Executive Summary – Enforcement Matter – Case No. 41449
Ballard Exploration Company, Inc.
RN106063001
Docket No. 2011-0547-AIR-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
AIR
Small Business:
No
Location(s) Where Violation(s) Occurred:
Abshier 1 Production Facility, located on Lease Road to the east of County Road 193, approximately 0.1 mile north of the intersection of United States Highway 90 and County Road 193, near Raywood, Liberty County
Type of Operation:
Oil and gas production site
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: August 19, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $35,000
Amount Deferred for Expedited Settlement: $7,000
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $28,000
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 - N/A
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41449
Ballard Exploration Company, Inc.
RN106063001
Docket No. 2011-0547-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 17, 2010
Date(s) of NOE(s): March 30, 2011

Violation Information

1. Failed to meet the control requirements for the storage of volatile organic compounds ("VOC"). Specifically, four storage tanks were not routed to a vapor recovery system or control device, resulting in the release of approximately 46.5 tons of VOC in calendar year 2009 [30 TEX. ADMIN. CODE § 115.112(d)(1) and (d)(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to obtain authorization to construct and operate a source of air emissions. Specifically, the Respondent failed to obtain permit authorization to operate the Tank Battery and the conditions of the Permit by Rule for oil and gas production facilities cannot be satisfied [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].

3. Failed to obtain a federal operating permit. Specifically, the Tank Battery emitted approximately 46.5 tons per year of VOC in calendar year 2009 [30 TEX. ADMIN. CODE §§ 122.121 and 122.130(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Submit an administratively complete New Source Review permit application for the Tank Battery in order to authorize emissions; and

ii. Submit an initial federal operating permit application for the Tank Battery.

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit applications within 30 days after the date of such requests, or by any other deadline specified in writing;

c. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.;

d. Within 60 days, modify the Tank Battery;

e. Within 75 days, submit written certification to demonstrate compliance with Ordering Provision d.;

f. Within 180 days, submit written certification that either authorization to operate the Tank Battery under the New Source Review Program has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and

g. Within 365 days, submit written certification that either authorization to operate the Tank Battery under the Federal Operating Permits Program has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Todd Huddleson, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2541; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: A.L. Ballard, President, Ballard Exploration Company, Inc., 1021 Main Street, Suite 2310, Houston, Texas 77002
Ben Yoesel, Operations Engineer, Ballard Exploration Company, Inc., 1021 Main Street, Suite 2310, Houston, Texas 77002
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	4-Apr-2011				
PCW	8-Apr-2011	Screening	8-Apr-2011	EPA Due	24-Dec-2011

RESPONDENT/FACILITY INFORMATION

Respondent	Ballard Exploration Company, Inc.		
Reg. Ent. Ref. No.	RN106063001		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41449	No. of Violations	3
Docket No.	2011-0547-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Todd Huddleson
		EC's Team	Enforcement Team 4

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $35,000

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: No adjustment for compliance history.

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 $3,945
Approx. Cost of Compliance $30,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $35,000

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $35,000

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $35,000

DEFERRAL 20.0% Reduction *Adjustment* -$7,000

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 $28,000

Screening Date	8-Apr-2011	**Docket No.** 2011-0547-AIR-E	**PCW**
Respondent	Ballard Exploration Company, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	41449		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN106063001		
Media [Statute]	Air		
Enf. Coordinator	Todd Huddleson		

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	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*	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) 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

No adjustment for compliance history.

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

Screening Date	8-Apr-2011	**Docket No.** 2011-0547-AIR-E	**PCW**
Respondent	Ballard Exploration Company, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	41449		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN106063001		
Media [Statute]	Air		
Enf. Coordinator	Todd Huddleson		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.112(d)(1) and (d)(4) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to meet the control requirements for the storage of volatile organic compounds ("VOC"), as documented during an investigation conducted on November 17, 2010. Specifically, four storage tanks were not routed to a vapor recovery system or control device, resulting in the release of approximately 46.5 tons of VOC in calendar year 2009.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			x
	Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment have been exposed to an insignificant amount of pollutants that did not exceed protective levels as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 8 | 142 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $20,000

Eight quarterly events are recommended (two quarters each for four tanks) from the investigation date of November 17, 2010 to the screening date of April 8, 2011.

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 for this violation.

Violation Subtotal $20,000

Economic Benefit (EB) for this violation

Estimated EB Amount $2,978

Statutory Limit Test

Violation Final Penalty Total $20,000

This violation Final Assessed Penalty (adjusted for limits) $20,000

Economic Benefit Worksheet

Respondent Ballard Exploration Company, Inc.
Case ID No. 41449
Req. Ent. Reference No. RN106063001
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$20,000	1-Jan-2009	24-Dec-2011	2.98	$2,978	n/a	$2,978

Notes for DELAYED costs: Estimated cost to make the required modifications to the four tanks ($5,000 per tank). The Date Required is the date controls were required to be installed by. The Final Date is the projected date corrective actions will be completed.

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 $20,000

TOTAL $2,978

Screening Date	8-Apr-2011	**Docket No.** 2011-0547-AIR-E	**PCW**
Respondent	Ballard Exploration Company, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	41449		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN106063001		
Media [Statute]	Air		
Enf. Coordinator	Todd Huddleson		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description Failed to obtain authorization to construct and operate a source of air emissions, as documented during an investigation conducted on November 17, 2010. Specifically, the Respondent failed to obtain permit authorization to operate the Tank Battery and the conditions of the Permit by Rule for oil and gas production facilities cannot be satisfied.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: The Respondent failed to meet 100% of the rule requirement.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 5

142 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $12,500

Five monthly events are recommended based on the November 17, 2010 investigation date to the April 8, 2011 screening date.

