

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0994-AIR-E **TCEQ ID:** RN100219278 **CASE NO.:** 37893
RESPONDENT NAME: DCP Midstream, 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: Encontrado Treater, located 12 miles from the intersection of Farm-to-Market Road 1676 on Harris Road, Midland, Crockett County</p> <p>TYPE OF OPERATION: Natural gas compressing and sweetening 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 December 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Gregory Kardos, Environmental Manager, Western Division, DCP Midstream, LP, 10 Desta Drive, Suite 400W, Midland, Texas 79705 Mr. Ronnie D. Trammell, Vice President Operations, DCP Midstream, LP, 10 Desta Drive, Suite 400W, Midland, Texas 79705 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: May 8, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 29, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to measure the hydrogen sulfide content in the combined stream to the acid gas flare [Emissions Point Number ("EPN") AGFLR-2] at least four times per hour at all times that sour gas is being processed and failure to calculate and record the total average pounds per hour of sulfur dioxide emissions each day from EPN-AGFLR-2 [30 TEX. ADMIN. CODE § 116.115(e), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 18370 Special Conditions 6 and 9].</p> | <p>Total Assessed: \$9,150</p> <p>Total Deferred: \$1,830 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,660</p> <p>Total Paid (Due) to General Revenue: \$3,660</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 June 13, 2009, the manufacturer of the chromatograph equipment was brought onsite to conduct a complete overhaul, which included upgrading the equipment to the most recent hardware and software that is currently available.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install a backup chromatograph to record emissions in the event of the failure of the primary chromatograph; and</p> <p>ii. Conduct training for troubleshooting and repair of the chromatograph equipment, including setup, maintenance, repair, downloading of the data from the data logger, and proper operation of the upstream sample conditioning system to minimize amine contamination of the chromatograph.</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): CZ0042B

Attachment A
Docket Number: 2009-0994-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|--------------------------------|--|
| Respondent: | DCP Midstream, LP |
| Payable Penalty Amount: | Seven Thousand Three Hundred Twenty Dollars (\$7,320) |
| SEP Amount: | Three Thousand Six Hundred Sixty Dollars (\$3,660) |
| 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 218 – Midland-Odessa-San Angelo |

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 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 TCEQ 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.

DCP Midstream, LP
Agreed Order - Attachment A

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

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

The Respondent shall also mail a copy of the check to the TCEQ 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

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|-------------|
| DATES | Assigned | 1-Jun-2009 | Screening | 29-Jun-2009 | EPA Due | 23-Feb-2010 |
| | PCW | 29-Jun-2009 | | | | |

| | | | |
|--|-------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | DCP Midstream, LP | | |
| Reg. Ent. Ref. No. | RN100219278 | | |
| Facility/Site Region | 8-San Angelo | Major/Minor Source | Major |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37893 | No. of Violations | 1 |
| Docket No. | 2009-0994-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Juliet Morgan |
| | | 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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 29-Jun-2009

Docket No. 2009-0994-AIR-E

PCW

Respondent DCP Midstream, LP

Policy Revision 2 (September 2002)

Case ID No. 37893

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219278

Media [Statute] Air

Enf. Coordinator Juliet Morgan

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) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 1 | -1% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 1 | -2% |
| <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) 22%

>> 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 one previous 1660-style agreed order and one previous similar NOV. Penalty reduction due to one NOI and one DOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

