

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0365-AIR-E

RN105845135

CASE NO. 39284

RESPONDENT NAME: ARUBA PETROLEUM, INC.

ORDER TYPE:		
<input type="checkbox"/> AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

SITE WHERE VIOLATION(S) OCCURRED: Wright Lease 7H &8H Gas Well Site, approximately one mile east of the intersection of Allison-Slidell Road (CR 2513) and CR 2514, Wise County

TYPE OF OPERATION: natural gas drilling

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: The investigation was initiated by a complaint received on January 17, 2010, alleging that nuisance odors and visible emissions were emanating from the Site. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has indicated a desire to speak at Agenda. There has also been interest expressed in this matter by Rep. Phil King (District 61, Parker and Wise Counties) and Sen. Craig Estes (District 30).

COMMENTS RECEIVED: The *Texas Register* comment period expired February 21, 2011. No comments have been received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Jennifer Cook, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Miriam Hall, Air Enforcement Section, MC 149, (512) 239-5025

TCEQ Regional Contact: Alyssa Taylor, Dallas/Fort Worth Regional Office, MC R-4, (817)588-5828

TCEQ SEP Coordinator: Sharon Blue, Litigation Division, MC 175, (512) 239-3400

Respondent: J.R. Lovett, Chief Financial Officer, Aruba Petroleum, Inc., 555 Republic Drive, Suite 505, Plano, Texas 75074

Respondent's Attorney: Jeff Civins, Haynes and Boone, LLP, 600 Congress Avenue, Suite 1300, Austin, Texas 78701

**RESPONDENT NAME: ARUBA PETROLEUM, INC.
DOCKET NO. 2010-0365-AIR-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Initial Complaint: January 17, 2010</p> <p>Dates of Investigation: January 17, 2010 February 3 - 20, 2010 February 27 - 28, 2010</p> <p>Dates of NOEs: March 5, 2010 May 3, 2010</p> <p>Background Facts: The EDRPP was filed on April 23, 2010. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Agreed Order was signed on January 13, 2011.</p> <p>Current Compliance Status: No outstanding technical requirements.</p> <p>AIR:</p> <ol style="list-style-type: none"> Failed to prevent the discharge from any source of one or more air contaminants or combinations thereof, in such concentration as to interfere with the normal use and enjoyment of animal life, vegetation, or property [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)]. Failed to prevent the discharge from any source of one or more air contaminants or combinations thereof, in such concentration as to interfere with the normal use and enjoyment of animal life, vegetation, or property [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)]. Failed to obtain authorization for a facility which may emit air contaminants [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518 and 382.085(b)]. 	<p>Total Assessed: \$35,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$35,500</p> <p>Total Paid to General Revenue: \$0/\$0</p> <p>Respondent shall contribute 100% of the administrative penalty to a Supplemental Environmental Project (SEP).</p> <p>Compliance History Classifications: <i>Person/CN</i> – Not yet rated <i>Site/RN</i> – Average by Default</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that Respondent performed the following corrective actions:</p> <ol style="list-style-type: none"> Installed and began operating a flare in order to prevent nuisance odor conditions from operating the oil and gas production facilities; and Submitted documentation supportive of its claim under a Permit by Rule. <p>Ordering Provisions: Respondent shall implement and complete a SEP (<u>University of Texas at Arlington – Texas Air Quality Monitoring Network</u> – preference for the 215 Dallas-Fort Worth Airshed in Tarrant County)</p>

Attachment A
Docket Number: 2010-0365-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Aruba Petroleum, Inc.
Penalty Amount:	Thirty-Five Thousand Five Hundred Dollars (\$35,500)
SEP Offset Amount:	Thirty-Five Thousand Five Hundred Dollars (\$35,500)
Type of SEP:	Pre-approved
Third-Party Recipient:	University of Texas at Arlington
Project Name:	<i>Texas Air Quality Monitoring Network</i>
Location of SEP:	All counties statewide with a preference for Tarrant County in the 215 Dallas-Fort Worth Airshed

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset 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

Respondent shall contribute the SEP offset Amount to the Third-Party Recipient named above. The contribution will be to the University of Texas at Arlington for the *Texas Air Quality Monitoring Network* to be used as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used to construct, operate, maintain, and potentially expand a network of continuous ambient monitoring stations ("CAMS") that monitor both air toxics and ozone precursors. Each CAMS will feature an automated gas-chromatograph ("Auto-GC") which shall monitor ambient air for chemical compounds that could potentially affect human health and welfare and ozone formation. The current target analyte list for each Auto GC includes approximately 48 parameters. An oxides of nitrogen monitor, sulfur dioxide monitor and meteorological data instruments may also be installed at sites in the future upon approval from TCEQ.

