

Executive Summary – Enforcement Matter – Case No. 41844

Zoltek Corporation

RN100543867

Docket No. 2011-0956-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Zoltek, 1221 Fulwiler Road, Abilene, Taylor County

Type of Operation:

Carbon fiber manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 28, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$32,660

Amount Deferred for Expedited Settlement: \$6,532

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$26,128

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: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Zoltek Corporation
RN100543867
Docket No. 2011-0956-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: May 12, 2011
Date(s) of NOE(s): May 23, 2011

Violation Information

Failed to comply with the maximum allowable emission rates ("MAER") for Thermal Oxidizer No. 1C and Thermal Oxidizer No. 2C during performance tests on June 24, 2010 and June 22, 2010, respectively. Specifically, during testing, Thermal Oxidizer No. 1C exceeded the hourly MAER for particulate matter ("PM"), sulfur dioxide ("SO₂"), nitrogen oxides ("NO_x"), carbon monoxide ("CO"), and volatile organic compounds ("VOC"). Thermal Oxidizer No. 2C exceeded the MAER for PM, VOC, and hydrogen cyanide ("HCN") [30 TEX. ADMIN. CODE § 116.115(c); Permit No. 35215, Special Conditions No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:

- a. By November 1, 2010, inspected and conducted preventative maintenance on Thermal Oxidizer No. 1C [Emission Point No. ("EPN") EP31] and Thermal Oxidizer No. 2C (EPN EP32);
- b. By November 1, 2010, repaired the air to fuel proportioning valve and burner nozzle on Thermal Oxidizer No. 1C;
- c. On March 3, 2011, installed a new air blower for the burner system on Thermal Oxidizer No. 1C;
- d. By March 3, 2011, installed a combustion analyzer on Thermal Oxidizer No. 1C to analyze the air to fuel ratio and to monitor carbon monoxide production of the burner;
- e. On March 14, 2011, increased the process specifications for Thermal Oxidizer No. 1C to increase the minimum chamber temperature from 1,362 degrees Fahrenheit ("°F") to 1,485° F; and
- f. On March 15, 2011, submitted an application to amend Permit No. 35215 to increase the maximum emission rates for both thermal oxidizers.

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Technical Requirements:

The Order will require the Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for Permit No. 35215 within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days, submit written certification that either the permit amendment has been obtained or that operations of Thermal Oxidizer Nos. 1C and 2C have ceased until such time that the permit authorization has been obtained.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Miriam Hall, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-1044; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Zsolt Romy, President, Zoltek Corporation, 1221 Fulwiler Road, Abilene,
Texas 79603
Jason Jimerson, Operations Manager, Zoltek Corporation, 1221 Fulwiler Road, Abilene,
Texas 79603
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	31-May-2011	Screening	14-Jun-2011	EPA Due	
	PCW	15-Jun-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Zoltek Corporation		
Reg. Ent. Ref. No.	RN100543867		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41844	No. of Violations	2
Docket No.	2011-0956-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$23,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	42.0% Enhancement	Subtotals 2, 3, & 7	\$9,660
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Notes: Enhancement for three NOVs with the same/similar violations, one NOV with dissimilar violations, and one agreed order without a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$3,647
 Approx. Cost of Compliance: \$44,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$32,660
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$32,660
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$32,660
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DEFERRAL	20.0% Reduction	Adjustment	-\$6,532
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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	\$26,128
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Screening Date 14-Jun-2011
Respondent Zoltek Corporation
Case ID No. 41844
Reg. Ent. Reference No. RN100543867
Media [Statute] Air
Enf. Coordinator Miriam Hall

Docket No. 2011-0956-AIR-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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	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) 42%

>> 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 the same/similar violations, one NOV with dissimilar violations, and one agreed order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 14-Jun-2011

