EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1187-AIR-E **TCEQ ID:** RN100217207 **CASE NO.:** 40065

RESPONDENT NAME: Linde Gas North America LLC

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
X AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Linde Gas La Porte Syngas Plant, 11603B Strang Road, La Porte, Harris County

TYPE OF OPERATION: Synthesis gas plant

SMALL BUSINESS: ___ **Yes** X **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is one record of an additional pending enforcement action regarding this facility location, Docket No. 2010-2016-IWD-E.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 7, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

TCEQ Enforcement Coordinator: Ms. Gena Hawkins, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2583; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Joshua H. Burnett, Cluster Manager, Linde Gas North America LLC, P.O. Box 1058, La Porte, Texas 77572

Mr. Patrick Boyle, Process Engineer, Linde Gas North America LLC, P.O. Box 1058, La Porte, Texas 77572

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** April 30, 2010 **Date of NOV/NOE Relating to this Case:** July 7, 2010 (NOE) **Background Facts:** This was a routine investigation. **AIR** Failed to continuously monitor the flow rate of the gas stream for the High Pressure Flare (EPN SG21-1-1) and the Cold Flare (SG20-3-2) in highly reactive volatile organic compound ("HRVOC") service since January 31, 2007. Specifically, the flow rate measuring device was found to not accurately measure in the low end of its range due to program and hardware issues [30 TEX. ADMIN. CODE §§ 115.725(d)(1)(C) and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit 4773A Special Conditions 4D].	**Total Assessed:** $55,650 **Total Deferred:** $11,130 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $22,260 **Total Paid to General Revenue:** $22,260 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to: a. Within 30 days after the effective date of this Agreed Order implement policies and procedures to continuously monitor the flow rate of the gas stream for the High Pressure Flare (EPN SG21-1-1) and the Cold Flare (SG20-3-2) in HRVOC service; and b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

Additional ID No(s).: Air Account HX2334A

Attachment A
Docket Number: 2010-1187-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Linde Gas North America LLC**
Payable Penalty Amount:	**Forty-Four Thousand Five Hundred Twenty Dollars ($44,520)**
SEP Amount:	**Twenty-Two Thousand Two Hundred Sixty Dollars ($22,260)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Barbers Hill Independent School District-Alternative Fueled Vehicle and Equipment Program**
Location of SEP:	**Harris County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to ***Barbers Hill Independent School District*** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

John Johnson
Carl Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 101
Port Arthur, Texas 77642

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

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

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	12-Jul-2010				
PCW	23-Jul-2010	Screening	20-Jul-2010	EPA Due	3-Apr-2011

RESPONDENT/FACILITY INFORMATION

Respondent	Linde Gas North America LLC		
Reg. Ent. Ref. No.	RN100217207		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40065	No. of Violations	1
Docket No.	2010-1187-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Gena Hawkins
		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	59.0% Enhancement	*Subtotals 2, 3, & 7*	$20,650
Notes: Enhancement for one same/similar NOV, 17 dissimilar NOVs and one Agreed Order with denial.			
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 $979	**Capped at the Total EB $ Amount*		
Approx. Cost of Compliance $5,000			
SUM OF SUBTOTALS 1-7		*Final Subtotal*	$55,650
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	*Adjustment*	$0
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			
		Final Penalty Amount	$55,650
STATUTORY LIMIT ADJUSTMENT		*Final Assessed Penalty*	$55,650
DEFERRAL	20.0% Reduction	*Adjustment*	-$11,130
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			$44,520

Screening Date	20-Jul-2010	**Docket No.** 2010-1187-AIR-E	**PCW**
Respondent	Linde Gas North America LLC		*Policy Revision 2 (September 2002)*
Case ID No.	40065		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN100217207		
Media [Statute]	Air		
Enf. Coordinator	Gena Hawkins		

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*)	1	5%
	Other written NOVs	17	34%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*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) 59%

>> 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 one same/similar NOV, 17 dissimilar NOVs and one Agreed Order with denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 59%

