

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-2084-AIR-E **TCEQ ID:** RN102527769 **CASE NO.:** 38906
RESPONDENT NAME: XTO Energy Inc.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
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: H O Mahoney Tank Battery, located on State Highway 213, approximately 4.5 miles east of its intersection with State Highway 214, on the south side of the road, Yoakum County</p> <p>TYPE OF OPERATION: Tank battery</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 October 18, 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. Heather Podlipny, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2603; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Conner Becker, Environmental Specialist, XTO Energy Inc., 810 Houston Street, Fort Worth, Texas 76102 Ms. Nina Hutton, Vice President – EHS, XTO Energy Inc., 810 Houston Street, Fort Worth, Texas 76102 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: December 16, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failed to submit the final report within two weeks of the emissions event ending on May 4, 2009 [30 TEX. ADMIN. CODE § 101.201(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to prevent unauthorized emissions during an event on July 29, 2008 through May 4, 2009 [New Source Review Permit By Rule, Registration No. 27050, 30 TEX. ADMIN. CODE § 106.352 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$237,247</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$118,623</p> <p>Total Paid to General Revenue: \$118,624</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification:</p> <p>Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent recently completed construction of the Cornell-Mahoney Gas Plant, which became operational by June 1, 2009 for their corrective measures for the Site. The new plant receives and processes gas produced from the Site, now bypassing the previous gas lines that lead to the downstream processing plants.</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, implement improvements to training procedures and recordkeeping system to ensure that emissions events are reported in a timely manner; 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 No. 2.a.</p>

Additional ID No(s): Air Account No. YA0035H

Attachment A

Docket Number: 2009-2084-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: XTO Energy Inc.

Payable Penalty Amount: Two Hundred Thirty-Seven Thousand Two Hundred Forty Seven Dollars (\$237,247)

SEP Amount: One Hundred Eighteen Thousand Six Hundred Twenty-Three Dollars (\$118,623)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses

Location of SEP: Texas Air Quality Control Region 211 – Amarillo-Lubbock

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 offset amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

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 reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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.

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

XTO Energy Inc.
Agreed Order - Attachment A

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	21-Dec-2009	Screening	28-Dec-2009	EPA Due	
	PCW	27-May-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	XTO Energy Inc.
Reg. Ent. Ref. No.	RN102527769
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	38906	No. of Violations	2	
Docket No.	2009-2084-AIR-E	Order Type	Findings	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Heather Podlipny	
		EC's Team	Enforcement Team 4	
Admin. Penalty \$ Limit Minimum		\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$279,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **45.0%** Enhancement **Subtotals 2, 3, & 7** **\$125,595**

Notes: The penalty was enhanced due to nine NOVs for similar violations.

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** **\$69,750**

Economic Benefit **50.0%** Enhancement* **Subtotal 6** **\$139,550**

Total EB Amounts \$3,414,925
 Approx. Cost of Compliance \$58,001,750
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$474,495**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-50.0%** **Adjustment** **-\$237,248**

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes: Reduction recommended to offset the amount of compliance costs (\$58,000,000) above and beyond what is required.

Final Penalty Amount **\$237,247**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$237,247**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$237,247**

Screening Date 28-Dec-2009

Docket No. 2009-2084-AIR-E

PCW

Respondent XTO Energy Inc.

Policy Revision 2 (September 2002)

Case ID No. 38906

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102527769

Media [Statute] Air

Enf. Coordinator Heather Podlipny

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)	9	45%
	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	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%
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) 45%

>> 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

The penalty was enhanced due to nine NOVs for similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 28-Dec-2009

Docket No. 2009-2084-AIR-E

PCW

Respondent XTO Energy Inc.

Policy Revision 2 (September 2002)

Case ID No. 38906

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102527769

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 101.201(c) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit the final report within two weeks of the emissions event that ended on May 4, 2009, as documented during an investigation conducted on December 9, 2009. Specifically, the final report was due on May 18, 2009, but was not submitted until June 23, 2009.

