

**Executive Summary – Enforcement Matter – Case No. 41108**  
**LDH Energy Mont Belvieu L.P.**  
**RN105231831**  
**Docket No. 2011-0212-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Mont Belvieu Products Terminal, 10030 A Farm-to-Market Road 1942, Mont Belvieu, Harris County

**Type of Operation:**

Petroleum terminal

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** August 26, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$50,625

**Amount Deferred for Expedited Settlement:** \$10,125

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$40,500

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41108  
LDH Energy Mont Belvieu L.P.  
RN105231831  
Docket No. 2011-0212-AIR-E**

***Investigation Information***

**Complaint Date(s):** October 28, 2010

**Complaint Information:** A complaint was received alleging flaring without authorization.

**Date(s) of Investigation:** November 2, 2010

**Date(s) of NOE(s):** January 14, 2011

***Violation Information***

Failed to submit an initial Federal Operating Permit (“FOP”) application within 12 months of the Houston-Galveston-Brazoria area being designated as severe non-attainment for ozone. Specifically, the FOP application should have been filed by October 31, 2009 but was not filed until December 31, 2010 and the Respondent continued to operate the Plant [30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:

- a. On December 31, 2010, an abbreviated FOP application was submitted; and
- b. On January 31, 2011, the full FOP application was submitted.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 41108**  
**LDH Energy Mont Belvieu L.P.**  
**RN105231831**  
**Docket No. 2011-0212-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Raymond Marlow, P.G., Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8785; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Joseph E. Rothbauer, Senior Vice President - Operations, LDH Energy Mont Belvieu L.P., 10902 Fitzgerald Road, Mont Belvieu, Texas 77580  
Rusti Beckmann, Plant Manager, LDH Energy Mont Belvieu L.P., 10902 Fitzgerald Road, Mont Belvieu, Texas 77580

**Respondent's Attorney:** M. Ben Cowan, Locke Lord Bissell & Liddell LLP, 2800 JPMorgan Chase Tower, 600 Travis, Houston, Texas 77002





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	18-Jan-2011	<b>Screening</b>	1-Feb-2011	<b>EPA Due</b>	15-Oct-2011
	<b>PCW</b>	10-Mar-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	LDH Energy Mont Belvieu L.P.
<b>Reg. Ent. Ref. No.</b>	RN105231831
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41108	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-0212-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Raymond Marlow, P.G.
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$37,500**

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

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

**Compliance History** **35.0%** Enhancement **Subtotals 2, 3, & 7** **\$13,125**

Notes: Enhancement for eight dissimilar NOV's and one order with denial of liability. Reduction for one Notice of Intent to conduct an audit.

**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: \$375  
Approx. Cost of Compliance: \$5,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$50,625**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$50,625**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$50,625**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$10,125**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$40,500**

Screening Date 1-Feb-2011

Docket No. 2011-0212-AIR-E

PCW

Respondent LDH Energy Mont Belvieu L.P.

Policy Revision 2 (September 2002)

Case ID No. 41108

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105231831

Media [Statute] Air

Enf. Coordinator Raymond Marlow, P.G.

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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)** 35%

>> 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

Enhancement for eight dissimilar NOVs and one order with denial of liability. Reduction for one Notice of Intent to conduct an audit.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 35%

Screening Date 1-Feb-2011

Docket No. 2011-0212-AIR-E

PCW

Respondent LDH Energy Mont Belvieu L.P.

Policy Revision 2 (September 2002)

Case ID No. 41108

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105231831

Media [Statute] Air

Enf. Coordinator Raymond Marlow, P.G.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.121 and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description Failed to submit an initial Federal Operating Permit ("FOP") application within 12 months of the Houston-Galveston-Brazoria area being designated as severe non-attainment for ozone. Specifically, the FOP application should have been filed by October 31, 2009 but was not filed until December 31, 2010 and the Respondent continued to operate the Plant.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 0%
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent 25%
		x			
Matrix Notes	100% of the rule requirement was not met.				

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 15 Number of violation days 426

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$37,500

Fifteen monthly events are recommended for operating without a FOP from the application due date of October 31, 2009 to the date the application was submitted on December 31, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the Good Faith criteria.

