Co.
Case ID No. 39588
Reg. Ent. Reference No. RN105790158
Media Air
Violation No. 4

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				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	1-Feb-2010	31-Oct-2010	0.75	\$37	n/a	\$37

Notes for DELAYED costs

Estimated expense to implement measures designed to ensure that visible emissions do not exceed five consecutive minutes during a two hour period. The Date Required is the first date that visible emissions were observed. The Final Date is the date that corrective measures are estimated to be completed.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$1,000

TOTAL

\$37

Screening Date 29-Apr-2010

Docket No. 2010-0679-AIR-E

PCW

Respondent Cimarex Energy Co.

Policy Revision 2 (September 2002)

Case ID No. 39588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105790158

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 116.615(5)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to provide notification prior to the commencement of operations. Specifically, the Two Sisters Facility began operations on July 1, 2009, and the Amazon Queen Facility began operations on January 12, 2010, prior to providing notification of the commencement of operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 2

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,000

Two single events are recommended based on the two notifications that were not submitted.

Good Faith Efforts to Comply

	Reduction	
	Before NOV	NOV to EDCRP/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 \$2,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$603

Statutory Limit Test

Violation Final Penalty Total \$2,179

This violation Final Assessed Penalty (adjusted for limits) \$2,179

Economic Benefit Worksheet

Respondent Cimarex Energy Co.
Case ID No. 39588
Reg. Ent. Reference No. RN106790158
Media Air
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,000	1-Jul-2009	31-Oct-2010	1.33	\$67	n/a	\$67

Notes for DELAYED costs

Estimated expense to implement measures designed to ensure the proper notification prior to a unit start-up. The Date Required is when the first initial notification was due. The Final Date is the date that corrective measures are estimated to be completed.

Avoided Costs

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$500	1-Jul-2009	12-Jan-2010	1.45	\$36	\$500	\$536
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost associated to not submitting an initial notification for both gas wells prior to start-up. The Date Required is the first date that operations began and when the notification should have been submitted. The Final Date is the date that the second notification of start-up should have been submitted.

Approx. Cost of Compliance

\$1,500

TOTAL

\$603

Compliance History Report

Customer/Respondent/Owner-Operator: CN601706302 Cimarex Energy Co. Classification: AVERAGE Rating: 5.57
Regulated Entity: RN105790158 CIMAREX ENERGY COMPANY TWO Classification: AVERAGE Site Rating: 3.01
SISTERS FACILITY BY DEFAULT

ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 91923
Location: 2613 NORTH MAJOR DRIVE
TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: April 27, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 27, 2005 to April 27, 2010

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

Name: jmuennin Phone: (361) 825-3100

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.
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.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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
CIMAREX ENERGY CO.
RN105790158

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0679-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 Cimarex Energy Co. ("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 two oil and gas production facilities at 2613 North Major Drive in Beaumont, Jefferson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 24, 2010.
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 Six Thousand Five Hundred Thirty-Six Dollars (\$6,536) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Six Hundred Fifteen

Dollars (\$2,615) of the administrative penalty and One Thousand Three Hundred Seven Dollars (\$1,307) 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. Two Thousand Six Hundred Fourteen Dollars (\$2,614) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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:
 - a. Obtained authorization to operate both gas wells on March 5, 2010 under Permit by Rule ("PBR") No. 91923;
 - b. Began keeping a permit on-site for the Plant on March 5, 2010; and
 - c. Began maintaining a flare log on January 28, 2010.
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 obtain authorization prior to the construction and operation of a facility, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted January 20 through February 18, 2010. Specifically, the Respondent failed to obtain authorization prior to constructing and operating the Two Sisters No. 1 and the Amazon Queen No. 1 gas wells. Construction of Two Sisters No. 1 began June 9, 2009 and a standard permit was issued September 9, 2009; construction of Amazon Queen No. 1 began December 24, 2009, and a PBR authorization for both wells was obtained on March 5, 2010.

2. Failed to properly maintain a flare operation log, in violation of 30 TEX. ADMIN. CODE § 111.111(a)(4)(A)(ii) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted January 20 through February 18, 2010. Specifically, the Respondent failed to document that the Two Sisters Facility Flare was observed for the period of July 1, 2009 through January 28, 2010.
3. Failed to maintain a copy of the standard permit at the Two Sisters Facility available for review, in violation of 30 TEX. ADMIN. CODE § 116.615(8) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted January 20 through February 18, 2010.
4. Failed to prevent visible emissions from the flare for greater than five minutes in a two hour period, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A) and 116.620(a)(12) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted January 20 through February 18, 2010. Specifically, by utilizing Method 22 to determine visible emissions, investigators observed 13 consecutive minutes of visible emissions on February 1, 2010 and 14 consecutive minutes of visible emissions on April 13, 2010 from the Two Sisters Facility Flare.
5. Failed to provide notification prior to the commencement of operations, in violation of 30 TEX. ADMIN. CODE § 116.615(5)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted January 20 through February 18, 2010. Specifically, the Two Sisters Facility began operations on July 1, 2009, and the Amazon Queen Facility began operations on January 12, 2010, prior to providing notification of the commencement of operations.

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: Cimarex Energy Co., Docket No. 2010-0679-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Six Hundred Fourteen Dollars (\$2,614) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent'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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement measures designed to prevent visible emissions from the flare, in accordance with 30 TEX. ADMIN. CODE § 111.111(a)(4)(A);
 - ii. Implement measures designed to ensure the proper notification prior to the commencement of operations, in accordance with 30 TEX. ADMIN. CODE § 116.615(5)(A); and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a.

The certification shall be notarized by a State of Texas Notary Public and contain the following language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. 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.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
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 under this Agreed Order.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

J. Du Srobin
For the Executive Director

10/7/2010
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.

Rick White
Signature

7/22/10
Date

Rick White
Name (Printed or typed)
Authorized Representative of
Cimarex Energy Co.

Region Production Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2010-0679-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Cimarex Energy Co.

Payable Penalty Amount: Five Thousand Two Hundred Twenty-Nine Dollars
(\$5,229)

SEP Amount: Two Thousand Six Hundred Fourteen Dollars
(\$2,614)

Type of SEP: Pre-approved

Third-Party Recipient: Southeast Texas Regional Planning Commission -
Southeast Texas Regional Air Monitoring Network
Ambient Air Monitoring Station

Location of SEP: Jefferson County

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 a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP amount to the Third-Party Recipient named above. The contribution will be to the Southeast Texas Regional Planning Commission to be used for the Southeast Texas Regional Air Monitoring Network Ambient Air Monitoring Station as set forth in agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to install, operate, and maintain a stationary ambient air monitoring station in the vicinity of Memorial High School Ninth Grade Campus. The station will employ canister sampling, a hydrocarbon analyzer, and/or a chromatograph. Ancillary equipment will include a sample conditioning system, a ten meter meteorological tower, a climate controlled equipment shelter, a remote communications system, and will have electronic data logging capabilities. The station will continuously sample and analyze the ambient air for a wide range of hydrocarbon species in accordance with Environmental Protection Agency's recommended "TO-14" list. SEP monies will be used for the cost of purchasing, installing, operating, and maintaining the air monitoring station along with its ancillary equipment.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by offering continuous assessment of ambient air quality in a sensitive area of Port Arthur that is not currently covered by existing ambient air monitoring stations. Monitoring this area of the community will help the TCEQ and local government to better respond to citizens' questions about public health as they relate to air quality and will enable TCEQ to identify emission sources.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient 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 must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Southeast Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
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 amount 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 amount.

Cimarex Energy Co.
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

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