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 for this violation.

Violation Subtotal $12,500

Economic Benefit (EB) for this violation

Estimated EB Amount $275

Statutory Limit Test

Violation Final Penalty Total $12,500

This violation Final Assessed Penalty (adjusted for limits) $12,500

Economic Benefit Worksheet

Respondent Ballard Exploration Company, Inc.
Case ID No. 41449
Req. Ent. Reference No. RN106063001
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	17-Nov-2010	24-Dec-2011	1.10	$275	n/a	$275
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to obtain a permit authorization. The Date Required is the date of investigation and the Final Date is the expected date of compliance.

Avoided Costs							
	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $5,000

TOTAL $275

Screening Date	8-Apr-2011	**Docket No.** 2011-0547-AIR-E	**PCW**
Respondent	Ballard Exploration Company, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	41449		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN106063001		
Media [Statute]	Air		
Enf. Coordinator	Todd Huddleson		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 122.121 and 122.130(b) and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description Failed to obtain a federal operating permit, as documented during an investigation conducted on November 17, 2010. Specifically, the Tank Battery emitted approximately 46.5 tons per year of VOC in calendar year 2009.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: The Respondent failed to meet 100% of the rule requirement.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 1

524 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended.

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 for this violation.

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $691

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent Ballard Exploration Company, Inc.
Case ID No. 41449
Req. Ent. Reference No. RN106063001
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs	$5,000	31-Oct-2009	5-Aug-2012	2.76	$691	n/a	$691
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estmated costs to prepare and submit a federal operating permit application. The Date Required is the date the federal operating permit was required to be obtained and the Final Date is the date a federal operating permit is expected to be issued.

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 $691

Compliance History

Customer/Respondent/Owner-Operator:	CN601319361	Ballard Exploration Company, Inc.	Classification: AVERAGE	Rating: 2.63
Regulated Entity:	RN106063001	ABSHIER 1 PRODUCTION FACILITY	Classification:	Site Rating:
ID Number(s):				

Location: ON LEASE RD TO E OF CR 193, APPROX. 0.1 MI N OF INTX OF US HWY 90 AND CR 193, NEAR RAYWOOD, TX 77582

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 06, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 06, 2006 to April 06, 2011

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

Name: Todd Huddleson Phone: (512) 239 - 2541

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.

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 03/30/2011 (887375)

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

N/A

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	
BALLARD EXPLORATION	**§**	**TEXAS COMMISSION ON**
COMPANY, INC.	**§**	
RN106063001	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0547-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 Ballard Exploration Company, Inc. ("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 an oil and gas production site located on Lease Road to the east of County Road 193, approximately 0.1 mile north of the intersection of U.S. Highway 90 and County Road 193, near Raywood, Liberty County, Texas (the "Tank Battery").

2. The Tank Battery 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 April 4, 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 Thirty-Five Thousand Dollars ($35,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Eight Thousand Dollars ($28,000) of the administrative penalty and Seven Thousand Dollars ($7,000) 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 may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Tank Battery, the Respondent is alleged to have:

1. Failed to meet the control requirements for the storage of volatile organic compounds ("VOC"), in violation of 30 TEX. ADMIN. CODE § 115.112(d)(1) and (d)(4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 17, 2010. Specifically, four storage tanks were not routed to a vapor recovery system or control device, resulting in the release of approximately 46.5 tons of VOC in calendar year 2009.

2. Failed to obtain authorization to construct and operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on November 17, 2010. Specifically, the Respondent failed to obtain permit authorization to operate the Tank Battery and the conditions of the Permit by Rule for oil and gas production facilities cannot be satisfied.

3. Failed to obtain a federal operating permit, in violation of 30 TEX. ADMIN. CODE §§ 122.121 and 122.130(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during an investigation conducted on November 17, 2010. Specifically, the Tank Battery emitted approximately 46.5 tons per year of VOC in calendar year 2009.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ballard Exploration Company, Inc., Docket No. 2011-0547-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. Within 30 days after the effective date of this Agreed Order:

      i. Submit an administratively complete New Source Review permit application for the Tank Battery in order to authorize emissions, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

         Air Permits Division, MC 162
         Texas Commission on Environmental Quality
         P.O. Box 13087
         Austin, Texas 78711-3087

      ii. Submit an initial federal operating permit application for the Tank Battery as described by 30 TEX. ADMIN. CODE § 122.134 to:

         Air Permits Division, MC 163
         Texas Commission on Environmental Quality
         P.O. Box 13087
         Austin, Texas 78711-3087

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit applications within 30 days after the date of such requests, or by any other deadline specified in writing;

c. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.h.;

d. Within 60 days after the effective date of this Agreed Order, modify the Tank Battery, in accordance with 30 TEX. ADMIN. CODE §§ 115.112(d)(1) and (d)(4);

e. Within 75 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.d., as described in Ordering Provision No. 2.h.;

f. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate the Tank Battery under the New Source Review Program has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 2.h.;

g. Within 365 days after the effective date of this Agreed Order, submit written certification that either authorization to operate the Tank Battery under the Federal Operating Permits Program has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 2.h.; and

h. The written certifications required by Ordering Provision Nos. 2.c., 2.e., 2.f., and 2.g. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the Ordering Provision. 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 Avenue, Suite 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 Tank Battery 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

_____ 9/12/11
For the Executive Director 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.

_____ 7/11/11
Signature Date

A. L. BALLARD PRESIDENT
Name (Printed or typed) Title
Authorized Representative of
Ballard Exploration Company, Inc.

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.