Screening Date	20-Jul-2010	**Docket No.** 2010-1187-AIR-E	**PCW**
Respondent	Linde Gas North America LLC		*Policy Revision 2 (September 2002)*
Case ID No.	40065		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN100217207		
Media [Statute]	Air		
Enf. Coordinator	Gena Hawkins		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 115.725(d)(1)(C) and 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit 4773A Special Conditions 4D

Violation Description Failed to continuously monitor the flow rate of the gas stream for the High Pressure Flare (EPN SG21-1-1) and the Cold Flare (SG20-3-2) in highly reactive volatile organic compound ("HRVOC") service since January 31, 2007. Specifically, the flow rate measuring device was found to not accurately measure in the low end of its range due to program and hardware issues.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 14 | 1266 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $35,000

Fourteen quarterly events are recommended from January 31, 2007 to screening on July 20, 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 for this violation.

Violation Subtotal $35,000

Economic Benefit (EB) for this violation

Estimated EB Amount $979

Statutory Limit Test

Violation Final Penalty Total $55,650

This violation Final Assessed Penalty (adjusted for limits) $55,650

Economic Benefit Worksheet

Respondent Linde Gas North America LLC
Case ID No. 40065
Req. Ent. Reference No. RN100217207
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)	$5,000	31-Jan-2007	31-Dec-2010	3.92	$979	n/a	$979
Notes for DELAYED costs	Estimated cost to implement policies and procedures to verify proper operation. The date required is the date of initial incidence and the final date is based on the date the corrective actions are expected to 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 $5,000

TOTAL $979

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603335019	Linde Gas North America LLC	Classification: AVERAGE	Rating: 1.13
Regulated Entity:	RN100217207	LINDE GAS LA PORTE SYNGAS PLANT	Classification: AVERAGE	Site Rating: 2.03

ID Number(s):

INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXR000037499
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	86545
AIR OPERATING PERMITS	ACCOUNT NUMBER	HX2334A
AIR OPERATING PERMITS	PERMIT	2290
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX2334A
AIR NEW SOURCE PERMITS	AFS NUM	4820101522
AIR NEW SOURCE PERMITS	PERMIT	4773A
AIR NEW SOURCE PERMITS	REGISTRATION	77732
AIR NEW SOURCE PERMITS	REGISTRATION	87618
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012682
STORMWATER	PERMIT	TXR05U192
WATER LICENSING	LICENSE	1012682
WASTEWATER	EPA ID	TX0118389
WASTEWATER	PERMIT	WQ0004092000
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	77167
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HX2334A

Location: 11603B STRANG RD, LA PORTE, TX, 77571
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: July 21, 2010

Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 21, 2005 to July 21, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Gena Hawkins Phone: (512) 239 - 2583

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? Yes
3. If Yes, who is the current owner/operator?
   OWNOPR LINDE GAS USA LLC
   OWNOPR Linde Gas North America LLC
4. If Yes, who was/were the prior owner(s)/operator(s)?
   OWN LINDE GAS USA LLC
   OWNOPR Linde Gas LLC
   OWNOPR Linde Gas, Inc.
5. When did the change(s) in owner or operator occur?
   06/30/2007 OWNOPR Linde Gas, Inc.
   02/08/2010 OWNOPR Linde Gas LLC
   07/07/2010 OWN LINDE GAS USA LLC
6. Rating Date: 9/1/2009 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: 03/23/2009 ADMINORDER 2008-1455-AIR-E
Classification: Major
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: O-02290 OP
Description: As a result of Office Annual Compliance Certification Investigation No. 686724 conducted August 6, 2008, the Texas Commission on Environmental Quality (TCEQ) Houston Regional Office determined that Linde Gas LLC- La Porte Syngas Facility failed to submit an annual compliance certification for the period of October 1, 2006 through September 30, 2007 within the required time frame.

