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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1453-AIR-E **TCEQ ID:** RN100214022 **CASE NO.:** 40345  
**RESPONDENT NAME:** Belvan Corp.

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 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	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Belvan Midway Lane Gas Plant, on United States Highway 190, six miles east of its intersection with State Highway 37, Crockett County</p> <p><b>TYPE OF OPERATION:</b> Natural gas processing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 11, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Audra Benoit, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8799; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Bob Stewart, Environmental Coordinator, Belvan Corp., 211 North Colorado, Midland, Texas 79701  Mr. J.L. Davis, President, Belvan Corp., 211 North Colorado, Midland, Texas 79701  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 29, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 23, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to comply with the allowable mass emissions rates and minimum sulfur recovery efficiencies. Specifically, from June 3, 2009 through December 21, 2009, the Respondent exceeded the hydrogen sulfide ("H2S") permitted emissions rate of 0.04 pounds per hour ("lbs/hr") for 120 days and the sulfur dioxide ("SO2") permitted emissions rate of 67.13 lbs/hr for 97 days at the Sulfur Recovery Unit, resulting in the unauthorized release of 5,105.04 pounds of H2S and 307,637.88 lbs of SO2. These exceedances resulted from failing to maintain the state requirement of 96% and the federal requirement of 74% minimum sulfur recovery efficiency during the same time period at the SRU when an average of 53% efficiency was maintained [30 TEX. ADMIN. CODE § 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 60.642(b), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), General Operating Permit ("GOP") No. 514, Site-wide Requirements (b)(7)(B), and New Source Review Permit No. 9824A, Special Conditions 1B, 7 and 10].</p> <p>2) Failed to report deviations [30 TEX. ADMIN. CODE § 122.145(2)(C), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), GOP No. 514, Site-wide Requirements (b)(2)].</p>	<p><b>Total Assessed:</b> \$119,360</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$119,360</p> <p><b>Compliance History Classifications:</b>                  Person/CN - Average                  Site/RN - Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b></p> <p>Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on August 24, 2010, the Respondent completed an alternative project for the primary handling of the Plant's amine treater gas stream, in which the gas stream is being processed for final injection into an acid gas deep well authorized by the Texas Railroad Commission Permit No. 11327. This action will eliminate the flaring of acid gas when the Sulfur Recovery Unit is out of service.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures and procedures designed to ensure all deviations are reported and submitted in a timely manner; and</p> <p>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 a.</p>

Additional ID No(s): Air Account CZ0006F



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned PCW</b>	30-Aug-2010	<b>Screening</b>	1-Sep-2010	<b>EPA Due</b>	29-May-2011
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## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Belvan Corp.				
<b>Reg. Ent. Ref. No.</b>	RN100214022				
<b>Facility/Site Region</b>	8-San Angelo	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40345	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1453-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Audra Benoit
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>EC's Team</b>	Enforcement Team 5
<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$70,200**

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

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

**Compliance History** **80.0%** Enhancement **Subtotals 2, 3, & 7** **\$56,160**

Notes: Enhancement for three NOVs with same/similar violations, two orders containing a denial of liability and one order without denial of liability.

**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** **\$7,000**

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

Total EB Amounts: \$949  
 Approx. Cost of Compliance: \$15,500  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$119,360**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$119,360**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$119,360**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$119,360**

Screening Date 1-Sep-2010

Docket No. 2010-1453-AIR-E

PCW

Respondent Belvan Corp.

Policy Revision 2 (September 2002)

Case ID No. 40345

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214022

Media [Statute] Air

Enf. Coordinator Audra Benoit

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	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	1	25%
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%

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) 80%

#### >> 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 three NOVs with same/similar violations, two orders containing a denial of liability and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 80%

Screening Date 1-Sep-2010

Docket No. 2010-1453-AIR-E

PCW

Respondent Belvan Corp.

