

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-0700-AIR-E **TCEQ ID:** RN100211846 **CASE NO.:** 39602  
**RESPONDENT NAME:** Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Wilshire Treating Facility, 1000 Road 305, Crane, Upton County</p> <p><b>TYPE OF OPERATION:</b> Natural gas gathering pipeline network</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 11, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Gena Hawkins, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2583; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Robert Stewart, Environmental Coordinator, Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture, 211 North Colorado Street, Midland, Texas 79701                      Mr. J.L. Davis, Director and President, Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture, 211 North Colorado Street, Midland, Texas 79701  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 6, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 12, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failed to submit the annual permit compliance certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the December 3, 2008 through December 2, 2009 period was due on January 1, 2010, but was not submitted until February 18, 2010, which was 48 days late [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-00945/Oil and Gas General Operating Permit No. 514, Site-wide requirements (b)(2)].</p>	<p><b>Total Assessed:</b> \$3,175</p> <p><b>Total Deferred:</b> \$635  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,540</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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement procedures designed to ensure the annual PCC is submitted no later than 30 days after the end of the certification period; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): Air Account No. UB0002K



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	19-Apr-2010	<b>PCW</b>	4-May-2010	<b>Screening</b>	26-Apr-2010	<b>EPA Due</b>	7-Jan-2011
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## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture		
<b>Reg. Ent. Ref. No.</b>	RN100211846		
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	39602	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-0700-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Gena Hawkins
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000
		<b>EC's Team</b>	Enforcement Team 4

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 27.0% Enhancement **Subtotals 2, 3, & 7** **\$675**

**Notes** Enhancement for two previous NOVs with same or similar violations and one 1660-style Agreed Order. Penalty reduction due to one Notice of Intended Audit and one Disclosure of Violation.

**Culpability** No 0.0% Enhancement **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** 0.0% Enhancement **Subtotal 6** **\$0**

Total EB Amounts \$37  
 Approx. Cost of Compliance \$1,000 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,175**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$3,175**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$3,175**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$635**

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

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$2,540**

Screening Date: 26-Apr-2010

Docket No. 2010-0700-AIR-E

PCW

Respondent: Benedum Gas Partners, L.P. dba WGT Benedum Joint V

Policy Revision 2 (September 2002)

Case ID No: 39602

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100211846

Media [Statute] Air

Enf. Coordinator: Gena Hawkins

### 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)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> 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

Enhancement for two previous NOVs with same or similar violations and one 1660-style Agreed Order. Penalty reduction due to one Notice of Intended Audit and one Disclosure of Violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 26-Apr-2010

Docket No. 2010-0700-AIR-E

PCW

Respondent Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture

Policy Revision 2 (September 2002)

Case ID No. 39602

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100211846

Media [Statute] Air

Enf. Coordinator: Gena Hawkins

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-00945/Oil and Gas General Operating Permit No. 514, Site-wide requirements (b)(2)

Violation Description Failed to submit the annual permit compliance certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the December 3, 2008 through December 2, 2009 period was due on January 1, 2010, but was not submitted until February 18, 2010, which was 48 days late.

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 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

48 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended, based on the one report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$3,175

This violation Final Assessed Penalty (adjusted for limits) \$3,175

# Economic Benefit Worksheet

**Respondent:** Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture

**Case ID No.:** 39602

**Reg. Ent. Reference No.:** RN100211846

**Media:** Air

**Violation No.:** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	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	\$1,000	1-Jan-2010	1-Oct-2010	0.75	\$37	n/a	\$37
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 costs to improve the record keeping/reporting system. The Date Required is the date the report was due, and the Final Date is the date the improvements are expected 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

\$1,000

**TOTAL**

\$37

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN803198912	Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture	Classification: AVERAGE	Rating: 5.31
Regulated Entity:	RN100211846	WILSHIRE TREATING FACILITY	Classification: AVERAGE	Site Rating: 14.18
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	UB0002K	
	AIR OPERATING PERMITS	PERMIT	945	
	AIR NEW SOURCE PERMITS	PERMIT	17659	
	AIR NEW SOURCE PERMITS	PERMIT	18217	
	AIR NEW SOURCE PERMITS	REGISTRATION	47229	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	UB0002K	
	AIR NEW SOURCE PERMITS	REGISTRATION	51524	
	AIR NEW SOURCE PERMITS	REGISTRATION	51525	
	AIR NEW SOURCE PERMITS	AFS NUM	4846100003	
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	UB0002K	
Location:	1000 ROAD 305, CRANE, TX, 79731			
TCEQ Region:	REGION 07 - MIDLAND			
Date Compliance History Prepared:	April 26, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 26, 2005 to April 26, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Gena Hawkins	Phone:	(512) 239 - 2583	

## 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? Yes
3. If Yes, who is the current owner/operator?
 

OWNOPR	ASSUMED NAME FOR THREE DIFFERENT ORGS
OWNOPR	Upton Gas GP, Inc.
OWNOPR	Benedum Gas Partners, L.P.
OWNOPR	
4. If Yes, who was/were the prior owner(s)/operator(s) ?
 