Docket No. 2011-0956-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 41844

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c); Permit No. 35215, Special Conditions No. 1; and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the maximum allowable emission rates ("MAER") for Thermal Oxidizer No. 1C [Emission Point No. ("EPN") EP31] during a performance test on June 24, 2010. Specifically, during testing, Thermal Oxidizer No. 1C exceeded the hourly MAER for particulate matter ("PM"), sulfur dioxide ("SO2"), nitrogen oxides ("NOx"), carbon monoxide ("CO"), and volatile organic compounds ("VOC"). See Table A.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. The estimated excess emissions were 4,329.6 pounds ("lbs") of PM, 31.68 lbs of SO2, 3,696 lbs of NOx, 11,088 lbs of CO, and 4,488 lbs of VOC.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

220 Number of violation days

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

Violation Base Penalty \$3,000

Three quarterly events are recommended from the date of the test (June 24, 2010) to the date the unit was shut down (January 30, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$504

Violation Final Penalty Total \$4,260

This violation Final Assessed Penalty (adjusted for limits) \$4,260

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 41844
Reg. Ent. Reference No. RN100543867
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	\$10,000	24-Jun-2010	14-Mar-2011	0.72	\$24	\$480	\$504
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated costs of maintenance and equipment upgrades, including a new air blower and combustion analyzer for Thermal Oxidizer No. 1C to increase the chamber temperature and maintain the proper air to fuel mix to increase the destruction efficiency from the date of the stack test to the completion date. The estimated costs for a permit amendment and new stack test are included in Violation No. 2.

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

\$10,000

TOTAL

\$504

Screening Date 14-Jun-2011

Docket No. 2011-0956-AIR-E

PCW

Respondent Zoltek Corporation

Policy Revision 2 (September 2002)

Case ID No. 41844

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100543867

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c); Permit No. 35215, Special Conditions No. 1; and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the MAER for Thermal Oxidizer No. 2C (EPN EP32) during performance tests on June 22, 2010. Specifically, during testing, Thermal Oxidizer No. 2C (EPN EP32) exceeded the MAER for PM, VOC, and hydrogen cyanide ("HCN"). See Table B.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant emissions of HCN which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. HCN emissions from the test date to the shutdown date are estimated to be 231 pounds.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 8

222 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$20,000

Eight monthly events are recommended from the date of the test (June 22, 2010) to the date the unit was shut down (January 30, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,143

Violation Final Penalty Total \$28,400

This violation Final Assessed Penalty (adjusted for limits) \$28,400

Economic Benefit Worksheet

Respondent Zoltek Corporation
Case ID No. 41844
Reg. Ent. Reference No. RN100543867
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
Stack Test	\$24,000	22-Jun-2010	31-Mar-2012	1.78	\$2,130	n/a	\$2,130
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	22-Jun-2010	30-Jun-2012	2.02	\$1,012	n/a	\$1,012
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The Stack Test cost is the estimated cost for retesting both thermal oxidizers from the date of the first failed test to estimated compliance date. The Permit Cost includes the cost of amending the permit to increase emission rates for both thermal oxidizers, including the permit fee, consulting fees, and modeling costs from the date of the first failed test to the estimated compliance date.