Policy Revision 2 (September 2002)

Case ID No. 40345

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214022

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), 40 Code of Federal Regulations § 60.642(b), Tex. Health & Safety Code § 382.085(b), General Operating Permit ("GOP") No. 514, Site-wide Requirements (b)(7)(B), and New Source Review ("NSR") Permit No. 9824A, Special Conditions ("SC") 1B, 7 and 10

Violation Description Failed to comply with the allowable mass emissions rates and minimum sulfur recovery efficiencies. Specifically, from June 3, 2009 through December 21, 2009, the Respondent exceeded the hydrogen sulfide ("H2S") permitted emissions rate of 0.04 pounds per hour ("lbs/hr") for 120 days and the sulfur dioxide ("SO2") permitted emissions rate of 67.13 lbs/hr for 97 days at the Sulfur Recovery Unit ("SRU"), resulting in the unauthorized release of 5,105.04 pounds ("lbs") of H2S and 307,637.88 lbs of SO2. These exceedances resulted from failing to maintain the state requirement of 96% and the federal requirement of 74% minimum sulfur recovery efficiency during the same time period at the SRU when an average of 53% efficiency was maintained.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (100%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 7 Number of violation days 202

Table for frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$70,000

Seven monthly events are recommended for the period of documented non-compliance from June 3, 2009 through December 21, 2009.

Good Faith Efforts to Comply

10.0% Reduction \$7,000

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (mark with x).

Notes The Respondent completed corrective actions for this violation on August 24, 2010, after the August 23, 2010 NOE.

Violation Subtotal \$63,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$918

Violation Final Penalty Total \$119,000

This violation Final Assessed Penalty (adjusted for limits) \$119,000

## Economic Benefit Worksheet

**Respondent** Belvan Corp.  
**Case ID No.** 40345  
**Reg. Ent. Reference No.** RN100214022  
**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
<small>No commas or \$</small>							

### 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)	\$15,000	3-Jun-2009	24-Aug-2010	1.22	\$918	n/a	\$918

**Notes for DELAYED costs**

Estimated costs to complete an alternative project for the primary handling of the Plant's amine treater gas stream to be processed for final injection into an acid gas deep well. The date required is the initial date of non-compliance. The final date is the date compliance was achieved.

### 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

\$15,000

**TOTAL**

\$918

Screening Date 1-Sep-2010

Docket No. 2010-1453-AIR-E

PCW

Respondent Belvan Corp.

Policy Revision 2 (September 2002)

Case ID No. 40345

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214022

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 122.145(2)(C), Tex. Health & Safety Code § 382.085(b), GOP No. 514, Site-wide Requirements (b)(2)

Violation Description

Failed to report deviations. Specifically, the semi-annual deviation report for the periods ending December 2, 2009 and December 21, 2009 did not include all instances of deviations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2

202 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Two single events are recommended one for each semi-annual deviation report.

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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$360

This violation Final Assessed Penalty (adjusted for limits) \$360

## Economic Benefit Worksheet

**Respondent** Belvan Corp.  
**Case ID No.** 40345  
**Reg. Ent. Reference No.** RN100214022  
**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	\$500	21-Jan-2010	13-Apr-2011	1.22	\$31	n/a	\$31
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

#### Notes for DELAYED costs

Estimated cost to implement self audit procedures to identify all deviations. The date required is the date the deviation report was due. The final date is the estimated date of compliance.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$31

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600127187 Belvan Corp. Classification: AVERAGE Rating: 35.17  
Regulated Entity: RN100214022 BELVAN MIDWAY LANE GAS PLANT Classification: POOR Site Rating: 99.50

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	CZ0006F
	AIR OPERATING PERMITS	PERMIT	3149
	AIR OPERATING PERMITS	PERMIT	3149
	AIR NEW SOURCE PERMITS	PERMIT	9824A
	AIR NEW SOURCE PERMITS	REGISTRATION	39301
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CZ0006F
	AIR NEW SOURCE PERMITS	REGISTRATION	51748
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX749
	AIR NEW SOURCE PERMITS	AFS NUM	4810500006
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	CZ0006F
Location:	ON US HIGHWAY 190, SIX MILES EAST OF ITS INTERSECTION WITH STATE HIGHWAY 37, CROCKETT COUNTY		
TCEQ Region:	REGION 08 - SAN ANGELO		

Date Compliance History Prepared: August 30, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 30, 2005 to August 30, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Audra Benoit Phone: (409) 899-8799

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

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

Effective Date: 10/19/2006 ADMINORDER 2002-0898-AIR-E

Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Part 60, Subpart KKK 60.632(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to conduct the fugitive emissions leak detection and repair program in accordance with New Source Performance Standard (NSPS) Subpart KKK.

Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Part 60, Subpart LLL 60.642(b)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to comply with the required minimum sulfur dioxide emission reduction efficiency.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter W 106.512(2)(C)(iii)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to conduct an initial performance test within 60 days of the initial start-up of an engine.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to maintain a daily flare operation log that denotes when the process flare was observed and whether or not it was smoking.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to maintain all air pollution emission capture and abatement equipment in good working order.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to report all instances of deviations for three six month reporting periods.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to submit a complete and accurate deviation report no later than 30 days after the end of the reporting period.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to submit a compliance certification report no later than 30 days after the end of the certification period.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter F 122.503(a)(1)  
30 TAC Chapter 122, SubChapter F 122.503(c)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: GOP No. 514 OP

Description: Failure to submit a revised general operating permit (GOP) application prior to the operation of a change in applicability determinations at a site.

Effective Date: 09/22/2008

ADMINORDER . 2007-1548-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit a 2006 annual emissions inventory update.

Effective Date: 03/23/2009

ADMINORDER 2008-1389-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GOP No. O-00326, Condition (b)(8) ORDER  
Permit No. 9824A, Special Condition 2 PERMIT  
Permit No. 9824A, Special Condition 3 PERMIT  
Permit No. 9824A, Special Condition 6 PERMIT  
Permit No. 9824A, Special Condition 7 PERMIT

Description: Failed to maintain records.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(2)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit No. 9824A, Special Condition 5 PERMIT

Description: Failed to monitor the pilot flame of the emergency flare, EPN 1, with a thermocouple or infrared monitor.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit No. 9824A, General Condition 8 PERMIT

Description: Failed to prevent unauthorized emissions. Since this emissions event was avoidable and determined to be excessive, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present and affirmative defense were not met.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)  
5C THSC Chapter 382 382.085(b)

Description: Failed to report a reportable emissions event within 24 hours after the discovery of the event (Incident No. 111569).

Classification: Moderate

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

Rqmt Prov: GOP No. O-00326 PERMIT

Description: Failed to report deviations.

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	12/29/2005	(449977)
2	01/31/2007	(538646)
3	07/13/2007	(567631)
4	09/13/2007	(594150)
5	08/15/2008	(688291)
6	05/26/2009	(746807)
7	09/03/2009	(763885)
8	10/19/2009	(779339)
9	10/30/2009	(780180)
10	11/18/2009	(782564)
11	12/28/2009	(786361)
12	12/28/2009	(786598)
13	03/11/2010	(794694)
14	04/05/2010	(796601)
15	06/17/2010	(824800)
16	08/23/2010	(844179)

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

Date: 07/18/2007 (567631)

Self Report? NO

Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)

Classification: Moderate

Description: 5C THC Chapter 382, SubChapter A 382.085(b)  
Failed to submit a 2006 annual emissions inventory update.

Date: 05/26/2009 (746807)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)

Description: Failure to submit a certification of compliance with the terms and conditions of the Title V permit no later than 30 days after the end of the annual compliance certification period

Date: 08/23/2010 (844179)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition (b)(7)(B) OP  
Special Condition No. 7 PERMIT

Description: Failure to maintain records of SRU removal efficiency as indicated by the semi-annual deviation report, an alleged violation of 30 TAC 116.115(c), Permit No. 9824A, Special Condition No. 7, GOP No. O-00326, Special Condition (b)(7) (B), and 5C THSC §382.085(b).

