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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0457-AIR-E **TCEQ ID:** RN100214931 **CASE NO.:** 39367
RESPONDENT NAME: Maximus Coffee Group, LP

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: Maximus Coffee Group, 3900 Harrisburg Boulevard, Houston, Harris County</p> <p>TYPE OF OPERATION: Coffee processing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 23, 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: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. David S. Geis, Technical Services Manager, Maximus Coffee Group, LP, 3900 Harrisburg Boulevard, Houston, Texas 77003 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 16, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 10, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>AIR</p> <p>1) Failure to maintain particulate matter ("PM") emissions below the permitted limits for Emissions Point Number ("EPN") 104A. Specifically, the 2007 Emissions Inventory ("EI") submitted showed that the Respondent had exceeded the Maximum Allowable Emission Rate Table ("MAERT") limit for PM of 0.04 tons per year ("tpy") by 0.046 tons in 2007 [30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 17723, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O-01018, Special Terms and Conditions 5 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain PM emissions and sulfur dioxide ("SO2") emissions below the permitted limits for EPN 404 of 6.79 tpy for PM and 0.54 tpy for SO2. Specifically, the 2007 EI submitted showed that the Respondent exceeded the tpy MAERT limit for PM by 1.44 tons and the SO2 tpy limit was exceeded by 7.88 tons [30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 56398, Special Conditions No. 1, FOP No. O-01018, Special Terms and Conditions 5 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to report exceedance of emission limits for PM and SO2 in the deviation reports submitted for the compliance period of February 1, 2008 through January 31, 2009 [30 TEX. ADMIN. CODE § 122.143(4)].</p>	<p>Total Assessed: \$8,560</p> <p>Total Deferred: \$1,712 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,424</p> <p>Total Paid to General Revenue: \$3,424</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on April 8, 2010, the Respondent submitted a report containing the missing deviations to the TCEQ Region 12 Office, and implemented procedures and training to ensure that all future deviations are reported in a timely manner.</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, either implement procedures to ensure that EPNs 104A and 404 are operated within the current permitted emission limits or submit permit amendment applications to ensure that the current permitted PM rate for EPN 104A in Air Permit No. 17723 and PM and SO2 rates for EPN 404 in Air Permit No. 56398 are revised to authorize the amount of emissions being currently released by them;</p> <p>b. If a permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application within 30 days after the date of such requests, or by any other deadline specified in writing;</p> <p>c. If procedures are implemented, then within 45 days after the effective date of this Agreed Order, submit written certification with detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision a.; or</p> <p>d. If a permit amendment is submitted, then within 270 days after the effective</p>

122.145(2)(A), FOP No. O-01018, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].		date of this Agreed Order, submit written certification that either a permit amendment has been obtained or that operation has ceased until such a time that appropriate authorization is obtained.
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Additional ID No(s): Air Account No. HGo473P

Attachment A
Docket Number: 2010-0457-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Maximus Coffee Group, LP
Penalty Amount: Six Thousand Eight Hundred Forty-Eight Dollars (\$6,848)
SEP Offset amount: Three Thousand Four Hundred Twenty-Four Dollars (\$3,424)
Type of SEP: Pre-approved
Third-Party Recipient: Harris County – *Ambient Air Pollutants Monitoring Study*
Location of SEP: Harris 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 offset 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 offset amount to the Third-Party Recipient named above. The contribution will be used by **Harris County** for the *Ambient Air Pollutants Monitoring Study* as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP funds will be used to install or retrofit, operate, maintain, and potentially expand air monitoring stations in Harris County to continuously monitor ambient air for total non-methane hydrocarbons and hazardous air pollutants (HAPs). Specifically, SEP funds will be used to purchase equipment (such as automated canister samplers), hardware, software, and licenses to enable the monitoring. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The project will provide additional air monitoring data to identify any HAPs emissions in the targeted locations. The information may help local government better inform citizens about air toxins and enable regulators to better identify emission sources.

