

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1204-AIR-E **TCEQ ID:** RN102556990 **CASE NO.:** 38038

RESPONDENT NAME: Oxy USA WTP LP

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: GMK Flare Facility, located as follows: from the intersection of Highway 180 and Farm-to-Market Road 1429, go four miles east on Highway 180, turn north on paved road and go 3.6 miles, turn west and go 0.5 miles to water station, then 0.25 miles northeast to flare, Gaines County</p> <p>TYPE OF OPERATION: Flare</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 March 29, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Peggy Waisanen, Environmental Engineer, Oxy USA WTP LP, P.O. Box 50250, Midland, Texas 79710-0250 Ms. Vicki Hollub, Operations Manager, Oxy USA WTP LP, P.O. Box 50250, Midland, Texas 79710-0250 Respondent's Attorney: Mr. Matt Kuryla, Baker Botts LLP, 1600 San Jacinto Center, 98 San Jacinto Boulevard, Austin, Texas 78701-4039</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 26 through July 14, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 23, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions and to limit sulfur dioxide emissions to 25 tons per year. Specifically, unauthorized emissions of 84,149.00 pounds ("lbs") of carbon monoxide, 11,219.90 lbs of hydrogen sulfide, 129,472 lbs of non-methane non-ethane natural gas, 8,792.80 lbs of nitrogen oxides, and 1,036,559.00 lbs of sulfur dioxide (518.28 tons over 205 days) were released during an emissions event (Incident No. 122562) that occurred on September 3, 2008 and lasted 4,921 hours. Since this event could have been minimized with better operation practices, such as closer coordination between field staff and environmental staff, and the event was considered excessive, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [30 TEX. ADMIN. CODE § 106.4(a)(1), Permit By Rule No. 52119, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$99,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$99,500</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: This case involves unauthorized emissions which have been deemed excessive.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Temporarily shut in the field on March 27, 2009 and thus ceased flaring while the Hess Seminole Plant and its related compression system were rendered inoperable;</p> <p>b. Submitted a Corrective Action Plan ("CAP") to address the excessive emission event, which was received by the TCEQ on September 21, 2009 and approved on September 30, 2009; and</p> <p>c. In order to reduce the risk of third-party facility service interruptions and the resulting flaring of gas associated with such interruptions, initiated a capital expenditure program that will reroute gas produced from the GMK field such that the gas is no longer processed by the Hess Seminole Plant.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Implement the CAP in accordance with the approved schedule;</p> <p>b. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provision a;</p> <p>c. Within 270 days after the effective date of this Agreed Order, install all equipment and perform all work required to complete the rerouting of GMK field gas to the Respondent's Slaughter-Mallet gas plant. This project will involve the acquisition of an approximately nineteen mile long, eight-inch diameter pipeline from the GMK field to the Oxy Mallet southeast collection line. This pipeline will afford operational flexibility to send GMK produced gas to the Respondent's Slaughter-Mallet plant for processing. The project will also include the installation of compressor equipment sufficient to compress 5.5</p>

		<p>million cubic feet per day of gas from 15 pounds per square inch ("psi") to 650 psi in order to move the GMK gas from the GMK field into the Slaughter-Mallet gas plant and the installation of dehydration equipment to dry the compressed gas before it enters the pipeline. The installation of required equipment will also include site preparation, control and interconnect work.</p> <p>The implementation and completion of the rerouting project will involve a commitment to extend Two Million Five Hundred Thousand Dollars (\$2,500,000) in transportation exchange credits, to be redeemed by seller over a ten-year period, for the acquisition of the pipeline, an expenditure of One Million Ninety-Five Thousand Dollars (\$1,095,000) for pipeline testing, repairs, and modifications, and an expenditure of an estimated One Million Six Hundred Seventy-Eight Thousand Dollars (\$1,678,000) for construction and installation of new compressors, dehydration units and necessary tie-ins. In addition, compression rental costs sufficient to move the GMK gas via pipeline are estimated at Eight Hundred Forty Thousand Dollars (\$840,000) for a 24-month rental period, with an estimated cost of One Million One Hundred Eighty-Six Thousand Dollars (\$1,186,000) for compression purchase at the end of that rental period; and</p> <p>d. Within 300 days after the effective date of the Order, submit certification of compliance with Ordering Provision c.</p>
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Additional ID No(s): GA0165U