Self Report? NO

Classification: Minor

Citation: (b)(2) OP

30 TAC Chapter 122, SubChapter B 122.145(2)  
5C THSC Chapter 382 382.085(b)

Description: Failure to report all instances of deviations no later than 30 days after the end of the compliance period is an alleged violation of 30 TAC §122.145(2), GOP No O-3226, Special Condition (b)(2), and 5C THSC §382.085(b).

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  
BELVAN CORP.  
RN100214022**

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

## **AGREED ORDER DOCKET NO. 2010-1453-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Belvan Corp. (“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 presented this agreement to the Commission.

The Respondent understands that they have 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, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement 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 the Respondent.

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a natural gas processing plant on United States Highway 190, six miles east of its intersection with State Highway 37 in Crockett County, Texas (the “Plant”).

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on July 29, 2010, TCEQ staff documented that from June 3, 2009 through December 21, 2009, the Respondent failed to comply with the allowable mass emissions rates and minimum sulfur recovery efficiencies. Specifically, the Respondent exceeded the hydrogen sulfide ("H<sub>2</sub>S") permitted emissions rate of 0.04 pounds per hour ("lbs/hr") for 120 days and the sulfur dioxide ("SO<sub>2</sub>") permitted emissions rate of 67.13 lbs/hr for 97 days at the Sulfur Recovery Unit ("SRU"), resulting in the unauthorized release of 5,105.04 pounds ("lbs") of H<sub>2</sub>S and 307,637.88 lbs of SO<sub>2</sub>. These exceedances resulted from failing to maintain the state requirement of 96% and the federal requirement of 74% minimum sulfur recovery efficiency during the same time period at the SRU when an average of 53% efficiency was maintained.
4. During an investigation on July 29, 2010, TCEQ staff documented that the Respondent failed to report deviations. Specifically, the semi-annual deviation report for the periods ending December 2, 2009 and December 21, 2009 did not include all instances of deviations.
5. The Respondent received notice of the violations on August 28, 2010.
6. The Executive Director recognizes that on August 24, 2010, the Respondent completed an alternative project for the primary handling of the Plant's amine treater gas stream, in which the gas stream is being processed for final injection into an acid gas deep well authorized by the Texas Railroad Commission Permit No. 11327. This action will eliminate the flaring of acid gas when the SRU is out of service.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the allowable mass emissions rates and minimum sulfur recovery efficiencies, in violation of 30 TEX. ADMIN. CODE § 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 60.642(b), TEX. HEALTH & SAFETY CODE § 382.085(b), General Operating Permit ("GOP") No. 514, Site-wide Requirements (b)(7)(B), and New Source Review ("NSR") Permit No. 9824A, Special Conditions ("SC") 1B, 7 and 10.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to report deviations, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(C), TEX. HEALTH & SAFETY CODE § 382.085(b), GOP No. 514, Site-wide Requirements (b)(2).

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent 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.
5. An administrative penalty in the amount of One Hundred Nineteen Thousand Three Hundred Sixty Dollars (\$119,360) 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. The Respondent has paid the One Hundred Nineteen Thousand Three Hundred Sixty Dollar (\$119,360) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Hundred Nineteen Thousand Three Hundred Sixty Dollars (\$119,360) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent'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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Belvan Corp., Docket No. 2010-1453-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 undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures and procedures designed to ensure all deviations are reported and submitted in a timely manner, in accordance with 30 TEX. ADMIN. CODE §§ 122.145 and 122.146; 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. 2.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  
San Angelo Regional Office  
Texas Commission on Environmental Quality  
622 South Oakes, Suite K  
San Angelo, Texas 76903-7013

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John S. Zales  
For the Executive Director

3/15/2011  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Belvan Corp. I am authorized to agree to the attached Agreed Order on behalf of Belvan Corp., 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 understand that by entering into this Agreed Order, Belvan Corp. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

John S. Zales  
Signature

3-28-11  
Date

J. L. Davis  
Name (Printed or typed)  
Authorized Representative of  
Belvan Corp.

John S. Zales (Printed)  
Title

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