C. Minimum Expenditure

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

Harris County
c/o Christopher B. Armandes
Vinson & Elkins LLP
First City Tower
1001 Fannin Street, Suite 2500
Houston, Texas 77002-6760

3. Records and Reporting

Concurrent with the payment of the SEP offset 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 offset 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 expenditure of the SEP offset 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 offset amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset amount identified in this Agreed Order has not been, and shall not be, included as a 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	15-Mar-2010	Screening	22-Mar-2010	EPA Due	4-Dec-2010
	PCW	12-Apr-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Maximus Coffee Group, LP		
Reg. Ent. Ref. No.	RN100214931		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	39367	No. of Violations	3
Docket No.	2010-0457-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		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	\$2,050	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$15,700	

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 22-Mar-2010

Docket No. 2010-0457-AIR-E

PCW

Respondent Maximus Coffee Group, LP

Policy Revision 2 (September 2002)

Case ID No. 39367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214931

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	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 judgments 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

Penalty enhancement due to three 1660 agreed orders and one same or similar NOV.

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

Screening Date 22-Mar-2010

Docket No. 2010-0457-AIR-E

PCW

Respondent Maximus Coffee Group, LP

Policy Revision 2 (September 2002)

Case ID No. 39367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214931

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c), 122.143(4), Air Permit No. 17723, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O-01018, Special Terms and Conditions 5 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain particulate matter ("PM") emissions below the permitted limits for Emissions Point Number ("EPN") 104A. Specifically, the 2007 Emissions Inventory ("EI") submitted showed that the Respondent had exceeded the Maximum Allowable Emission Rate Table ("MAERT") limit for PM of 0.04 tons per year ("tpy") by 0.046 tons in 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,600

\$2,500

Violation Events

Number of Violation Events 1

102 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended for 2007.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/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

Estimated EB Amount \$1,006

Statutory Limit Test

Violation Final Penalty Total \$4,125

This violation Final Assessed Penalty (adjusted for limits) \$4,125

Economic Benefit Worksheet

Respondent Maximus Coffee Group, LP
Case ID No. 39367
Reg. Ent. Reference No. RN100214931
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	\$7,500	31-Dec-2007	5-Sep-2010	2.68	\$1,006	n/a	\$1,006
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for implementation of procedures to achieve compliance with permitted emission rates. The date required is based on the end of the year for which the annual rate was exceeded. The final date is based on the date the corrective actions 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

\$7,500

TOTAL

\$1,006

Screening Date 22-Mar-2010

Docket No. 2010-0457-AIR-E

PCW

Respondent Maximus Coffee Group, LP

Policy Revision 2 (September 2002)

Case ID No. 39367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214931

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c), 122.143(4), Air Permit No. 56398, Special Conditions No. 1, FOP No. O-01018, Special Terms and Conditions 5 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain PM emissions and sulfur dioxide ("SO2") emissions below the permitted limits for EPN 404 of 6.79 tpy for PM and 0.54 tpy for SO2. Specifically, the 2007 EI submitted showed that the Respondent exceeded the tpy MAERT limit for PM by 1.44 tons and for the SO2 tpy limit was exceeded by 7.88 tons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 282

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

Violation Base Penalty \$2,500

One annual event is recommended for 2007.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

\$0

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 \$1,008

Violation Final Penalty Total \$4,125

This violation Final Assessed Penalty (adjusted for limits) \$4,125

Economic Benefit Worksheet

Respondent Maximus Coffee Group, LP
Case ID No. 39367
Reg. Ent. Reference No. RN100214931
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
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Delayed Costs

Item Description	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	\$7,500	31-Dec-2007	5-Sep-2010	2.68	\$1,006	n/a	\$1,006
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for implementation of procedures to achieve compliance with permitted emission rates. The date required is based on the end of the year for which the annual rate was exceeded. The final date is based on the date the corrective actions are expected to be completed.

Avoided Costs

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

Item Description	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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,500

TOTAL

\$1,006

Screening Date 22-Mar-2010

Docket No. 2010-0457-AIR-E

PCW

Respondent Maximus Coffee Group, LP

Policy Revision 2 (September 2002)

Case ID No. 39367

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100214931

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 122.143(4), 122.145(2)(A), FOP No. O-01018, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to report exceedance of emission limits for PM and SO2 in the deviation reports submitted for the compliance period of February 1, 2008 through January 31, 2009.

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	1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 402

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

Violation Base Penalty \$200

Two single events are recommended for two incomplete reports.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent submitted the corrective actions on April 8, 2010.