Specifically, SEP Funds shall be used for site preparation, equipment purchase, operation and maintenance of an air monitoring network in the state of Texas in order to provide information on data quality and trends to the public, TCEQ, and industry representatives. Contingent upon funding and priorities, each of the CAMS locations shall measure air quality for a variety of parameters. Hourly measurements shall be reported for approximately 48 parameters that participate in the formation of ground level ozone and several of which are designated by the EPA as Hazardous Air Pollutants ("HAPs"). The speciated measurements shall be made using an Auto-GC. In the future at TCEQ's direction, both 5-minute and

hourly averaged measurements of oxides of nitrogen ("NO_x"), nitric oxide ("NO"), and nitrogen dioxide ("NO₂"), ozone ("O₃"), sulfur dioxide ("SO₂") and meteorological parameters (i.e., wind speed, wind direction, horizontal wind standard deviation, wind gust, net radiation, and outside air temperature) may be measured and reported. Other parameters may be considered dependent upon funding. The data from this program shall be collected, validated and quality assured using methodologies consistent with TCEQ standards. Available data from each CAMS shall be uploaded every 15 minutes via a web based portal directly to TCEQ's air quality information database which TCEQ may make available to the public via the TCEQ public web site.

The SEP shall be conducted under a TCEQ-approved Quality Assurance Project Plan containing all applicable EPA QA-R5 elements. Analysis of all data collected from these sites will comply with standard operating procedures for the analysis and measurement of air toxics and ozone precursors in ambient air. The laboratory data generated by this project will be from a TCEQ accredited laboratory in compliance with state laws and rules regarding use of certified or accredited testing laboratories. For example, data submitted must comply with 30 Texas Administrative Code, Chapter 25, Subchapter A, relating to Environmental Testing Laboratory Accreditation and Certification, as amended, where applicable. The data collected using SEP Funds will be validated and sent to TCEQ's LEADS system and EPA's AQS. All costs associated with the collection, transfer, and formatting of this data to be compatible with the LEADS system and the AQS System may utilize SEP funds.

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.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This air monitoring project will provide data to help prevent pollution and reduce the amount of pollutants reaching the environment. Data from these monitors may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, support enforcement actions and assess potential community exposure to toxic air contaminants.

This SEP will collect data sets that can be used to evaluate and track air pollution emission events as they occur, and to assess potential ambient community exposure to a limited number of HAPs. Data from the monitors will be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the National Ambient Air Quality Standards requirements. The data will also provide a key source of information that is essential to furthering an overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these

monitors may be publicly accessible through the TCEQ's website and may be used in evaluating air quality in the area, including ozone forecasts, and ozone warnings.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset 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, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

University of Texas at Arlington
Attention: Lisa London, Executive Director
Division for Enterprise Development
140 W. Mitchell Street
Arlington, Texas 76019-0197

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 a SEP for 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	8-Mar-2010			
	PCW	14-Jun-2010	Screening	8-Mar-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Aruba Petroleum, Inc.				
Reg. Ent. Ref. No.	RN105845135				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39284	No. of Violations	3		
Docket No.	2010-0365-AIR-E	Order Type	Findings		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Miriam Hall		
		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	\$36,500
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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
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Notes	No adjustment due to compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,000
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,017	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$55,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$35,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$35,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$35,500
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$35,500
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Screening Date 8-Mar-2010

Docket No. 2010-0365-AIR-E

PCW

Respondent Aruba Petroleum, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39284

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105845135

Media [Statute] Air

Enf. Coordinator Miriam Hall

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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>)	0	0%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 8-Mar-2010

Docket No. 2010-0365-AIR-E

PCW

Respondent Aruba Petroleum, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39284