OWNOPR	Enogex Products Corporation
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5. When did the change(s) in owner or operator occur?
 

05/05/2005	OWNOPR	Enogex Products Corporation
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6. Rating Date: 9/1/2009 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:	06/29/2007	ADMINORDER	2006-1632-AIR-E
Classification:	Minor		
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a) 30 TAC Chapter 101, SubChapter F 101.201(b) 30 TAC Chapter 101, SubChapter F 101.201(c) 5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failure to timely complete and submit accurate initial and/or final reports for 23 emission events that occurred between February 4, 2005, and July 11, 2005.		
Classification:	Minor		
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to prevent 21 unauthorized emissions from entering the atmosphere that occurred between February 4, 2005 and December 8, 2005.		
Classification:	Major		
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failed to prevent unauthorized emissions from entering the atmosphere that occurred between March 24, 2005 until April 5, 2005.		
Classification:	Moderate		
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to prevent 3 unauthorized emissions from entering the atmosphere from May 1, 2005 until May 4, 2006, from May 25, 2005 until May 26, 2005 and from July 10, 2005 until July 11, 2005.		
- 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 05/02/2005 (347230)  
 2 06/14/2006 (380311)  
 3 07/28/2006 (488603)  
 4 09/25/2006 (513689)  
 5 02/01/2007 (538277)  
 6 06/26/2007 (562193)  
 7 11/01/2007 (599564)  
 8 04/02/2008 (618960)  
 9 07/13/2009 (747661)  
 10 07/16/2009 (761285)  
 11 09/17/2009 (775964)  
 12 09/29/2009 (778941)  
 13 04/13/2010 (798791)

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

Date: 07/16/2009 (761285) CN603198912  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
 30 TAC Chapter 122, SubChapter B 122.146(2)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to comply with the reporting requirements of 30 TAC 122.145(2)(C) regarding the late deviation report and 30 TAC 122.146(2) regarding the late permit compliance certification.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to comply with 30 TAC 122.145(2)(A) - The permit holder shall report, in writing, to the executive director all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit. As noted in the flare observation log, visual emissions were observed on May 7, 8, 9, 10, 11, 24 and on June 18 and 19, 2008. These visible emissions were not listed as deviations on the deviation reports.

Date: 04/12/2010 (798791) CN603198912  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to report instances of visible emissions emanating from the flare as deviations on the deviation report is a violation of 30 TAC 122.145(2)(A). Specifically, visible emissions were documented on December 6, 2008 and were not included on the deviation report.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit the second semi-annual deviation report no later than 30 days after the end of the reporting period is an alleged violation of 30 TAC 122.145(2)(C).

F. Environmental audits.

Notice of Intent Date: 03/03/2006 (459599)  
 Disclosure Date: 08/31/2006  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
 Description: Failure to conduct daily flare observations and record findings in an observation log.

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  
BENEDUM GAS PARTNERS, L.P.  
DBA WTG BENEDUM JOINT  
VENTURE  
RN100211846

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2010-0700-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 Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a natural gas gathering pipeline network at 1000 Road 305 in Crane, Upton 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 17, 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 Three Thousand One Hundred Seventy-Five Dollars (\$3,175) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Five Hundred Forty Dollars (\$2,540) of the administrative penalty and Six Hundred Thirty-Five Dollars (\$635) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to submit the annual permit compliance certification ("PCC") within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-00945/Oil and Gas General Operating Permit No. 514, Site-wide requirements (b)(2), as documented during an investigation conducted on April 6, 2010. Specifically, the PCC for the December 3, 2008 through December 2, 2009 period was due on January 1, 2010, but was not submitted until February 18, 2010, which was 48 days late.

## 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: Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture, Docket No. 2010-0700-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement procedures designed to ensure the annual PCC is submitted no later than 30 days after the end of the certification period; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification 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:

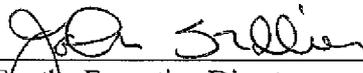
Air Section, Manager  
Midland Regional Office  
Texas Commission on Environmental Quality  
3300 North A Street, Building 4, Suite 107  
Midland, Texas 79705-5404

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 9/28/2010

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.

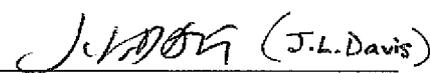
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

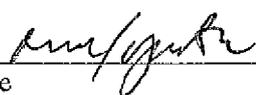
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement 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.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Benedum Gas Partners, L.P. dba WTG Benedum Joint Venture

  
\_\_\_\_\_  
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.