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 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

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 \$100

One single event is recommended based on the one report.

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$97

This violation Final Assessed Penalty (adjusted for limits) \$97

Economic Benefit Worksheet

Respondent XTO Energy Inc.
Case ID No. 38906
Req. Ent. Reference No. RN102527769
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

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	\$250	18-May-2009	1-Jun-2010	1.04	\$13	n/a	\$13
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for improving the recordkeeping/reporting system for timely submittals of emissions event reports. The Date Required is the date the report was due and the Final Date is the estimated date of compliance.

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

\$250

TOTAL

\$13

Screening Date 28-Dec-2009

Docket No. 2009-2084-AIR-E

PCW

Respondent XTO Energy Inc.

Policy Revision 2 (September 2002)

Case ID No. 38906

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102527769

Media [Statute] Air

Enf. Coordinator Heather Podlupny

Violation Number 2

Rule Cite(s)

New Source Review Permit By Rule, Registration No. 27050, 30 Tex. Admin. Code § 106.352 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions during an event that occurred from July 29, 2008 to May 4, 2009, as documented during an investigation conducted on December 9, 2009. Specifically, the unauthorized emissions released from the flare during the 6,696 hour event (Incident No. 111771) were as follows: carbon monoxide - 786,900 pounds ("lbs"), hydrogen sulfide - 9,599 lbs, nitrogen oxides - 394,164 lbs, sulfur dioxide - 902,896 lbs, and volatile organic compounds - 496,664 lbs. The event occurred due to a downstream plant that was unable to accept the Respondent's produced gas. Equipment repairs at the downstream plant caused the upstream tank battery to have to bypass the downstream plant's supply gathering line and to route the emissions to the emergency flare. Because the final report for the event was not submitted timely, and because the amount and duration of the unauthorized emissions are considered excessive, the emissions are not subject to the affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	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 \$9,000

\$1,000

Violation Events

Number of Violation Events 279

279 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$279,000

Two hundred seventy-nine single events are recommended based on the two hundred seventy-nine days of the event.

Good Faith Efforts to Comply

25.0% Reduction

\$69,750

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

Notes

The Respondent returned to compliance on June 1, 2009, and the NOE is dated December 16, 2009.

Violation Subtotal \$209,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,414,912

Violation Final Penalty Total \$237,150

This violation Final Assessed Penalty (adjusted for limits) \$237,150

Economic Benefit Worksheet

Respondent XTO Energy Inc.
Case ID No. 38906
Req. Ent. Reference No. RN102527769
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	\$58,000,000	29-Jul-2008	1-Jun-2009	0.84	\$162,612	\$3,252,237
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)	\$1,500	29-Jul-2008	1-Jun-2009	0.84	\$63	n/a

Notes for DELAYED costs

Estimated cost for additional oversight practices and the construction of the new gas plant. The new plant was designed to receive and process gas produced from the tank battery. The Date Required is based on the date of the emissions event. The Final Date is the date of compliance when the gas plant became operational.

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

\$58,001,500

TOTAL

\$3,414,912

Compliance History Report

Customer/Respondent/Owner-Operator: CN600601348 XTO Energy Inc. Classification: AVERAGE Rating: 2.88
 Regulated Entity: RN102527769 H O MAHONEY TANK BATTERY Classification: AVERAGE Site Rating: 3.23

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 27050
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER YA0035H
 Location: LOCATED ON STATE HIGHWAY 213 APPROXIMATELY
 4.5 MILES EAST OF ITS INTERSECTION WITH STATE
 HIGHWAY 214, ON THE SOUTH SIDE OF THE ROAD
 TCEQ Region: REGION 02 - LUBBOCK

Date Compliance History Prepared: December 22, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: December 22, 2004 to December 22, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Podlipny Phone: 239 - 2603