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

\$34,000

TOTAL

\$3,143

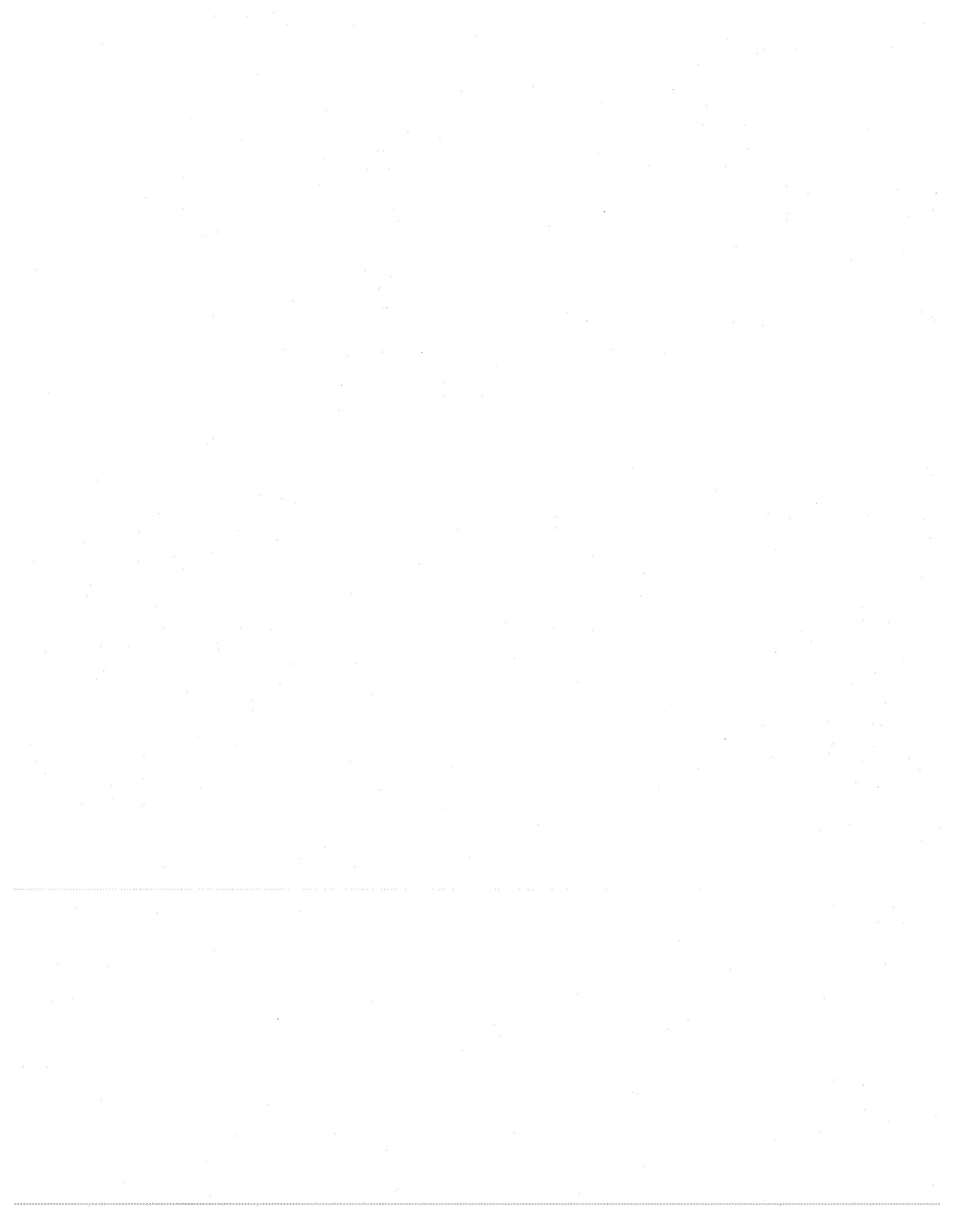
Attachment to Penalty Calculation Worksheet
 Zoltek Corporation
 RN100543867
 Case No. 41844
 Docket No. 2011-0956-AIR-E

Table A

Thermal Oxidizer No. 1C (EPN EP31)					
Pollutant [pounds per hour ("lb/hr")]	Particulate Matter ("PM") lb/hr	Volatile Organic Compounds ("VOC") lb/hr	Nitrogen Oxides ("NO _x ") lb/hr	Carbon Monoxide ("CO") lb/hr	Sulfur Dioxide ("SO ₂ ") lb/hr
Permit MAER	0.02	0.01	0.6	0.04	0.001
Measured Rate	0.84	0.86	1.3	2.14	0.007
Excess Rate	0.82	0.85	0.7	2.10	0.006

Table B

Thermal Oxidizer No. 2C (EPN EP32)			
Pollutant	PM lb/hr	VOC lb/hr	Hydrogen Cyanide ("HCN") lb/hr
Permit MAER	0.08	0.0005	0.0000116
Measured Rate	0.61	0.04	0.0431
Excess Rate	0.53	0.0395	0.0430884