Violation Subtotal \$180

Economic Benefit (EB) for this violation

Estimated EB Amount \$39

Statutory Limit Test

Violation Final Penalty Total \$310

This violation Final Assessed Penalty (adjusted for limits) \$310

Economic Benefit Worksheet

Respondent Maximus Coffee Group, LP
Case ID No. 39367
Reg. Ent. Reference No. RN100214931
Media Air
Violation No. 3

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	\$500	2-Mar-2009	8-Apr-2010	1.10	\$28	n/a	\$28
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	2-Mar-2009	8-Apr-2010	1.10	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost for change in procedures and training to ensure that all deviations are reported in a timely manner. The updated deviation report was submitted on 04/06/2010. The date required is based on the initial date of non-compliance. The final date is the date the 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

\$700

TOTAL

\$39

Compliance History Report

Customer/Respondent/Owner-Operator: CN603143967 Maximus Coffee Group, LP Classification: AVERAGE Rating: 43.80
Regulated Entity: RN100214931 MAXIMUS COFFEE GROUP Classification: AVERAGE Site Rating: 43.80

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0473P
	AIR OPERATING PERMITS	PERMIT	1018
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD057185654
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32011
	AIR NEW SOURCE PERMITS	REGISTRATION	12356
	AIR NEW SOURCE PERMITS	PERMIT	17241
	AIR NEW SOURCE PERMITS	PERMIT	17723
	AIR NEW SOURCE PERMITS	PERMIT	19177
	AIR NEW SOURCE PERMITS	REGISTRATION	37950
	AIR NEW SOURCE PERMITS	REGISTRATION	44940
	AIR NEW SOURCE PERMITS	REGISTRATION	45208
	AIR NEW SOURCE PERMITS	REGISTRATION	45721
	AIR NEW SOURCE PERMITS	REGISTRATION	46557
	AIR NEW SOURCE PERMITS	REGISTRATION	46556
	AIR NEW SOURCE PERMITS	REGISTRATION	46558
	AIR NEW SOURCE PERMITS	REGISTRATION	46897
	AIR NEW SOURCE PERMITS	REGISTRATION	47197
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0473P
	AIR NEW SOURCE PERMITS	AFS NUM	4820100106
	AIR NEW SOURCE PERMITS	PERMIT	56398
	AIR NEW SOURCE PERMITS	REGISTRATION	70058
	AIR NEW SOURCE PERMITS	REGISTRATION	54368
	AIR NEW SOURCE PERMITS	REGISTRATION	76921
	STORMWATER	PERMIT	TXR05V674
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0473P

Location: 3900 HARRISBURG BLVD, HOUSTON, TX, 77003

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 19, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 18, 2005 to March 18, 2010

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

Name: NHameed Phone: 713-767-3629

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 judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/07/2005

ADMINORDER 2004-1166-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter H 101.352(b)

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

Description: Failed to hold a quantity of allowances in its compliance account that was equal to or greater than the total emissions of nitrogen oxides emitted during the control period 2002.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter H 101.359

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

Description: Failed to submit the 2002 Annual Compliance Report (ECT-1) by March 31, 2003.

Effective Date: 11/06/2005

ADMINORDER 2005-0149-AIR-E

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.146(2)

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

Description: Failed to submit annual compliance certifications within 30 days after the end of the 8/17/02 to 8/16/03 and 8/17/03 to 8/16/04 reporting periods and failed to submit a deviation report within 30 days after the end of the 8/17/03 to 2/16/04 semi-annual deviation reporting period.

Effective Date: 06/01/2009

ADMINORDER 2008-1619-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

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

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to submit deviation reports for the period February 1, 2007 through July 31, 2007.

- 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 08/29/2005 (399647)

2 08/20/2007 (566931)

3 08/29/2008 (680037)

4 09/18/2009 (747018)

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

Date: 08/29/2008 (680037)

Self Report? NO

CN603143967

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failed to report all instances of deviations for the period February 1, 2007 through January 31, 2008.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter C 117.305
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Terms and Conditions OP

Description: Failed to maintain CO emissions of a gas boiler less than 400 ppmv at 3.0% O₂, dry basis on a rolling 24-hour averaging 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
MAXIMUS COFFEE GROUP, LP
RN100214931

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0457-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 Maximus Coffee Group, LP ("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 coffee processing plant at 3900 Harrisburg Boulevard in Houston, Harris 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 March 15, 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 Eight Thousand Five Hundred Sixty Dollars (\$8,560) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Four Hundred Twenty-Four Dollars (\$3,424) of the administrative penalty and One Thousand Seven Hundred Twelve Dollars