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105845135

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent the discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration, as to interfere with the normal use and enjoyment of animal life, vegetation, or property, as documented during an investigation conducted February 3, 2010. Specifically, the results of air sampling conducted on January 17 and February 3, 2010 documented that the Respondent's Plant was emitting elevated concentrations of volatile organic compounds consistent with odor complaints received by the TCEQ from an adjacent resident.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	x			
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment was exposed to significant amounts of pollutants.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 Number of violation days 2

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

Violation Base Penalty \$10,000

Two daily events are recommended, based on the two air sampling dates.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$949

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent Aruba Petroleum, Inc.
Case ID No. 39284
Reg. Ent. Reference No. RN105845135
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
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	\$50,000	17-Jan-2010	26-Apr-2010	0.27	\$45	\$904	\$949
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 costs to design and implement a plan to prevent nuisance odor conditions. The Date Required is the date of the first air sample, and the Final Date is the date the Respondent submitted documentation supporting its claim to a Permit by Rule. The Permit by Rule documentation/representations included the installation and operation of an enclosed flare to abate air emissions.

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	\$50,000	TOTAL	\$949
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Screening Date 8-Mar-2010 **Docket No.** 2010-0365-AIR-E **PCW**
Respondent Aruba Petroleum, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 39284 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105845135
Media [Statute] Air
Enf. Coordinator Miriam Hall

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)
Violation Description Failed to prevent the discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration, as to interfere with the normal use and enjoyment of animal life, vegetation, or property, as documented during an investigation conducted February 3, 2010. Specifically, on January 20, 23, 24, 27, February 2, 7, 13, 18, and 20, 2010, strong offensive odors coming from the Respondent's Plant, and lasting 10 minutes or more, were recorded .
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 was exposed to significant amounts of pollutants.

Adjustment \$7,500
 \$2,500

Violation Events

Number of Violation Events 9 9 Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty \$22,500
 Nine single events are recommended, based on the nine days odors were documented.

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 \$22,500

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount \$0 Violation Final Penalty Total \$22,500
 This violation Final Assessed Penalty (adjusted for limits) \$22,500

Economic Benefit Worksheet

Respondent Aruba Petroleum, Inc.
Case ID No. 39284
Reg. Ent. Reference No. RN105845135
Media Air
Violation No. 2

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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefits for this violation are included in Violation 1.

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

\$0

TOTAL

\$0

Screening Date 8-Mar-2010 **Docket No.** 2010-0365-AIR-E **PCW**
Respondent Aruba Petroleum, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 39284 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105845135
Media [Statute] Air
Enf. Coordinator Miriam Hall

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518 and 382.085(b)
Violation Description Failed to obtain authorization for a facility which may emit air contaminants, as documented during an investigation that concluded on April 29, 2010. Specifically, the investigation documented that oil and gas production facilities at the Plant were emitting air contaminants without authorization from at least January 17, 2010 to April 26, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

The Respondent failed to comply with 100% of the rule.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 99 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four monthly events are recommended, from January 17 to April 26, 2010.

Good Faith Efforts to Comply 25.0% Reduction \$1,000

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

Notes The Respondent returned to compliance by April 26, 2010, and the NOE is dated May 3, 2010.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$68 **Violation Final Penalty Total** \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent Aruba Petroleum, Inc.
Case ID No. 39284
Reg. Ent. Reference No. RN105845135
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	17-Jan-2010	26-Apr-2010	0.27	\$68	n/a	\$68
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to prepare and submit NSR Permit by Rule documentation. The Date Required is the date of the first day of documented emissions, and the Final Date is the date the Permit by Rule documentation was submitted.

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

\$68

Compliance History Report

Customer/Respondent/Owner-Operator: CN603268913 Aruba Petroleum, Inc. Classification: Rating:
Regulated Entity: RN105845135 WRIGHT LEASE 7H & 8H Classification: Average by default Site Rating: 3.01
ID Number(s):
Location: approximately one mile east of the intersection of Allison-Slidell Road (CR 2513) and CR 2514, Wise County
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: March 08, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 08, 2005 to March 08, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Terry Murphy Phone: (512) 239-5025

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

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.)
N/A
 - 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
ENFORCEMENT ACTION
CONCERNING
ARUBA PETROLEUM, INC.;
RN105845135**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-0365-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aruba Petroleum, Inc. ("Aruba") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Aruba, represented by Jeff Civins of the law firm of Haynes and Boone, LLP, presented this agreement to the Commission.