Compliance History

Customer/Respondent/Owner-Operator:	CN600255046 ZOLTEK CORPORATION	Classification: AVERAGE	Rating: 31.67
Regulated Entity:	RN100543867 ZOLTEK	Classification: AVERAGE	Site Rating: 31.67
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	35215
	AIR NEW SOURCE PERMITS	REGISTRATION	37533
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TB0267M
	AIR NEW SOURCE PERMITS	REGISTRATION	54993
	AIR NEW SOURCE PERMITS	REGISTRATION	82095
	AIR NEW SOURCE PERMITS	AFS NUM	4844100036
	STORMWATER	PERMIT	TXR05AA37
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	TB0267M
Location:	1221 FULWILER RD, ABILENE, TX, 79603		
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	June 21, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 21, 2006 to June 21, 2011		

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

Name: Miriam Hall Phone: (512) 239-1044

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.

Effective Date: 02/22/2010 ADMINORDER 2007-0580-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 5C THSC Chapter 382 382.085(a)

Rqmt Prov: Special Condition No. 3 PERMIT

Description: Failed to take necessary measures to prevent the release of odors and visible emissions from the TO stacks

Classification: Moderate

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

Rqmt Prov: Special Condition 14(a)&(b) PERMIT

Description: Failed to report in writing to the TCEQ all instances of failing to maintain minimum temperatures and of any visible emissions from TO stacks

Classification: Moderate

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

Description: Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event

Classification: Moderate

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

Rqmt Prov: Special Condition 7 PA

Description: Failed to maintain minimum operating temperatures of 1300° F and 1500° F at the outlets of TO Nos. 1 and 2, respectively.

Classification: Moderate

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

Description: Failed to notify the commission of a reportable emission event no later than 24 hours after the discovery of the event

Classification: Moderate

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

Rqmt Prov: Special Conditions 1, 3, 4, and 7 PA

Description: Failed to properly operate emission control equipment during normal operations, which resulted in an excessive emission event

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
5C THSC Chapter 382 382.085(a)

Rqmt Prov: Special Conditions 1, 3, 4, and 7 PA

Description: Failed to properly operate emission control equipment during normal operations, which resulted in the release of nuisance odors, as well as visible and excessive emissions

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	07/31/2006	(466597)
2	11/27/2006	(531756)
3	06/08/2007	(543845)
4	08/07/2007	(567682)
5	03/24/2008	(636075)
6	03/21/2008	(636078)
7	03/24/2008	(636782)
8	03/25/2008	(636784)
9	03/24/2008	(636786)
10	07/02/2008	(684558)
11	12/15/2008	(706221)
12	01/20/2009	(708647)
13	02/20/2009	(724093)
14	02/20/2009	(727025)
15	05/21/2009	(745064)
16	09/14/2010	(850467)
17	10/27/2010	(871742)
18	05/19/2011	(920457)

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

Date: 07/24/2006 (466597)

CN600255046

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Description: Zoltek failed to meet the Demonstration Criteria set forth in of 30 Tex. Admin. Code § 101.222(b) and are not subject to an affirmative defense. Zoltek failed to create and maintain a final record for non-reportable emissions events that occurred on March 3, 2006 and May 1, 2006.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Description: Zoltek failed to report the emissions events to the TCEQ within 24 hours of discovery as required by 30 Texas Admin Code 101.201(a)(1)(B)
 Date: 03/21/2008 (636078) CN600255046
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Description: Special Condition (14) (A) PERMIT
 Zoltek Corp. failed to comply with 30 Administrative Code (TAC) §116.115(c)--Special Conditions--The holders of permits, special permits, standard permits, and special exemptions shall comply with all special conditions contained in the permit document.
 Date: 01/20/2009 (708647) CN600255046
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to prevent unauthorized emissions by failing to maintain the operating temperature of the carbonization thermal oxidizers at or above the minimum operating temperature for Process Line #3 (EPN 32) and Process Line #4 (EPN 42).
 Date: 09/17/2010 (850467) CN600255046
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Description: Special Condition No. 1. PERMIT
 Failure to limit the emissions of PM, NOx, CO, SO2, and VOC from the Thermal Oxidizer No. 1C (EPN EP31) during the June 24, 2010, performance stack test and failure to limit the emissions of VOC, PM, and HCN from the Thermal Oxidizer No. 2C (EPN EP32) during the June 22, 2010, performance stack test.

