

**Executive Summary – Enforcement Matter – Case No. 41641
Borger Energy Associates, L.P.
RN100217298
Docket No. 2011-0741-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Blackhawk Power Plant, Spur 119 North, two miles northeast of Borger, Hutchinson County

Type of Operation:

Electric power generation plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 15, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,060

Amount Deferred for Expedited Settlement: \$212

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$848

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41641
Borger Energy Associates, L.P.
RN100217298
Docket No. 2011-0741-AIR-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 25, 2011 through April 28, 2011

Date(s) of NOE(s): April 29, 2011

Violation Information

Failed to report all instances of deviations. Specifically, the violations documented during TCEQ Investigation No. 779771 were not included as deviations in the semi-annual deviation report for the August 1, 2009 through January 31, 2010 reporting period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O1753, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that, by May 18, 2011, the Respondent took actions to ensure that deviations would be reported as required in future reports.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Malcolm Carroll, Asset Manager, Borger Energy Associates, L.P., P.O. Box 3326, Borger, Texas 79008-3326

Matthew Lindsey, Environmental Representative, Borger Energy Associates, L.P., P.O. Box 3326, Borger, Texas 79008-3326

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-May-2011	Screening	16-May-2011	EPA Due	N/A
	PCW	19-May-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Borger Energy Associates, L.P.		
Reg. Ent. Ref. No.	RN100217298		
Facility/Site Region	1-Amarillo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41641	No. of Violations	1
Docket No.	2011-0741-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Trina Grieco
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **16.0%** Enhancement **Subtotals 2, 3, & 7** **\$160**

Notes: Enhancement for three NOVs for same/similar violations and one NOV for dissimilar violations. Reduction for one Notice of Audit letter submitted.

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** **\$100**

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

Total EB Amounts **\$91**
 Approx. Cost of Compliance **\$1,500**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,060**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$1,060**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,060**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$212**

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 **\$848**

Screening Date 16-May-2011

Docket No. 2011-0741-AIR-E

PCW

Respondent Borger Energy Associates, L.P.

Policy Revision 2 (September 2002)

Case ID No. 41641

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217298

Media [Statute] Air

Enf. Coordinator Trina Grieco

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	1	2%
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>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 16%

>> 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 for same/similar violations and one NOV for dissimilar violations.
Reduction for one Notice of Audit letter submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 16%

Screening Date 16-May-2011

Docket No. 2011-0741-AIR-E

PCW

Respondent Borger Energy Associates, L.P.

Policy Revision 2 (September 2002)

Case ID No. 41641

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217298

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O1753, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to report all instances of deviations. Specifically, the violations documented during TCEQ Investigation No. 779771 were not included as deviations in the semi-annual deviation report for the August 1, 2009 through January 31, 2010 reporting period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
		x		10%

Matrix Notes Between 30% and 70% of the rule requirement was met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 440 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended for the one deficient report.

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes The Respondent completed corrective actions by May 18, 2011, after the April 29, 2011 NOE, but prior to the initial settlement offer.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$91

Violation Final Penalty Total \$1,060

This violation Final Assessed Penalty (adjusted for limits) \$1,060

Economic Benefit Worksheet

Respondent Borger Energy Associates, L.P.
Case ID No. 41641
Req. Ent. Reference No. RN100217298
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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	2-Mar-2010	18-May-2011	1.21	\$91	n/a	\$91
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 expense for the implementation of procedures to ensure all deviations are reported in the deviation reports. The Date Required is the date the deviations were due to be reported. The Final Date is the date corrective actions were 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

\$1,500

TOTAL

\$91

Compliance History

Customer/Respondent/Owner-Operator: CN600129092 Borger Energy Associates, L.P. Classification: AVERAGE Rating: 2.58
Regulated Entity: RN100217298 BLACKHAWK POWER PLANT Classification: AVERAGE Site Rating: 2.58

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HW00811
AIR OPERATING PERMITS	PERMIT	1753
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXR000028225
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION #	85709
	(SWR)	
AIR NEW SOURCE PERMITS	REGISTRATION	94422
AIR NEW SOURCE PERMITS	PERMIT	32096
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HW00811
AIR NEW SOURCE PERMITS	AFS NUM	4823300041
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HW00811

Location: SPUR 119 N 2 MI NE OF BORGER, HUTCHINSON CO, TX

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: May 09, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 09, 2006 to May 09, 2011