Aruba understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Aruba agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Aruba.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Aruba owns and operates a natural gas drilling site at the Aruba Petroleum, Inc. Wright Lease 7H & 8H Gas Well Site located approximately one mile east of the intersection of Allison-Slidell Road (CR 2513) and CR 2514 in Wise County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During investigations conducted on January 17, 2010, and February 3, 2010 through February 20, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Aruba:

- a. Failed to prevent the discharge from any source of one or more air contaminants or combinations thereof, in such concentration, as to interfere with the normal use and enjoyment of animal life, vegetation, or property. Specifically, the results of air sampling conducted on January 17 and February 3, 2010, documented that the Site was emitting elevated concentrations of volatile organic compounds consistent with odor complaints received by the TCEQ; and
 - b. Failed to prevent the discharge from any source of one or more air contaminants or combinations thereof, in such concentration, as to interfere with the normal use and enjoyments of animal life, vegetation, or property. Specifically, on January 20, 23, 24, 27, February 2, 7, 13, 18, and 20, 2010, strong offensive odors coming from the Site were recorded.
4. During an investigation conducted on February 27-28, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Aruba failed to obtain authorization for a facility which may emit air contaminants. Specifically, the oil and gas production facilities at the Site were emitting air contaminants without authorization.
 5. Aruba received notice of the violations in Finding of Fact No. 3 above on or about March 10, 2010. Aruba received notice of the violation in Finding of Fact No. 4 above on or about May 8, 2010.
 6. The Executive Director recognizes that Aruba implemented the following corrective measures at the Site:
 - a. Installed and began operating a flare in order to prevent nuisance odor conditions from operating the oil and gas production facilities (Finding of Fact 3); and
 - b. Submitted documentation supportive of its claim under a Permit by Rule (Finding of Fact 4).

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Aruba is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a, Aruba failed to prevent the discharge from any source of one or more air contaminants or combinations thereof, in such concentration as to interfere with the normal use and enjoyment of animal life, vegetation, or property, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).

3. As evidenced by Finding of Fact No. 3.b, Aruba failed to prevent the discharge from any source of one or more air contaminants or combinations thereof, in such concentration as to interfere with the normal use and enjoyments of animal life, vegetation, or property, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
4. As evidenced by Finding of Fact No. 4, Aruba failed to obtain authorization for a facility which may emit air contaminants, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518 and 382.085(b).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Aruba for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of thirty-five thousand five hundred dollars (\$35,500.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, thirty-five thousand five hundred dollars (\$35,500.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aruba is assessed an administrative penalty in the amount of thirty-five thousand five hundred dollars (\$35,500.00) as set forth in Conclusion of Law No. 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Aruba's compliance with all

the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.

2. Respondent shall implement and complete a SEP as set forth in Conclusion of Law No. 6, above. The amount of thirty-five thousand five hundred dollars (\$35,500.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment. Checks shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Aruba Petroleum, Inc., Docket No. **2010-0365-AIR-E**" to:

Litigation Division
Texas Commission on Environmental Quality
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

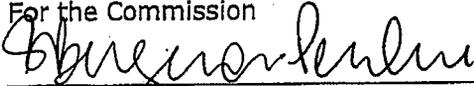
3. The provisions of this Agreed Order shall apply to and be binding upon Aruba.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Aruba if the Executive Director determines that Aruba has not complied with one or more of the terms or conditions in this Agreed Order.
5. 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.
6. This Agreed Order, issued by the Commission, shall not be admissible against Aruba 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.

8. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to Aruba, or three days after the date on which the Commission mails notice of this Agreed Order to Aruba, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

1/20/2011

Date

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

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

- A negative impact on Aruba's compliance history;
- Greater scrutiny of any permit applications submitted by Aruba;
- 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 against Aruba;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Aruba; and
- TCEQ seeking other relief as authorized by law.

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


Signature

J.R. Lovett
Name (printed or typed)
Authorized Representative
Aruba Petroleum, Inc.