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 08/02/2005 (372819)
2 08/03/2005 (373611)
3 08/23/2005 (447466)
4 08/25/2005 (406078)

5	08/29/2005	(406145)
6	09/29/2005	(447467)
7	09/29/2005	(447468)
8	11/29/2005	(492289)
9	12/27/2005	(492290)
10	02/22/2006	(492291)
11	02/23/2006	(455887)
12	02/25/2006	(456919)
13	02/27/2006	(418364)
14	02/28/2006	(457034)
15	02/28/2006	(457169)
16	02/28/2006	(492287)
17	03/24/2006	(492288)
18	04/17/2006	(506187)
19	05/25/2006	(506188)
20	05/30/2006	(480120)
21	06/26/2006	(506189)
22	06/26/2006	(506190)
23	08/21/2006	(528435)
24	09/22/2006	(528436)
25	09/22/2006	(528437)
26	11/21/2006	(551806)
27	02/22/2007	(551805)
28	02/22/2007	(551807)
29	02/22/2007	(551808)
30	03/22/2007	(589020)
31	04/08/2007	(532659)
32	04/20/2007	(589021)
33	05/18/2007	(589022)
34	06/20/2007	(589023)
35	07/20/2007	(589024)
36	08/20/2007	(605683)
37	09/13/2007	(605684)
38	09/13/2007	(605685)
39	11/19/2007	(631133)
40	12/18/2007	(631134)
41	01/17/2008	(613908)
42	01/22/2008	(631135)
43	02/20/2008	(677235)
44	03/20/2008	(677236)
45	04/21/2008	(677237)
46	05/20/2008	(695905)
47	06/20/2008	(695906)
48	06/20/2008	(695907)
49	08/26/2008	(686724)
50	09/18/2008	(717495)
51	09/18/2008	(717496)
52	10/17/2008	(717497)
53	11/17/2008	(732837)
54	12/16/2008	(756077)
55	01/13/2009	(732838)
56	02/26/2009	(756074)
57	02/26/2009	(756076)
58	03/23/2009	(756075)
59	04/20/2009	(725304)
60	05/20/2009	(773053)
61	06/12/2009	(773054)
62	06/12/2009	(773055)
63	08/19/2009	(819332)
64	09/21/2009	(819333)
65	09/21/2009	(819334)
66	11/20/2009	(819335)

67	12/13/2009	(780293)
68	12/21/2009	(819336)
69	12/21/2009	(819337)
70	02/19/2010	(819331)
71	03/23/2010	(836029)
72	03/23/2010	(836030)
73	05/18/2010	(836031)
74	07/07/2010	(790219)

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

Date: 08/03/2005 (372819)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter E 117.520(c)(2)(A)(ii)(I)

Description: Failure to perform emissions testing of superheater within 60 days of unit startup following installation of emissions control.

Date: 02/28/2006 (492288) CN603335019

Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2006 (551806) CN603335019

Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (551805) CN603335019

Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 04/09/2007 (532659) CN603335019

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)
FOP O-02290, SC # 9 OP
Permit 4773A GC # 8 PERMIT
Permit 4773A, SC # 1 PERMIT

Description: Failure to prevent the SGCT cooling tower from exceeding the VOC emission limit of 2.33 lb/hr.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)
FOP O-02290, SC # 9 OP
Permit 4773A, SC # 2F PERMIT

Description: Failure to monitor all accessible valves at least quarterly using an approved gas analyzer.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)
FOP O-02290, SC # 9 OP
Permit 4773A, SC # 2E PERMIT

Description: Failure to plug or cap open-ended lines in VOC service

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT D 60.44(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)
FOP O-02290, SC # 1A OP

Description: Failure to prevent the CE Boiler SG23-50-1 from exceeding the permitted NOx emission rate of 0.20 lbs/MMBtu.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)
FOP O-02290, SC #9 OP

Permit 4773A, SC #4B PERMIT

Description: Failure to maintain a constant pilot flame at all times for the high pressure flare (SG21-1-1) on May 4, 2005.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THC Chapter 382, SubChapter A 382.085(b)
FOP O-02290, General Conditions OP

Description: Failure to include the open-ended lines in VOC service occurring from May 16, 2005 at 0000 to May 18, 2005 at 2359, and the loss of pilot for the high pressure flare (SG21-1-1) on May 4, 2005 from 1620 to 1630, in the deviation report for the reporting period of December 6, 2004 to June 5, 2005.