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	27-Jul-2009	Screening	29-Jul-2009	EPA Due	N/A
	PCW	13-Jan-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Oxy USA WTP LP		
Reg. Ent. Ref. No.	RN102556990		
Facility/Site Region	7-Midland	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38038	No. of Violations	1
Docket No.	2009-1204-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Trina Grieco
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$205,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	10.0% Enhancement	Subtotals 2, 3, & 7	\$20,500
Notes	Penalty enhancement due to two NOVs issued for same or similar violations at this Plant in the past five years.		
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	\$133	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$3,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$225,500
OTHER FACTORS AS JUSTICE MAY REQUIRE	-56.0%	Adjustment	\$126,000
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes	Reduction recommended to offset the amount of compliance costs (approximately five million dollars) above and beyond what is required.		
		Final Penalty Amount	\$99,500
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$99,500
DEFERRAL	0.0% Reduction	Adjustment	
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	No deferral is recommended for Findings Orders.		
PAYABLE PENALTY			\$99,500

Screening Date 29-Jul-2009

Docket No. 2009-1204-AIR-E

PCW

Respondent Oxy USA WTP LP

Policy Revision 2 (September 2002)

Case ID No. 38038

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102556990

Media [Statute] Air

Enf. Coordinator Trina Grileco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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%

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) 10%

>> 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

Penalty enhancement due to two NOVs issued for same or similar violations at this Plant in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 29-Jul-2009	Docket No. 2009-1204-AIR-E																			
Respondent Oxy USA WTP LP	PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>																			
Case ID No. 38038																				
Reg. Ent. Reference No. RN102556990																				
Media [Statute] Air																				
Enf. Coordinator Trina Grieco																				
Violation Number 1																				
Rule Cite(s)	30 Tex. Admin. Code § 106.4(a)(1), Permit By Rule No. 52119, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)																			
Violation Description	Failed to prevent unauthorized emissions and to limit sulfur dioxide emissions to 25 tons per year. Specifically, unauthorized emissions of 84,149.00 pounds ("lbs") of carbon monoxide, 11,219.90 lbs of hydrogen sulfide, 129,472 lbs of non-methane non-ethane natural gas, 8,792.80 lbs of nitrogen oxides, and 1,036,559.00 lbs of sulfur dioxide (518.28 tons over 205 days) were released during an emissions event (Incident No. 122562) that occurred on September 3, 2008 and lasted 4,921 hours. Since this event could have been minimized with better operation practices, such as closer coordination between field staff and environmental staff, and the event was considered excessive, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.																			
	Base Penalty \$10,000																			
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td rowspan="2" style="vertical-align: middle;">Percent 10%</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual			x	Percent 10%	Potential			
		Harm																		
Release	Major	Moderate	Minor																	
Actual			x	Percent 10%																
Potential																				
>> Programmatic Matrix																				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Falsification</td> <td></td> <td></td> <td></td> <td rowspan="2" style="vertical-align: middle;">Percent 0%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Major	Moderate	Minor		Falsification				Percent 0%									
	Major	Moderate	Minor																	
Falsification				Percent 0%																
Matrix Notes	Human health or the environment has been exposed to significant amounts of contaminants that did not exceed protective levels as a result of the violation.																			
	Adjustment \$9,000																			
	\$1,000																			
Violation Events																				
Number of Violation Events	205																			
	205 Number of violation days																			
<i>mark only one with an x</i>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x					
daily																				
weekly																				
monthly																				
quarterly																				
semiannual																				
annual																				
single event	x																			
	Violation Base Penalty \$205,000																			
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> Two hundred five single events are recommended for each day from the date the release began (September 3, 2008) to the date the release ended (March 27, 2009). </div>																				
Good Faith Efforts to Comply																				
	0.0% Reduction																			
	\$0																			
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EOPRP/Settlement Offer</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EOPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x	(mark with x)							
	Before NOV	NOV to EOPRP/Settlement Offer																		
Extraordinary																				
Ordinary																				
N/A	x	(mark with x)																		
Notes	The Respondent does not meet the good faith criteria for this violation.																			
	Violation Subtotal \$205,000																			
Economic Benefit (EB) for this violation																				
	Statutory Limit Test																			
Estimated EB Amount	\$133																			
	Violation Final Penalty Total \$99,220																			
This violation Final Assessed Penalty (adjusted for limits) \$99,220																				