| | | | | |
|---|---|--|--|--|
| Screening Date 29-Jun-2009 | Docket No. 2009-0994-AIR-E | PCW | | |
| Respondent DCP Midstream, LP | | <i>Policy Revision 2 (September 2002)</i> | | |
| Case ID No. 37893 | | <i>PCW Revision October 30, 2008</i> | | |
| Reg. Ent. Reference No. RN100219278 | | | | |
| Media [Statute] Air | | | | |
| Enf. Coordinator Juliet Morgan | | | | |
| Violation Number 1 | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and New Source Review Permit No. 18370, Special Conditions 6 and 9 | | | |
| Violation Description | Failed to measure the hydrogen sulfide content in the combined stream to the acid gas flare [Emissions Point Number ("EPN") AGFLR-2] at least four times per hour at all times that sour gas is being processed and failed to calculate and record the total average pounds per hour of sulfur dioxide emissions each day from EPN-AGFLR-2. | | | |
| | Base Penalty | \$10,000 | | |
| >> Environmental, Property and Human Health Matrix | | | | |
| | Harm | | | |
| Release | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| Potential | <input type="text"/> | x | <input type="text"/> | |
| OR | | | Percent <input type="text" value="25%"/> | |
| >> Programmatic Matrix | | | | |
| | Falsification | Major | Moderate | Minor |
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | | | | Percent <input type="text" value="0%"/> |
| Matrix Notes | Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. | | | |
| | Adjustment | <input type="text" value="\$7,500"/> | | |
| | | <input type="text" value="\$2,500"/> | | |
| Violation Events | | | | |
| | Number of Violation Events <input type="text" value="3"/> | <input type="text" value="216"/> | Number of violation days | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | | |
| | weekly | <input type="text"/> | | |
| | monthly | <input type="text"/> | | |
| | quarterly | x | | |
| | semiannual | <input type="text"/> | | |
| | annual | <input type="text"/> | | |
| | single event | <input type="text"/> | | |
| | | | Violation Base Penalty <input type="text" value="\$7,500"/> | |
| | Three quarterly events are recommended from the date the violation began, November 25, 2008, to the date of the screening, June 29, 2009. | | | |
| Good Faith Efforts to Comply | | | <input type="text" value="0.0%"/> | |
| | Reduction | | <input type="text" value="\$0"/> | |
| | Before NOV | NOV to EDCRP/Settlement Offer | | |
| Extraordinary | <input type="text"/> | <input type="text"/> | | |
| Ordinary | <input type="text"/> | <input type="text"/> | | |
| N/A | x | (mark with x) | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | |
| | Violation Subtotal | <input type="text" value="\$7,500"/> | | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | |
| | Estimated EB Amount <input type="text" value="\$766"/> | Violation Final Penalty Total | <input type="text" value="\$9,150"/> | |
| | | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$9,150"/> | |

Economic Benefit Worksheet

Respondent DCP Midstream, LP
Case ID No. 37893
Reg. Ent. Reference No. RN100219278
Media Air
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$13,000 | 25-Nov-2008 | 29-Jan-2010 | 1.18 | \$766 | n/a | \$766 |

Notes for DELAYED costs
 Estimated cost to modify policies and procedures to ensure proper measurement and calibration of the combined stream and to update and repair operational equipment. Date required is the date the violation began. The final date is the expected date of compliance.

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 | \$13,000 | TOTAL | \$766 |
|-----------------------------------|----------|--------------|-------|

Compliance History Report

Customer/Respondent/Owner-Operator: CN601229917 DCP Midstream, LP Classification: AVERAGE Rating: 2.68
 Regulated Entity: RN100219278 ENCONTRADO TREATER Classification: AVERAGE Site Rating: 6.69

ID Number(s): AIR OPERATING PERMITS ACCOUNT NUMBER CZ0042B
 AIR OPERATING PERMITS PERMIT 2693
 AIR NEW SOURCE PERMITS PERMIT 18370
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER CZ0042B
 AIR NEW SOURCE PERMITS EPA ID PSDTX734
 AIR NEW SOURCE PERMITS AFS NUM 4810500029
 AIR NEW SOURCE PERMITS REGISTRATION 83174

Location: 12 MILES FROM THE INTERSECTION OF FARM-TO-MARKET ROAD 1676 ON HARRIS ROAD

TCEQ Region: REGION 08 - SAN ANGELO

Date Compliance History Prepared: June 22, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 05, 2004 to May 05, 2009

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

Name: Juliet Morgan Phone: (512) 239-0735

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: 9/1/2008 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: 04/03/2008 ADMINORDER 2007-1174-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 18370 PERMIT
 Description: failed to prevent unauthorized emissions and failed to take actions necessary to ensure that the 29 lbs/hr H2S limit is not exceeded. DCP failed to maintain the 29 lbs/hr H2S content in the combined flow, to the acid gas flare, Emissions Point Number AGFLR-2, for a period of 44 days. As a result, the daily average sulfur dioxide emissions rate from the flare exceeded the Maximum Allowable Emission Rate Table ("MAERT") of 56.90 lbs/hr for 24 days, and the daily average H2S emissions rate from th