Date 08/31/2007 (605684) CN603335019

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 01/31/2008 (677235) CN603335019

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 05/31/2008 (695906) CN603335019

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 06/30/2008 (695907) CN603335019

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 07/31/2008 (717495) CN603335019

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 03/31/2009 (756076) CN603335019

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 04/20/2009 (725304) CN603335019

Self Report? NO Classification: Moderate

Citation:
30 TAC Chapter 115, SubChapter C 115.246(6)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions 4(B)(vi) OP

Description: Failure to maintain daily inspection records for the gasoline storage tank, Unit ID SG930-U. (CATEGORY B3 Violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
4773A, Special Condition 4C PERMIT
5C THSC Chapter 382 382.085(b)
Special Condition 10 OP
Special Condition 1A OP

Description: Failure to maintain HP Flare, Unit ID SG21-1-1 resulting in a smoking flare. (CATEGORY C4 Violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
4773A, Special Condition 4A PERMIT
4773A, Special Condition 4B PERMIT

5C THSC Chapter 382 382.085(b)
Special Condition 10 OP

Description: Failure to maintain the HP Flare, Unit ID SG21-1-1, resulting in the pilot light being out. (CATEGORY C4 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to report all deviations during the correct deviation reporting period. (CATEGORY B3 Violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to submit the PCC within 30 days of end of reporting period. (CATEGORY B3 Violation)

Date 05/31/2009 (773054) CN603335019

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 (819337) CN603335019

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 (819331) CN603335019

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 (836029) CN603335019

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 (836030) CN603335019

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 07/07/2010 (790219) CN603335019

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
GT&C OP

Description: Failure to report all deviations occuring during the deviation reporting period. [Category B3]

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	**§**	**TEXAS COMMISSION ON**
LINDE GAS NORTH AMERICA	**§**	
LLC	**§**	
RN100217207	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1187-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 Linde Gas North America LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a synthesis gas plant at 11603B Strang Road in La Porte, Harris County, Texas (the "Plant").

2. The Respondent 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 July 12, 2010.

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-Five Thousand Six Hundred Fifty Dollars ($55,650) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). The Respondent has paid Twenty-Two Thousand Two Hundred Sixty Dollars ($22,260) of the administrative penalty and Eleven Thousand One Hundred Thirty Dollars ($11,130) 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. Twenty-Two Thousand Two Hundred Sixty Dollars ($22,260) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director 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 Plant, the Respondent is alleged to have failed to continuously monitor the flow rate of the gas stream for the High Pressure Flare (EPN SG21-1-1) and the Cold Flare (SG20-3-2) in highly reactive volatile organic compound ("HRVOC") service since January 31, 2007, in violation of 30 TEX. ADMIN. CODE §§ 115.725(d)(1)(C) and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit 4773A Special Conditions 4D, as documented during an investigation conducted on April 30, 2010. Specifically, the flow rate measuring device was found to not accurately measure in the low end of its range due to program and hardware issues.

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: Linde Gas North America LLC, Docket No. 2010-1187-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Two Thousand Two Hundred Sixty Dollars ($22,260) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. 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 implement policies and procedures to continuously monitor the flow rate of the gas stream for the High Pressure Flare (EPN SG21-1-1) and the Cold Flare (SG20-3-2) in HRVOC service; and

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. 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 77023-1486

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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

_____ 1/31/2011
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.

_____ 11/23/10
Signature Date

Joshua H. Burnett Cluster manager
Name (Printed or typed) Title
Authorized Representative of
Linde Gas North America LLC

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

Attachment A
Docket Number: 2010-1187-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Linde Gas North America LLC**
Payable Penalty Amount:	**Forty-Four Thousand Five Hundred Twenty Dollars ($44,520)**
SEP Amount:	**Twenty-Two Thousand Two Hundred Sixty Dollars ($22,260)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Barbers Hill Independent School District Alternative Fueled Vehicle and Equipment Program**
Location of SEP:	**Harris County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to ***Barbers Hill Independent School District*** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

John Johnson
Carl Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 101
Port Arthur, Texas 77642

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate paymentof all or part of the SEP amount.

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

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been,and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.