- 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
ZOLTEK CORPORATION
RN100543867**

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

**AGREED ORDER
DOCKET NO. 2011-0956-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 Zoltek Corporation ("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 carbon fiber manufacturing plant at 1221 Fulwiler Road in Abilene, Taylor 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 28, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-Two Thousand Six Hundred Sixty Dollars (\$32,660) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Six Thousand One

Hundred Twenty-Eight Dollars (\$26,128) of the administrative penalty and Six Thousand Five Hundred Thirty-Two Dollars (\$6,532) 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 the Respondent has implemented the following corrective measures at the Plant:
 - a. By November 1, 2010, inspected and conducted preventative maintenance on Thermal Oxidizer No. 1C [Emission Point No. ("EPN") EP31] and Thermal Oxidizer No. 2C (EPN EP32);
 - b. By November 1, 2010, repaired the air to fuel proportioning valve and burner nozzle on Thermal Oxidizer No. 1C;
 - c. On March 3, 2011, installed a new air blower for the burner system on Thermal Oxidizer No. 1C;
 - d. By March 3, 2011, installed a combustion analyzer on Thermal Oxidizer No. 1C to analyze the air to fuel ratio and to monitor carbon monoxide production of the burner;
 - e. On March 14, 2011, increased the process specifications for Thermal Oxidizer No. 1C to increase the minimum chamber temperature from 1,362 degrees Fahrenheit ("°F") to 1,485°F; and
 - f. On March 15, 2011, submitted an application to amend Permit No. 35215 to increase the maximum emission rates for both thermal oxidizers.
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 comply with the maximum allowable emission rates ("MAER") for Thermal Oxidizer No. 1C and Thermal Oxidizer No. 2C during performance tests on June 24, 2010 and June 22, 2010, respectively, in violation of 30 TEX. ADMIN. CODE § 116.115(c); Permit No. 35215, Special Conditions No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 12, 2011. Specifically, during testing, Thermal Oxidizer No. 1C exceeded the hourly MAER for particulate matter ("PM"), sulfur dioxide ("SO₂"), nitrogen oxides ("NO_x"), carbon monoxide ("CO"), and volatile organic compounds ("VOC"). Thermal Oxidizer No. 2C exceeded the MAER for PM, VOC, and hydrogen cyanide ("HCN"). See tables below:

Thermal Oxidizer No. 1C (EPN EP31)					
Pollutant pounds per hour ("lb/hr")	PM lb/hr	VOC lb/hr	NO _x lb/hr	CO lb/hr	SO ₂ lb/hr
Permit MAER	0.02	0.01	0.6	0.04	0.001
Measured Rate	0.84	0.86	1.3	2.14	0.007
Excess Rate	0.82	0.85	0.7	2.10	0.006

Thermal Oxidizer No. 2C (EPN EP32)			
Pollutant	PM lb/hr	VOC lb/hr	HCN lb/hr
Permit MAER	0.08	0.0005	0.0000116
Measured Rate	0.61	0.04	0.0431
Excess Rate	0.53	0.0395	0.0430884

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: Zoltek Corporation, Docket No. 2011-0956-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for Permit No. 35215 within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days after the effective date of this Agreed Order, submit written certification that either the permit amendment has been obtained or that operations of Thermal Oxidizer Nos. 1C and 2C have ceased until such time that the permit authorization has been obtained. The written certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Blvd.
Abilene TX 79602-7833

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. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/2/11

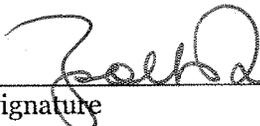
Date

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.



Signature

September 12, 2011

Date

Zolt Romy

Name (Printed or typed)
Authorized Representative of
Zoltek Corporation

President

Title

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.