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 | 06/25/2004 | (274221) |
| 2 | 06/25/2004 | (274591) |
| 3 | 11/08/2005 | (435788) |
| 4 | 08/22/2007 | (564301) |
| 5 | 08/20/2007 | (609263) |
| 6 | 09/28/2007 | (596089) |
| 7 | 12/18/2007 | (612317) |

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

Date: 09/28/2007 (596089) CN601229917
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 SOP 2593(3)(A)(iii) OP
 Description: Failure to conduct an observation for visible emissions on all stationary vents constructed after January 31, 1972 at least once during each 3-month period
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter C 122.217(a)(2)
Description: Failure to submit a Title V minor permit revision application containing the information required in 30 TAC 122.216 before a minor permit revision change is operated

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(3)
SOP O2593(11) OP
SOP O2593(6) OP

Description: Failure to maintain a copy of the Title V Permit and all records related to requirements listed in the permit at the site

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
NSR Permit Number 18870, SC 6 PA
SOP O2593(5) OP

Description: Failure to measure and calculate hydrogen sulfide (H₂S) content in the combined stream to the flare at least four times per hour at all times that sour gas is being processed

F. Environmental audits.

Notice of Intent Date: 03/04/2004 (288723)

Disclosure Date: 11/16/2004

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.8(b)

30 TAC Chapter 106, SubChapter A 106.8(c)

Description: Failure to comply with Standard Permit and PBR limits.

Viol. Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.10

Description: Failure to include flash gas emissions in EIQ submittals.

Notice of Intent Date: 10/27/2008 (722304)

No DOV Associated

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
DCP MIDSTREAM, LP
RN100219278**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0994-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 DCP Midstream, 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 natural gas compressing and sweetening plant located 12 miles from the intersection of Farm-to-Market Road 1676 on Harris Road in Midland, Crockett 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 June 3, 2009.
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 Nine Thousand One Hundred Fifty Dollars (\$9,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Six Hundred Sixty Dollars (\$3,660) of the

administrative penalty and One Thousand Eight Hundred Thirty Dollars (\$1,830) 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 Six Hundred Sixty Dollars (\$3,660) 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 June 13, 2009, the manufacturer of the chromatograph equipment was brought onsite to conduct a complete overhaul, which included upgrading the equipment to the most recent hardware and software that is currently available.
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 failed to measure the hydrogen sulfide content in the combined stream to the acid gas flare [Emissions Point Number ("EPN") AGFLR-2] at least four times per hour at all times that sour gas is being processed and failed to calculate and record the total average pounds per hour of sulfur dioxide emissions each day from EPN-AGFLR-2, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and New Source Review Permit No. 18370 Special Conditions 6 and 9, as documented during an investigation conducted on May 8, 2009.

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: DCP Midstream, LP, Docket No. 2009-0994-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 Six Hundred Sixty Dollars (\$3,660) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Install a backup chromatograph to record emissions in the event of the failure of the primary chromatograph; and
 - ii. Conduct training for troubleshooting and repair of the chromatograph equipment, including setup, maintenance, repair, downloading of the data from the data logger, and proper operation of the upstream sample conditioning system to minimize amine contamination of the chromatograph.
 - 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
San Angelo Regional Office
Texas Commission on Environmental Quality
622 Oakes Street, Suite K
San Angelo, Texas 76903-7035

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 Ordean
For the Executive Director

12/23/2009
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.

Rb. James
Signature

10-16-09
Date

Ronnie D. Trammell
Name (Printed or typed)
Authorized Representative of
DCP Midstream, LP

V.P. Operations
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: 2009-0994-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|--------------------------------|--|
| Respondent: | DCP Midstream, LP |
| Payable Penalty Amount: | Seven Thousand Three Hundred Twenty Dollars (\$7,320) |
| SEP Amount: | Three Thousand Six Hundred Sixty Dollars (\$3,660) |
| 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 218 – Midland-Odessa-San Angelo |

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 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 TCEQ 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.

DCP Midstream, LP
Agreed Order - Attachment A

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

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

The Respondent shall also mail a copy of the check to the TCEQ 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.