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 XTO Energy Inc.
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWN Mobil Producing Texas & New Mexico Inc.
5. When did the change(s) in owner or operator occur? 07/01/2005 OWN Mobil Producing Texas & New Mexico Inc.
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.)
 - 1 03/12/2008 (636956)
 - 2 07/15/2008 (683652)
 - 3 09/05/2008 (687666)
 - 4 09/15/2008 (688345)
 - 5 10/01/2008 (689037)
 - 6 10/16/2008 (704717)
 - 7 10/17/2008 (705461)
 - 8 10/24/2008 (703790)
 - 9 10/27/2008 (706355)
 - 10 11/20/2008 (707224)
 - 11 01/08/2009 (721598)
 - 12 01/23/2009 (723930)
 - 13 12/16/2009 (776530)

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

Date: 03/06/2008 (636956) CN600601348
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b)
Description: Failure to notify the commission office for the region in which the facility is located within 24 hours after the discovery of the emissions event.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to satisfy the condition for facilities permitted by rule under Chapter 106 of this title (relating to Permit by Rule) as required in 30 TAC § 116.110(a)(4) and 5C THSC § 382.085(b).

Date: 07/15/2008 (683652) CN600601348
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit a copy of the final report to the commission office for the region in which the regulated entity is located no later than two weeks after the end of the emissions event.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to satisfy the conditions for facilities permitted by rule under Chapter 106.

Date: 09/05/2008 (687666) CN600601348
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to satisfy the condition for facilities permitted by rule under Chapter 106 of this title (relating to Permit by Rule).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(D)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the correct common name of the process unit or area.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(F)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the correct event duration time on the final report.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(I)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the basis used for determining the quantity of air contaminants emitted.

Date: 09/15/2008 (688345) CN600601348
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to satisfy the condition for facilities permitted by rule under Chapter 106.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit a copy of the final report to the commission office for the region in which the regulated entity is located no later than two weeks after the end of the emissions event.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(f)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide response within the established timeframe to provide the additional information requested.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(D)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the correct common name of the process unit or areas.

Date: 10/01/2008 (689037) CN600601348
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to satisfy the condition for facilities permitted by rule under Chapter 106.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit a copy of the final report to the commission office for the region in which the regulated entity is located no later than two weeks after the end of an emissions event.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(D)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the correct common name of the process unit or area required by 30 TAC § 101.201(b)(1)(D) and 5C THSC § 382.85(b).

Date: 10/24/2008 (703790) CN600601348
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(D)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the correct name of the process unit or areas.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(I)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the basis used for determining the quantity of air contaminants emitted.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to satisfy the condition for facilities permitted by rule under Chapter 106.

Date: 11/20/2008 (707224) CN600601348
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(I)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the basis used for determining the quantity of air contaminants emitted.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit a copy of the final report to the commission office for the region in which the Regulated Entity is located no later than two weeks after the end of the emissions event as required by 30 TAC § 101.201(c) and 5C THSC § 382.085(b).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to satisfy the condition for facilities permitted by rule under Chapter 106 of this title (relating to Permit by Rule) as required by 30 TAC § 116.110(a)(4) and 5C THSC § 382.085(b).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b)
Description: Failure to notify the commission office for the region in which the facility is located within 24 hours after the discovery of the emissions event, in violation of 30 TAC § 101.201(a)(B) and 5C THSC § 382.085(b).

Date: 12/18/2008 (721598)

CN600601348

Self Report? NO

Classification: Minor

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

Description: Failure to provide the basis used for determining the quantity of air contaminants emitted.

Date: 01/14/2009 (723930)

CN600601348

Self Report? NO

Classification: Minor

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

Description: Failure to provide the basis used for determining the quantity of air contaminants emitted.

Self Report? NO

Classification: Minor

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

Description: Failure to submit a copy of the final report to the commission office for the region in which the Regulated Entity is located no later than two weeks after the end of the emissions event.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to satisfy the condition for facilities permitted by rule under Chapter 106.