Jan 13, 2011
Date

CFO
Title

Attachment A
Docket Number: 2010-0365-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Aruba Petroleum, Inc.
Penalty Amount:	Thirty-Five Thousand Five Hundred Dollars (\$35,500)
SEP Offset Amount:	Thirty-Five Thousand Five Hundred Dollars (\$35,500)
Type of SEP:	Pre-approved
Third-Party Recipient:	University of Texas at Arlington
Project Name:	<i>Texas Air Quality Monitoring Network</i>
Location of SEP:	All counties statewide with a preference for Tarrant County in the 215 Dallas-Fort Worth Airshed

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset 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

Respondent shall contribute the SEP offset Amount to the Third-Party Recipient named above. The contribution will be to the University of Texas at Arlington for the *Texas Air Quality Monitoring Network* to be used as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used to construct, operate, maintain, and potentially expand a network of continuous ambient monitoring stations ("CAMS") that monitor both air toxics and ozone precursors. Each CAMS will feature an automated gas-chromatograph ("Auto-GC") which shall monitor ambient air for chemical compounds that could potentially affect human health and welfare and ozone formation. The current target analyte list for each Auto GC includes approximately 48 parameters. An oxides of nitrogen monitor, sulfur dioxide monitor and meteorological data instruments may also be installed at sites in the future upon approval from TCEQ.

Specifically, SEP Funds shall be used for site preparation, equipment purchase, operation and maintenance of an air monitoring network in the state of Texas in order to provide information on data quality and trends to the public, TCEQ, and industry representatives. Contingent upon funding and priorities, each of the CAMS locations shall measure air quality for a variety of parameters. Hourly measurements shall be reported for approximately 48 parameters that participate in the formation of ground level ozone and several of which are designated by the EPA as Hazardous Air Pollutants ("HAPs"). The speciated measurements shall be made using an Auto-GC. In the future at TCEQ's direction, both 5-minute and

hourly averaged measurements of oxides of nitrogen ("NO_x"), nitric oxide ("NO"), and nitrogen dioxide ("NO₂"), ozone ("O₃"), sulfur dioxide ("SO₂") and meteorological parameters (i.e., wind speed, wind direction, horizontal wind standard deviation, wind gust, net radiation, and outside air temperature) may be measured and reported. Other parameters may be considered dependent upon funding. The data from this program shall be collected, validated and quality assured using methodologies consistent with TCEQ standards. Available data from each CAMS shall be uploaded every 15 minutes via a web based portal directly to TCEQ's air quality information database which TCEQ may make available to the public via the TCEQ public web site.

The SEP shall be conducted under a TCEQ-approved Quality Assurance Project Plan containing all applicable EPA QA-R5 elements. Analysis of all data collected from these sites will comply with standard operating procedures for the analysis and measurement of air toxics and ozone precursors in ambient air. The laboratory data generated by this project will be from a TCEQ accredited laboratory in compliance with state laws and rules regarding use of certified or accredited testing laboratories. For example, data submitted must comply with 30 Texas Administrative Code, Chapter 25, Subchapter A, relating to Environmental Testing Laboratory Accreditation and Certification, as amended, where applicable. The data collected using SEP Funds will be validated and sent to TCEQ's LEADS system and EPA's AQS. All costs associated with the collection, transfer, and formatting of this data to be compatible with the LEADS system and the AQS System may utilize SEP funds.

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.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This air monitoring project will provide data to help prevent pollution and reduce the amount of pollutants reaching the environment. Data from these monitors may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, support enforcement actions and assess potential community exposure to toxic air contaminants.

This SEP will collect data sets that can be used to evaluate and track air pollution emission events as they occur, and to assess potential ambient community exposure to a limited number of HAPs. Data from the monitors will be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the National Ambient Air Quality Standards requirements. The data will also provide a key source of information that is essential to furthering an overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these

monitors may be publicly accessible through the TCEQ's website and may be used in evaluating air quality in the area, including ozone forecasts, and ozone warnings.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset 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, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

University of Texas at Arlington
Attention: Lisa London, Executive Director
Division for Enterprise Development
140 W. Mitchell Street
Arlington, Texas 76019-0197

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.