

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1625-AIR-E **TCEQ ID:** RN100226687 **CASE NO.:** 38484

RESPONDENT NAME: Occidental Permian Ltd.

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: Wasson CO2 Removal Plant, 2582 County Road 335, near Denver City, Yoakum County</p> <p>TYPE OF OPERATION: Carbon dioxide ("CO2") removal 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 March 29, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Raymond Marlow, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8785; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Peggy Waisanen, Environmental Engineer, Occidental Permian Ltd., P.O. Box 50250, Midland, Texas 79710 Mr. John Kirby, HES Manager, Occidental Permian Ltd., P.O. Box 50250, Midland, Texas 79710 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: September 10, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 18, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to comply with a Nitrogen Oxide ("NOx") concentration limit of 95 parts per million, volumetric dry ("ppmvd") emissions limit from the turbine generator, emission point number TE1 ("EPN TE1"). Specifically, during a stack test conducted on January 13, 14 and 15, 2009, it was determined that the NOx concentration in the stack of EPN TE1 was 113.31 ppmvd [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit 16754, Special Condition No. 9].</p>	<p>Total Assessed: \$9,000</p> <p>Total Deferred: \$1,800 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,600</p> <p>Total Paid to General Revenue: \$3,600</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input 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 the Respondent has retested the turbine generator at the Plant on October 29, 2009 with compliant results.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A).</p>

Additional ID No(s): YA0052H

Attachment A
Docket Number: 2009-1625-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Occidental Permian Ltd.
Payable Penalty Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
SEP Amount:	Three Thousand Six Hundred Dollars (\$3,600)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up
Location of SEP:	Yoakum County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP 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 SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that 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 providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

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.

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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

TCEQ

DATES	Assigned	21-Sep-2009	Screening	5-Oct-2009	EPA Due	18-Jun-2009
	PCW	6-Nov-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Occidental Permian Ltd.
Reg. Ent. Ref. No.	RN100226687
Facility/Site Region	2-Lubbock
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38484	No. of Violations	1
Docket No.	2009-1625-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raymond Marlow
		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** \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes
 Penalty enhancement due to one NOV with an unrelated violation.
 Penalty reduction due to one letter of intended audit and one disclosure of violations.

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

Notes
 The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$1,000

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

Total EB Amounts \$554
 Approx. Cost of Compliance \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$9,000

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$9,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$9,000

DEFERRAL 20.0% Reduction **Adjustment** -\$1,800

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$7,200

Screening Date 5-Oct-2009

Docket No. 2009-1625-AIR-E

PCW

Respondent Occidental Permian Ltd.

Policy Revision 2 (September 2002)

Case ID No. 38484

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100226687

Media [Statute] Air

Enf. Coordinator Raymond Marlow

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)	0	0%
	Other written NOVs	1	2%
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)	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) 0%

>> 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 one NOV with an unrelated violation. Penalty reduction due to one letter of intended audit and one disclosure of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 5-Oct-2009

Docket No. 2009-1625-AIR-E

PCW

Respondent Occidental Permian Ltd.

Policy Revision 2 (September 2002)

Case ID No. 38484

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100226887

Media [Statute] Air

Enf. Coordinator Raymond Marlow

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and Air Permit 16754, Special Condition No. 9

Violation Description

Failed to comply with a Nitrogen Oxide ("NOx") concentration limit of 95 parts per million, volumetric dry ("ppmvd") from the turbine generator, emission point number TE1 ("EPN TE1"). Specifically, during a stack test conducted on January 13, 14, and 15, 2009, it was determined that the NOx concentration in the stack of EPN TE1 was 113.31 ppmvd.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 Number of violation days 289

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four quarterly events are recommended based on the date of noncompliance of January 13, 2009 to the October 29, 2009 compliant retest.

Good Faith Efforts to Comply

10.0% Reduction

\$1,000

	Before NOV	NOV to ED/RRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent completed corrective actions on October 29, 2009, after the September 18, 2009 NOE.

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$554

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent Occidental Permian Ltd.
Case ID No. 38484
Reg. Ent. Reference No. RN100226687
Media: Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	13-Jan-2009	28-Oct-2009	0.79	\$26	\$528	\$554
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to perform the retest. The date required is the earliest date of noncompliance. The final date is the date that the retest was performed.