Economic Benefit Worksheet

Respondent: Oxy USA WTP LP
Case ID No.: 38038
Reg. Ent. Reference No.: RN102556990
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
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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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	3-Sep-2008	27-Mar-2009	0.56	\$56	n/a	\$56
Other (as needed)	\$1,000	3-Sep-2008	15-Mar-2010	1.53	\$76	n/a	\$76

Notes for DELAYED costs: Estimated cost to shut in the field (\$2,000) and implement measures designed to improve communication between field staff and environmental staff in order to more quickly respond to minimize emissions from events due to the same causes as this event (\$1,000). The date required is the date the event began and the final dates are the compliance date (March 27, 2009) and the date corrective actions are projected to be completed (March 15, 2010).

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 \$3,000

TOTAL \$133

Compliance History Report

Customer/Respondent/Owner-Operator: CN600125827 Oxy USA WTP LP Classification: AVERAGE Rating: 2.43
Regulated Entity: RN102556990 GMK FLARE FACILITY Classification: AVERAGE Site Rating: 0.31

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 21125
AIR NEW SOURCE PERMITS PERMIT 21339
AIR NEW SOURCE PERMITS ACCOUNT NUMBER GA0165U
AIR NEW SOURCE PERMITS REGISTRATION 52119

Location: FROM THE INTERSECTION OF HIGHWAY 180 AND FARM-TO-MARKET ROAD 1429, 4 MILES EAST ON HIGHWAY 180, THEN NORTH ON A PAVED ROAD 3.6 MILES, THEN WEST 0.5 MILES TO A WATER STATION, THEN 0.25 MILES NORTHEAST TO THE FLARE, GAINES COUNTY

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: July 27, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 27, 2004 to July 27, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Trina Grieco Phone: (210) 403-4006

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.
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 04/10/2006 (461736)
 - 2 05/03/2006 (464839)
 - 3 06/20/2006 (483426)
 - 4 10/03/2006 (514964)
 - 5 05/18/2007 (561031)
 - 6 11/06/2007 (600394)
 - 7 12/19/2007 (612607)
 - 8 01/03/2008 (613371)
 - 9 04/18/2008 (653400)
 - 10 04/23/2008 (653834)
 - 11 04/23/2008 (653875)
 - 12 07/09/2008 (685497)
 - 13 07/09/2008 (685692)

14 08/07/2008 (688972)
15 08/29/2008 (701648)

16 01/09/2009 (723135)
17 07/20/2009 (761957)

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

Date: 04/07/2006 (461736)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
Description: Failure to report the compound descriptive type of all individually listed compounds or mixtures of contaminants in the definition of RQ in 101.1 when the RE only listed SO2 in the final report.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
Description: Failure to report the quantities of the compound descriptive type of all individually listed compounds or mixtures of contaminants in the definition of RQ in 101.1 when the RE only listed SO2 in the final report.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
Description: Failure to submit the final report for incident 70748 within two weeks after the end of the emissions event.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to receive an affirmative defense for incident 70748 when the RE failed to report the incident properly under 101.201(b)(1)(G) and (H) and 101.201(c), which results in unauthorized emissions and a violation of 116.110(a)(4) and 5C THC 382.085(b).

Date: 10/03/2006 (514964)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failure to report the emissions event incident 80528 within 24 hours of discovery of the event and determination that the incident was a reportable event, in violation of 101.201(a)(1)(B), which results in the emissions being unauthorized under 30 TAC Chapter 116, 116.110(a) and 5C Texas Health and Safety Code (THC) 38

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
OXY USA WTP LP
RN102556990**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1204-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 Oxy USA WTP 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, represented by Mr. Matt Kuryla of the law firm of Baker Botts LLP, 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 flare in Gaines County, Texas located as follows: from the intersection of Highway 180 and Farm-to-Market Road 1429, go four miles east on Highway 180,

