

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1123-AIR-E **TCEQ ID:** RN100224377 **CASE NO.:** 36175

**RESPONDENT NAME:** Equistar Chemicals, LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Mont Belvieu Facility, 11815 Highway 146, Mont Belvieu, Chambers County</p> <p><b>TYPE OF OPERATION:</b> Underground hydrocarbon storage plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 8, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Ronald Richmond, Senior HSE Specialist, Equistar Chemicals, LP, 11815 Highway 146, Mont Belvieu, Texas 77535                      Mr. Joseph F. Marschhauser, Plant Manager, Equistar Chemicals, LP, 11815 Highway 146, Mont Belvieu, Texas 77535  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 20, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 25, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions at the Mont Belvieu Terminal Site 1. Specifically, on April 14, 2008, an unauthorized emissions event lasted for 10 minutes and released 2,900 pounds of 1-3, butadiene, 1,152 pounds of butene, and 192 pounds of butane. Since the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222(b)(2) and (3), the emissions event is not subject to an affirmative defense [Air Permit No. 2129 Special Condition 1, 30 TEX. ADMIN. CODE § 116.115(c) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$5,250</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,100</p> <p>On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.</p> <p>(\$3,150 due pending outcome of bankruptcy proceedings)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, change the over-pressure protection control scheme on the six inch Mont Belvieu to La Porte C4 Pipeline to trip the C4 pump off-line before the pressure safety valve lifts; and</p> <p>b. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): C10002G



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	Assigned PCW	25-Jun-2008	Screening	1-Jul-2008	EPA Due	22-Mar-2009
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**RESPONDENT/FACILITY INFORMATION**

Respondent	Equistar Chemicals, LP		
Reg. Ent. Ref. No.	RN100224377		
Facility/Site Region	12-Houston	Major/Minor Source	Major

**CASE INFORMATION**

Enf./Case ID No.	36175	No. of Violations	1
Docket No.	2008-1123-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$5,000**

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

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

**Compliance History** 5.0% Enhancement Subtotals 2, 3, & 7 **\$250**

Notes: An enhancement is recommended because the Respondent received one NOV for a similar violation.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$54  
 Approx. Cost of Compliance \$1,500  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$5,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$5,250**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$5,250**

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

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

Notes: No deferral due to bankruptcy.

**PAYABLE PENALTY** **\$5,250**

Screening Date 1-Jul-2008

Docket No. 2008-1123-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 36175

PCW Revision June 12, 2009

Reg. Ent. Reference No. RN100224377

Media [Statute] Air

Enf. Coordinator Harvey Wilson

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

Adjustment Percentage (Subtotal 2) 5%

>> 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

An enhancement is recommended because the Respondent received one NOV for a similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

<b>Screening Date</b> 1-Jul-2008	<b>Docket No.</b> 2008-1123-AIR-E	<b>PCW</b>		
<b>Respondent</b> Equistar Chemicals, LP		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36175		<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN100224377				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Harvey Wilson				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Air Permit No. 2129 Special Condition 1, 30 Tex. Admin. Code § 116.115(c) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to prevent unauthorized emissions at the Mont Belvieu Terminal Site 1. Specifically, on April 14, 2008, an unauthorized emissions event lasted for 10 minutes and released 2,900 pounds of 1-3, butadiene, 1,152 pounds of butene, and 192 pounds of butane. Since the emissions do not meet the demonstrations in 30 Tex. Admin. Code § 101.222(b)(2) and (3), as documented during an investigation on May 20, 2008, the emissions event is not subject to an affirmative defense.			
	<b>Base Penalty</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	50%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.			
	<b>Adjustment</b>	\$5,000		
		\$5,000		
<b>Violation Events</b>				
	Number of Violation Events	1	Number of violation days	
		1		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> \$5,000	
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
	One monthly event is recommended.			
<b>Good Faith Efforts to Comply</b>				
	0.0% Reduction	\$0		
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)		
<b>Notes:</b>	The Respondent does not meet the good faith criteria for this violation.			
	<b>Violation Subtotal</b>	\$5,000		
<b>Economic Benefit (EB) for this violation</b>				
	<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>	\$54	<b>Violation Final Penalty Total</b>	\$5,250	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$5,250	

## Economic Benefit Worksheet

**Respondent** Equistar Chemicals, LP  
**Case ID No.** 36175  
**Reg. Ent. Reference No.** RN100224377  
**Media** Air  
**Violation No.** 1

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

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	14-Apr-2008	31-Dec-2008	0.72	\$54	n/a	\$54
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

The estimated cost of additional inspecting and maintenance to prevent the failure of pressure safety valves and control valves. Date Required is the date of the violation. Final Date is the estimated date of compliance.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$54

# Compliance History

Customer/Respondent/Owner-Operator:	CN600124705 Equistar Chemicals, LP	Classification:	Rating: 2.92
		AVERAGE	
Regulated Entity:	RN100224377 Mont Belvieu Facility	Classification:	Site Rating: 0.12
		AVERAGE	

ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	2129
	AIR NEW SOURCE PERMITS	PERMIT	2934
	AIR NEW SOURCE PERMITS	PERMIT	7570
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CI0002G
	AIR NEW SOURCE PERMITS	PERMIT	72100
	AIR NEW SOURCE PERMITS	AFS NUM	4807100032
	AIR NEW SOURCE PERMITS	REGISTRATION	77416
	AIR NEW SOURCE PERMITS	REGISTRATION	79797
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CIA009I

Location:	11815 HIGHWAY 146, MONT BELVIEU, TX, 77535	Rating Date: 9/1/2007
		Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 10, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 10, 2003 to July 10, 2008

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

Name:	<u>Harvey Wilson</u>	Phone:	<u>239-0321</u>
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## 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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  | 08/28/2003 | (150644) |
| 2  | 08/27/2004 | (250486) |
| 3  | 11/11/2004 | (339878) |
| 4  | 11/11/2004 | (340010) |
| 5  | 11/11/2004 | (340106) |
| 6  | 12/11/2004 | (342643) |
| 7  | 12/17/2004 | (344034) |
| 8  | 12/17/2004 | (344035) |
| 9  | 06/03/2005 | (380639) |
| 10 | 08/24/2005 | (405598) |
| 11 | 02/15/2006 | (438821) |

12	02/22/2006	(455815)
13	02/28/2006	(457036)
14	02/28/2006	(457008)
15	03/23/2006	(457535)
16	04/11/2006	(458186)
17	04/20/2006	(461513)
18	04/20/2006	(461514)
19	05/30/2006	(478721)
20	05/30/2006	(479715)
21	05/30/2006	(479721)
22	05/30/2006	(479730)
23	05/30/2006	(479735)
24	06/26/2006	(483526)
25	07/27/2006	(488839)
26	06/25/2008	(682774)

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

Date:	02/16/2006	(438821)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 117, SubChapter D 117.475			
Description:	Heater F-9004B exceeded the 400ppm CO limit specified in 30TAC117.475(i)(1)			

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  
EQUISTAR CHEMICALS, LP  
RN100224377**

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

## **AGREED ORDER DOCKET NO. 2008-1123-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 Equistar Chemicals, 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 underground hydrocarbon storage plant at 11815 Highway 146 in Mont Belvieu, Chambers 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 30, 2008.
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 Five Thousand Two Hundred Fifty Dollars (\$5,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). On October 16, 2008, the Respondent paid Two Thousand One Hundred Dollars (\$2,100) of the assessed penalty, leaving an unpaid balance of Three Thousand One Hundred Fifty Dollars

(\$3,150). On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the "Code"). In re Lyondell Chemical Company, et al., Case No. 09-10023 (REG) Chapter 11 (Bankr. S.D.N.Y.) (the "Bankruptcy Case"). The automatic stay imposed by the Code [specifically, 11 U.S.C. § 362 (a)], does not apply to the commencement or continuation of an action or a proceeding by a governmental unit to enforce such governmental unit's police and regulatory power, including the enforcement of a judgment other than a money judgment obtained in such action or proceeding, by virtue of the exception provided in 11 U.S.C. § 362 (b) (4). Accordingly, TCEQ [a governmental unit as defined under 11 U.S.C. § 101(27)] is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations, including the unpaid balance of Three Thousand One Hundred Fifty Dollars (\$3,150) of the assessed administrative penalty, as provided in Section IV, Paragraph 1 below. TCEQ shall not seek to collect such penalty except in accordance with applicable Bankruptcy law. The Respondent agrees to stipulate that, in accordance with the Agreed Order, TCEQ shall have an allowed general unsecured claim in the amount of Three Thousand One Hundred Fifty Dollars (\$3,150) which shall be paid in accordance with the terms prescribed in the plan of reorganization approved by the Bankruptcy Court or liquidation.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions at the Mont Belvieu Terminal Site 1, in violation of Air Permit No. 2129 Special Condition 1, 30 TEX. ADMIN. CODE § 116.115(c) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 20, 2008. Specifically, on April 14, 2008, an unauthorized emissions event lasted for 10 minutes and released 2,900 pounds of 1-3, butadiene, 1,152 pounds of butene, and 192 pounds of butane. Since the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222(b)(2) and (3), the emissions event is not subject to an affirmative defense.

### 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 be assessed an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition 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. Subject to the provisions of Section 1, Paragraph 6 above, which are expressly incorporated herein, TCEQ Shall have an allowed general unsecured claim in the Respondent's bankruptcy case.
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Agreed Order, change the over-pressure protection control scheme on the six inch Mont Belvieu to La Porte C4 Pipeline to trip the C4 pump off-line before the pressure safety valve lifts; and
  - b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Szelles  
For the Executive Director

2/17/2010  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joseph F. Marschhausler  
Signature

12/23/2009  
Date

JOSEPH F. MARSCHHAUSER  
Name (Printed or typed)  
Authorized Representative of  
Equistar Chemicals, LP

Plant Manager  
Title

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