(\$1,712) 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. Three Thousand Four Hundred Twenty-Four Dollars (\$3,424) 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 on April 8, 2010, the Respondent submitted a report containing the missing deviations to the TCEQ Region 12 Office, and implemented procedures and training to ensure that all future deviations are reported in a timely manner.
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 maintain particulate matter ("PM") emissions below the permitted limits for Emissions Point Number ("EPN") 104A, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 17723, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O-01018, Special Terms and Conditions 5 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on February 16, 2010. Specifically, the 2007 Emissions Inventory ("EI") submitted showed that the Respondent had exceeded the Maximum Allowable Emission Rate Table ("MAERT") limit for PM of 0.04 tons per year ("tpy") by 0.046 tons in 2007.
2. Failed to maintain PM emissions and sulfur dioxide ("SO2") emissions below the permitted limits for EPN 404 of 6.79 tpy for PM and 0.54 tpy for SO2, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Air Permit No. 56398, Special Conditions No. 1, FOP No. O-01018, Special Terms and Conditions 5 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on February 16, 2010. Specifically, the 2007 EI submitted

showed that the Respondent exceeded the tpy MAERT limit for PM by 1.44 tons and the SO2 tpy limit was exceeded by 7.88 tons.

3. Failed to report exceedance of emission limits for PM and SO2 in the deviation reports submitted for the compliance period of February 1, 2008 through January 31, 2009, in violation of 30 TEX. ADMIN. CODE § 122.143(4), 122.145(2)(A), FOP No. O-01018, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on February 16, 2010.

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: Maximus Coffee Group, LP, Docket No. 2010-0457-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, Three Thousand Four Hundred Twenty-Four Dollars (\$3,424) 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, either implement procedures to ensure that EPNs 104A and 404 are operated within the current permitted emission limits or submit permit amendment applications to ensure that the current permitted PM rate for EPN 104A in Air Permit No. 17723 and PM and SO2 rates for EPN 404 in Air Permit No. 56398 are revised to authorize the amount of emissions being currently released by them;
 - b. If a permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application within 30 days after the date of such requests, or by any other deadline specified in writing;

- c. If procedures are implemented, then within 45 days after the effective date of this Agreed Order, submit written certification with detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the certification language provided in Ordering Provision No. 3.d.; or
- d. If a permit amendment is submitted, then within 270 days after the effective date of this Agreed Order, submit written certification that either a permit amendment has been obtained or that operation has ceased until such a time that appropriate authorization is obtained. 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

John Szollos

For the Executive Director

9/23/2010

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.

D.S. Geis

Signature

6/17/2010

Date

DAVID S. Geis

Name (Printed or typed)
Authorized Representative of
Maximus Coffee Group, LP

Technical Services 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: 2010-0457-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Maximus Coffee Group, LP
Penalty Amount: Six Thousand Eight Hundred Forty-Eight Dollars (\$6,848)
SEP Offset amount: Three Thousand Four Hundred Twenty-Four Dollars (\$3,424)
Type of SEP: Pre-approved
Third-Party Recipient: Harris County – *Ambient Air Pollutants Monitoring Study*
Location of SEP: Harris 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 offset 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 offset amount to the Third-Party Recipient named above. The contribution will be used by **Harris County** for the *Ambient Air Pollutants Monitoring Study* as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP funds will be used to install or retrofit, operate, maintain, and potentially expand air monitoring stations in Harris County to continuously monitor ambient air for total non-methane hydrocarbons and hazardous air pollutants (HAPs). Specifically, SEP funds will be used to purchase equipment (such as automated canister samplers), hardware, software, and licenses to enable the monitoring. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The project will provide additional air monitoring data to identify any HAPs emissions in the targeted locations. The information may help local government better inform citizens about air toxins and enable regulators to better identify emission sources.

C. Minimum Expenditure

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

Harris County
c/o Christopher B. Amandes
Vinson & Elkins LLP
First City Tower
1001 Fannin Street, Suite 2500
Houston, Texas 77002-6760

3. Records and Reporting

Concurrent with the payment of the SEP offset 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 offset 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 expenditure of the SEP offset 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 offset amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