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

\$10,000

TOTAL

\$554

Compliance History Report

Customer/Respondent/Owner-Operator: CN600755086 Occidental Permian Ltd. Classification: AVERAGE Rating: 2.61
Regulated Entity: RN100226687 WASSON CO2 REMOVAL PLANT Classification: HIGH Site Rating: 0.00

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	YA0052H
	AIR OPERATING PERMITS	PERMIT	553
	AIR NEW SOURCE PERMITS	PERMIT	16754
	AIR NEW SOURCE PERMITS	PERMIT	28996
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	YA0052H
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX682
	AIR NEW SOURCE PERMITS	AFS NUM	4850100025
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000047027
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	86909
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	YA0052H

Location: 2582 COUNTY RD 335, DENVER CITY, TX, 79323

TCEQ Region: REGION 02 - LUBBOCK

Date Compliance History Prepared: November 05, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 21, 2004 to September 21, 2009

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

Name: Raymond Marlow, P.G. Phone: 409-899-8785

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
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 11/23/2004 (342184)
 - 2 03/11/2005 (345263)
 - 3 06/22/2005 (397071)

4	07/13/2005	(398847)
5	08/29/2005	(402779)
6	08/29/2005	(403284)
7	10/18/2005	(434358)
8	11/15/2005	(436886)
9	12/05/2005	(437003)
10	12/12/2005	(438848)
11	12/14/2005	(440210)
12	12/21/2005	(449746)
13	02/13/2006	(455294)
14	02/14/2006	(455434)
15	02/14/2006	(455487)
16	02/22/2006	(456192)
17	03/06/2006	(454716)
18	03/08/2006	(458409)
19	03/08/2006	(458510)
20	03/09/2006	(458553)
21	03/10/2006	(458672)
22	03/14/2006	(459073)
23	03/16/2006	(459346)
24	03/28/2006	(460148)
25	04/03/2006	(460091)
26	04/03/2006	(460809)
27	04/03/2006	(460828)
28	07/05/2006	(484912)
29	07/07/2006	(485330)
30	07/21/2006	(488137)
31	09/06/2006	(490403)
32	09/06/2006	(497142)
33	09/07/2006	(497182)
34	09/11/2006	(490358)
35	10/16/2006	(515953)
36	10/16/2006	(516177)
37	11/03/2006	(518281)
38	11/27/2006	(531935)
39	11/28/2006	(532156)
40	12/01/2006	(532503)
41	12/12/2006	(533523)
42	01/09/2007	(535099)
43	01/12/2007	(533283)
44	01/22/2007	(537049)
45	01/22/2007	(537139)
46	02/12/2007	(539553)
47	02/20/2007	(541142)
48	02/28/2007	(541048)
49	03/12/2007	(542144)
50	04/05/2007	(542153)
51	04/09/2007	(542165)
52	04/11/2007	(556430)
53	04/12/2007	(556700)
54	05/07/2007	(556862)
55	05/31/2007	(561979)
56	06/27/2007	(564823)
57	07/09/2007	(560488)
58	09/10/2007	(574145)
59	09/20/2007	(593565)
60	09/21/2007	(593633)
61	10/05/2007	(596553)
62	12/18/2007	(600795)

63	02/20/2008	(619172)
64	02/21/2008	(619205)
65	03/03/2008	(637355)
66	03/12/2008	(638611)
67	03/25/2008	(639593)
68	03/25/2008	(639716)
69	04/04/2008	(640848)
70	04/17/2008	(641860)
71	04/22/2008	(653484)
72	04/30/2008	(654598)
73	05/02/2008	(654845)
74	05/06/2008	(654464)
75	05/06/2008	(655003)
76	05/08/2008	(656996)
77	05/12/2008	(657286)
78	05/13/2008	(657285)
79	05/19/2008	(670807)
80	05/30/2008	(671583)
81	05/30/2008	(680640)
82	06/04/2008	(681881)
83	06/10/2008	(680559)
84	08/11/2008	(689131)
85	09/04/2008	(687186)
86	10/13/2008	(705070)
87	11/10/2008	(706367)
88	11/20/2008	(708808)
89	12/03/2008	(709566)
90	12/16/2008	(721093)
91	01/06/2009	(722675)
92	01/22/2009	(724285)
93	01/29/2009	(725203)
94	02/09/2009	(726103)
95	02/10/2009	(725172)
96	02/10/2009	(726032)
97	02/10/2009	(726257)
98	02/18/2009	(726079)
99	02/18/2009	(726998)
100	02/19/2009	(727182)
101	02/24/2009	(735723)
102	02/24/2009	(735858)
103	02/25/2009	(735550)
104	03/05/2009	(736420)
105	03/09/2009	(736421)
106	03/11/2009	(738048)
107	03/20/2009	(738587)
108	06/26/2009	(748828)
109	09/02/2009	(761595)
110	09/02/2009	(764403)
111	09/16/2009	(766130)
112	09/18/2009	(775705)