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
XTO ENERGY INC.
RN102527769**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-2084-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding XTO Energy Inc. ("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, presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a tank battery located on State Highway 213 approximately 4.5 miles east of its intersection with State Highway 214, on the south side of the road, in Yoakum County, Texas (the "Site").

2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on December 9, 2009, TCEQ staff documented that the Respondent failed to submit the final report within two weeks of an emissions event that ended on May 4, 2009. Specifically, the final report was due on May 18, 2009, but was not submitted until June 23, 2009.
4. During an investigation conducted on December 9, 2009, TCEQ staff documented that the Respondent failed to prevent unauthorized emissions during an event that occurred from July 29, 2008 to May 4, 2009. Specifically, the unauthorized emissions released from the flare during the 6,696 hour event (Incident No. 111771) were as follows: carbon monoxide - 786,900 pounds ("lbs"), hydrogen sulfide - 9,599 lbs, nitrogen oxides - 394,164 lbs, sulfur dioxide - 902,896 lbs, and volatile organic compounds - 496,664 lbs. The event occurred due to a downstream plant that was unable to accept the Respondent's produced gas. Equipment repairs at the downstream plant caused the upstream tank battery to have to bypass the downstream plant's supply gathering line and to route the emissions to the emergency flare. Because the final report for the event was not submitted timely, and because the amount and duration of the unauthorized emissions are considered excessive, the emissions are not subject to the affirmative defense in 30 TEX. ADMIN. CODE § 101.222.
5. The Respondent received notice of the violations on December 21, 2009.
6. The Executive Director recognizes that the Respondent recently completed construction of the Cornell-Mahoney Gas Plant, which became operational by June 1, 2009 for their corrective measures for the Site. The new plant receives and processes gas produced from the Site, now bypassing the previous gas lines that lead to the downstream processing plants.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to submit the final report within two weeks of the emissions event ending on May 4, 2009, in violation of 30 TEX. ADMIN. CODE § 101.201(c) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent unauthorized emissions during an event on July 29, 2008 through May 4, 2009, in violation of New Source Review Permit By Rule, Registration No. 27050, 30 TEX. ADMIN. CODE § 106.352 and TEX. HEALTH & SAFETY CODE § 382.085(b).

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Two Hundred Thirty-Seven Thousand Two Hundred Forty-Seven Dollars (\$237,247) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid One Hundred Eighteen Thousand Six Hundred Twenty-Four Dollars (\$118,624) of the administrative penalty. One Hundred Eighteen Thousand Six Hundred Twenty-Three Dollars (\$118,623) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Two Hundred Thirty-Seven Thousand Two Hundred Forty-Seven Dollars (\$237,247) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: XTO Energy Inc., Docket No. 2009-2084-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 II, Paragraph 5 above, One Hundred Eighteen Thousand Six Hundred Twenty-Three Dollars (\$118,623) of the assessed administrative penalty shall be offset with the condition that the Respondent implements 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, implement improvements to training procedures and recordkeeping system to ensure that emissions events are reported in a timely manner; 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. 3.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
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

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 Site 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 8. 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.
 9. 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.
 10. 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.
 11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sedlin
For the Executive Director

9/24/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of XTO Energy Inc. I am authorized to agree to the attached Agreed Order on behalf of XTO Energy Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, XTO Energy Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Nina Sutton
Signature

8/4/2010
Date

NINA SUTTON
Name (Printed or typed)
Authorized Representative of
XTO Energy Inc.

VICE PRESIDENT - EHS
Title

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

Attachment A
Docket Number: 2009-2084-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: XTO Energy Inc.

Payable Penalty Amount: Two Hundred Thirty-Seven Thousand Two Hundred Forty Seven Dollars (\$237,247)

SEP Amount: One Hundred Eighteen Thousand Six Hundred Twenty-Three Dollars (\$118,623)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses

Location of SEP: Texas Air Quality Control Region 211 – Amarillo-Lubbock

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 offset amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

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 reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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.

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

XTO Energy Inc.
Agreed Order - Attachment A

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.