Violation Subtotal \$37,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$375

Violation Final Penalty Total \$50,625

This violation Final Assessed Penalty (adjusted for limits) \$50,625

# Economic Benefit Worksheet

**Respondent** LDH Energy Mont Belvieu L.P.  
**Case ID No.** 41108  
**Reg. Ent. Reference No.** RN105231831  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	31-Oct-2009	1-May-2011	1.50	\$375	n/a	\$375
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for obtaining a FOP (FOP application was submitted on December 31, 2010). The date required is based on the date the permit application was due to be filed. The final date is the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$375

# Compliance History

Customer/Respondent/Owner-Operator: CN603194101 LDH Energy Mont Belvieu L.P. Classification: AVERAGE Rating: 3.63  
 Regulated Entity: RN105231831 MONT BELVIEU PRODUCTS TERMINAL Classification: AVERAGE Site Rating: 2.00

ID Number(s):	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HGA104Z
	AIR OPERATING PERMITS	PERMIT	3416
	STORMWATER	PERMIT	TXR15PJ43
	STORMWATER	PERMIT	TXR15PD36
	STORMWATER	PERMIT	TXR15IX54
	AIR NEW SOURCE PERMITS	PERMIT	81975
	AIR NEW SOURCE PERMITS	REGISTRATION	94754
	AIR NEW SOURCE PERMITS	REGISTRATION	94737
	AIR NEW SOURCE PERMITS	AFS NUM	4820101933
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HGA104Z
	WASTEWATER	EPA ID	TX0131903
	WASTEWATER	PERMIT	WQ0004876000

Location: 10030 A FM RD. 1942, Mont Belvieu, TX,  
 TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 16, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 18, 2006 to January 18, 2011

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: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/15/2010

ADMINORDER 2010-0844-IWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits & Monitoring Req. No. 1 PERMIT

Description: Failure to comply with permit effluent limitations as documented by a record review conducted on April 21, 2010.

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 05/14/2010 (799918)
- 2 02/22/2010 (822235)
- 3 12/17/2009 (822236)
- 4 01/15/2010 (822237)
- 5 07/01/2010 (828755)
- 6 03/18/2010 (837157)
- 7 04/20/2010 (837158)
- 8 05/21/2010 (837159)
- 9 06/18/2010 (848186)
- 10 06/30/2010 (862678)
- 11 08/19/2010 (869257)
- 12 09/17/2010 (876146)
- 13 10/19/2010 (883744)
- 14 11/10/2010 (890098)
- 15 12/20/2010 (898504)

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

**Date:** 11/30/2009 **CN603194101**  
Self Report? YES **Classification:** Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

**Date:** 12/31/2009 (822237) **CN603194101**  
Self Report? YES **Classification:** Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

**Date:** 01/31/2010 (822235) **CN603194101**  
Self Report? YES **Classification:** Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

**Date:** 02/28/2010 (837157) **CN603194101**  
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2010 (837158) CN603194101  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010 (848186) CN603194101  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2010 (862678) CN603194101  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 07/01/2010 (828755) CN603194101  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)  
Description: Failure to measure the pH daily, when discharging, as required.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)  
30 TAC Chapter 319, SubChapter A 319.11(b)  
Description: Failure to properly collect the oil & grease samples.

F. Environmental audits.

Notice of Intent Date: 12/22/2010

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
LDH ENERGY MONT BELVIEU  
L.P.  
RN105231831**

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

**AGREED ORDER  
DOCKET NO. 2011-0212-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 LDH Energy Mont Belvieu L.P. ("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 M. Ben Cowan of the law firm of Locke Lord Bissell & Liddell LLP, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a petroleum terminal at 10030 A Farm-to-Market Road 1942 in Mont Belvieu, Harris 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 January 19, 2011.
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 Fifty Thousand Six Hundred Twenty-Five Dollars (\$50,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Forty Thousand Five Hundred Dollars (\$40,500) of the administrative penalty and Ten Thousand One Hundred Twenty-Five Dollars (\$10,125) 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.
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 implemented the following corrective measures at the Plant:
  - a. On December 31, 2010, an abbreviated Federal Operating Permit ("FOP") application was submitted; and
  - b. On January 31, 2011, the full FOP application was submitted.
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 submit an initial FOP application within 12 months of the Houston-Galveston-Brazoria area being designated as severe non-attainment for ozone in violation of 30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during an investigation conducted on November 2, 2010. Specifically, the FOP application should have been filed by October 31, 2009 but was not filed until December 31, 2010 and the Respondent continued to operate the Plant.

### 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: LDH Energy Mont Belvieu L.P., Docket No. 2011-0212-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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
  - b. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk St., Ste. H  
Houston, Texas 77023-1452

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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph

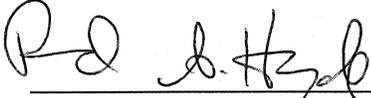
exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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



\_\_\_\_\_  
For the Executive Director

8/30/11

\_\_\_\_\_  
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.

\_\_\_\_\_  
Signature

4/4/11  
\_\_\_\_\_  
Date

JOSEPH E ROTZBAUER  
Name (Printed or typed)  
Authorized Representative of  
LDH Energy Mont Belvieu L.P.

SVP - OPS  
\_\_\_\_\_  
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.