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

Name: Trina Grieco Phone: (210) 403-4006

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 05/19/2006 (463603)
- 2 06/13/2007 (561099)
- 3 12/06/2007 (610869)
- 4 01/08/2008 (612621)
- 5 01/08/2008 (612628)
- 6 02/21/2008 (618835)
- 7 12/30/2008 (706048)
- 8 07/28/2009 (763065)
- 9 07/24/2009 (763436)
- 10 11/17/2009 (779771)
- 11 04/29/2011 (895760)

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

Date: 06/13/2007 (561099) CN600129092
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to submit an accurate deviation report on March 2, 2007.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to comply with the special condition No. 11(B)(5) of the permit No. 32096 by exceeding the allowable continuous emission monitoring system (CEMS) down time in October and November 2006 and January, February, and March 2007.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 60, Subpart Db 60.49b(w)
Description: Failure to comply with the reporting provisions of Subpart Db and the special condition No. 2 of the permit 32096 by failure to submit the quarterly excess emission and monitoring reports, submitted for the 4th quarter 2006 and 1st quarter 2007 in a timely manner.

Date: 12/30/2008 (706048) CN600129092
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
Description: The facility is in violation of the requirements of §116.110(a) by failure to obtain authorizations for these sources or claim authorizations in the NSR and Title V permit applications.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: The facility is in violation of the provisions of §116.115(c).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: The facility is in violation of the provisions of §116.115(c).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: The facility is in violation of the requirements of 122.145(2)(A).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(A)
Description: The facility is in violation of the requirements of §122.146(5)(A).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
Description: The facility is in violation of the provisions of §122.143(4).
Self Report? NO Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(c)
Description: Blackhawk is in violation of the requirements of §60.7(c).

Date: 11/17/2009 (779771) CN600129092
Self Report? NO Classification: Moderate
Citation: Special Condition No. 9 OP
30 TAC Chapter 122, SubChapter B 122.146(1)
Description: The permit compliance certification, submitted on August 28, 2009, was for the period February 1, 2009 through July 31, 2009. This certification was inaccurate. The certification period should have been for the period from August 1, 2008 through July 31, 2009. The facility is in violation of the provisions of §122.146(1) and the special condition No. 9 of the Federal Operating Permit No. O-01753.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Special Condition No. 9 OP
Description: The deviation report which was submitted on August 28, 2009 did not contain the deviations which were reported later in a revised deviation report. The deviation report, submitted on August 28, 2009 was incomplete. The facility is in violation of the provisions of §122.145(2)(A) and the special condition No. 9 of the permit No. O-01753.

Date: 04/29/2011 (895760)

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 THSC Chapter 382 382.085(b)
Condition No. 7 OP

Description: The facility is in violation of the provisions of §116.115(c), §382.085(b), §122.143(4), and special condition No. 7 of the Title V permit No. O-01753.

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 THSC Chapter 382 382.085(b)
Condition No. 7 OP

Description: The facility failed to conduct a NOx linearity test during the second quarter 2010. The facility is in violation of the provisions of §116.115(c), §382.085(b), §122.143(4), and special condition No. 7 of the Title V permit No. O-01753.

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 THSC Chapter 382 382.085(b)
Condition No. 7 OP

Description: The H2S concentrations in the fuel gas exceeded this allowable value on August 26, 2010. The facility is in violation of the provisions of §116.115(c), §382.085(b), §122.143(4), and the special condition No. 7 of the Title V permit No. O-01753.

F. Environmental audits.

Notice of Intent Date: 10/01/2009 (779135)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BORGER ENERGY ASSOCIATES,
L.P.
RN100217298**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0741-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 Borger Energy Associates, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an electric power generation plant at Spur 119 North, two miles northeast of Borger, Hutchinson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 4, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Sixty Dollars (\$1,060) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Eight Hundred Forty-Eight Dollars (\$848) of the administrative penalty and Two Hundred Twelve Dollars (\$212) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that, by May 18, 2011, the Respondent took actions to ensure that deviations would be reported as required in future reports.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O1753, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 25 through 28, 2011. Specifically, the violations documented during TCEQ Investigation No. 779771 were not included as deviations in the semi-annual deviation report for the August 1, 2009 through January 31, 2010 reporting period.

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: Borger Energy Associates, L.P., Docket No. 2011-0741-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 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.
3. 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.
4. 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.
5. 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

John Szellin
For the Executive Director

7/31/2011
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.

Malcolm Carroll
Signature

6/10/11
Date

Malcolm Carroll
Name (Printed or typed)
Authorized Representative of
Borger Energy Associates, L.P.

Asset manager,
Title
Borger Energy Associates, LP

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.