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

Date: 08/11/2008 (689131)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 24. A. PERMIT

Description: Failure to maintain a list, diagram or database of the VOC equipment exempted from Permit No. 16754/PSD-TX-682, Special Condition No. 24. A. in violation of 30

F. Environmental audits.

Notice of Intent Date: 10/10/2006

Disclosure Date: 02/16/2007

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.483-1(b)(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(d)

Description: Failure to notify TCEQ 90 prior when implementing an alternative standard.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.110b(b)

Description: Failure to equip a 2500 bbl tank V2-1801 and a 3000 bbl tank V2-1804 with controls required by Subpart Kb by July 23, 1984.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7

Description: Failure to provide the TCEQ with a written notice of the actual date of initial startup within 15 days after such date. Specifically the notice was not provide for Tanks V2-1804 (Kb), V2-1801 and V2-1804 regarding applicability of NSPS Subpart Kb and Subpart KKK.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.136(b)

Description: Failure to amend Title V permit O00553 NSPS Subpart Kb for Tanks V2-1801 and V2-1804.

Viol. Classification: Moderate

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

Description: Failure to include items on the semiannual deviation report relating to Tanks V2-1801 and V2-1804.

Disclosure Date: 03/01/2007

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.483-1(b)(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(d)

Description: Failure to notify TCEQ 90 prior when implementing an alternative standard.

Disclosure Date: 03/06/2007

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7

Description: Failure to provide the TCEQ with a written notice of the actual date of initial startup within 15 days after such date. Specifically the notice was not provide for Tanks V2-1804 (Kb), V2-1801 and V2-1804 regarding applicability of NSPS Subpart Kb and Subpart KKK.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.136(b)

Description: Failure to amend Title V permit O00553 NSPS Subpart Kb for Tanks V2-1801 and V2-1804.

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
OCCIDENTAL PERMIAN LTD .
RN100226687**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1625-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 Occidental Permian Ltd. ("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 carbon dioxide removal plant at 2582 County Road 335 near Denver City, Yoakum 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 September 23, 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 Dollars (\$9,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Six Hundred Dollars (\$3,600) of the administrative penalty and One Thousand Eight Hundred Dollars (\$1,800) 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 Dollars (\$3,600) 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 the Respondent has retested the turbine generator at the Plant on October 29, 2009 with compliant results.
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 comply with a Nitrogen Oxide ("NOx") concentration limit of 95 parts per million, volumetric dry ("ppmvd") emissions limit from the turbine generator, emission point number TE1 ("EPN TE1"), in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit 16754, Special Condition No. 9, as documented during an investigation conducted on September 10, 2009. Specifically, during a stack test conducted on January 13, 14, and 15, 2009, it was determined that the NOx concentration in the stack of EPN TE1 was 113.31 ppmvd.

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: Occidental Permian Ltd., Docket No. 2009-1625-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 Dollars (\$3,600) 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. 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 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.
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 Berlin

For the Executive Director

3/23/2010

Date

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

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

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

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

John Kirby

Signature

1/6/2010

Date

John Kirby

Name (Printed or typed)
Authorized Representative of
Occidental Permian Ltd.

HES Manager

Title

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

Attachment A
Docket Number: 2009-1625-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Occidental Permian Ltd.
Payable Penalty Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
SEP Amount:	Three Thousand Six Hundred Dollars (\$3,600)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up
Location of SEP:	Yoakum County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP 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 SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that 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 providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

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.

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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.