turn north on paved road and go 3.6 miles, turn west and go 0.5 miles to water station, then 0.25 miles northeast to the flare (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review on May 26 through July 14, 2009, TCEQ staff documented that the Respondent failed to prevent unauthorized emissions and to limit sulfur dioxide emissions to 25 tons per year. Specifically, unauthorized emissions of 84,149.00 pounds ("lbs") of carbon monoxide, 11,219.90 lbs of hydrogen sulfide, 129,472 lbs of non-methane non-ethane natural gas, 8,792.80 lbs of nitrogen oxides, and 1,036,559.00 lbs of sulfur dioxide (518.28 tons over 205 days) were released during an emissions event (Incident No. 122562) that occurred on September 3, 2008 and lasted 4,921 hours.
4. The Respondent received notice of the violations on July 28, 2009.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. Temporarily shut in the field on March 27, 2009 and thus ceased flaring while the Hess Seminole Plant and its related compression system were rendered inoperable;
 - b. Submitted a Corrective Action Plan ("CAP") to address the excessive emission event, which was received by the TCEQ on September 21, 2009 and approved on September 30, 2009; and
 - c. In order to reduce the risk of third-party facility service interruptions and the resulting flaring of gas associated with such interruptions, initiated a capital expenditure program that will reroute gas produced from the GMK field such that the gas is no longer processed by the Hess Seminole Plant.

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 prevent unauthorized emissions and to limit sulfur dioxide emissions to 25 tons per year, in violation of 30 TEX. ADMIN. CODE § 106.4(a)(1), Permit By Rule No. 52119, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b). Since this event could have been minimized with better operation practices, such as closer coordination between field staff and environmental staff, and the event was considered excessive, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.

3. 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.
4. An administrative penalty in the amount of Ninety-Nine Thousand Five Hundred Dollars (\$99,500) 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 the Ninety-Nine Thousand Five Hundred Dollar (\$99,500) administrative penalty.

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 Ninety-Nine Thousand Five Hundred Dollars (\$99,500) as set forth in Section II, Paragraph 4 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: Oxy USA WTP LP, Docket No. 2009-1204-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Implement the CAP in accordance with the approved schedule;
 - b. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provision 2.a. as described in Ordering Provision 2.e. below;
 - c. Within 270 days after the effective date of this Agreed Order, install all equipment and perform all work required to complete the rerouting of GMK field gas to the Respondent's Slaughter-Mallet gas plant. This project will involve the acquisition of an approximately nineteen mile long, eight-inch diameter pipeline from the GMK field to the Oxy Mallet southeast collection line. This pipeline will afford operational flexibility to send GMK produced gas to the Respondent's Slaughter-Mallet plant for processing. The project will also include the installation of compressor equipment sufficient to compress 5.5 million cubic feet per day of gas from 15 pounds per square inch ("psi") to 650 psi in order to move the GMK gas from the GMK field into the Slaughter-Mallet gas plant and the installation of dehydration equipment to dry the compressed gas before it enters the

pipeline. The installation of required equipment will also include site preparation, control and interconnect work.

The implementation and completion of the rerouting project will involve a commitment to extend Two Million Five Hundred Thousand Dollars (\$2,500,000) in transportation exchange credits, to be redeemed by seller over a ten-year period, for the acquisition of the pipeline, an expenditure of One Million Ninety-Five Thousand Dollars (\$1,095,000) for pipeline testing, repairs, and modifications, and an expenditure of an estimated One Million Six Hundred Seventy-Eight Thousand Dollars (\$1,678,000) for construction and installation of new compressors, dehydration units and necessary tie-ins. In addition, compression rental costs sufficient to move the GMK gas via pipeline are estimated at Eight Hundred Forty Thousand Dollars (\$840,000) for a 24-month rental period, with an estimated cost of One Million One Hundred Eighty-Six Thousand Dollars (\$1,186,000) for compression purchase at the end of that rental period; and

- d. Within 300 days after the effective date of the Order, submit certification of compliance with Ordering Provision 2.c., as described in Ordering Provision 2.e. below.
- e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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



For the Executive Director

2/25/2010

Date

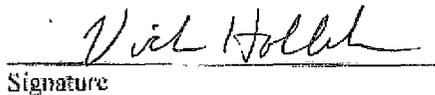
I, the undersigned, have read and understand the attached Agreed Order in the matter of Oxy USA WTP LP. I am authorized to agree to the attached Agreed Order on behalf of Oxy USA WTP LP, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for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

I understand that by entering into this Agreed Order, Oxy USA WTP LP 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.



Signature

1/15/2010

Date

Vicki Hollub

Name (Printed or typed)
Authorized Representative of
Oxy USA WTP LP

Operations Manager

Title

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