

**Executive Summary – Enforcement Matter – Case No. 42947  
Braden Exploration, LLC  
RN106022320  
Docket No. 2011-2113-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Cole Roberts 1H & 2H Gas Well Site, located on County Road 265, west of Farm-to-Market Road 730, Decatur, Wise County

**Type of Operation:**

Gas well site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 6, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,250

**Amount Deferred for Expedited Settlement:** \$2,250

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$9,000

**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

**Executive Summary – Enforcement Matter – Case No. 42947  
Braden Exploration, LLC  
RN106022320  
Docket No. 2011-2113-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** July 28, 2011

**Date(s) of NOE(s):** September 27, 2011

***Violation Information***

1. Failed to prevent the discharge from any source whatsoever, one or more air contaminants or combinations thereof, in such concentration and of such duration as to interfere with the normal use and enjoyment of animal life, vegetation, or property. Specifically, nuisance odors were documented on October 14, 2010, October 15, 2010, October 29, 2010, November 10, 2010, November 13, 2010 and November 23, 2010 [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

2. Failed to obtain an authorization for the Site. Specifically, the Respondent did not obtain a permit or demonstrate compliance with a Permit by Rule before production started at the Site on November 1, 2010 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures at the Site:

a. On November 1, 2010, discontinued the flow-back phase of pre-production which caused the nuisance odors on October 14, 2010, October 15, 2010, and October 29, 2010;

b. On November 10, 2010, replaced Seat 7 and the trim in the compressor, and on November 11, 2010, replaced the spring in the Enardo valve on the vent of the condensate tanks with a heavier gauge spring to address the nuisance odors on November 10, 2010; and

c. By November 30, 2010, adjusted all vents, hatches, and fugitive areas and removed the temporary tanks from the Site to address the nuisance odors on November 13, 2010 and November 23, 2010.

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days, certify that the Site can satisfy the conditions for a Permit By Rule or submit an administratively complete permit application;

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**Braden Exploration, LLC**  
**RN106022320**  
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b. If a permit application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and

c. If a permit application is submitted, within 180 days, submit written certification that authorization to operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is 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:** Trina Grieco, Enforcement Division,  
Enforcement Team 4, R-13, (2010) 403-4006; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Tony Gardner, Vice President of Operations, Braden Exploration, LLC,  
P.O. Box 776, Decatur, Texas 76234

Marj Dahle, Environmental Specialist, Braden Exploration, LLC, P.O. Box 776, Decatur,  
Texas 76234

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	3-Oct-2011	<b>Screening</b>	10-Nov-2011	<b>EPA Due</b>	
	<b>PCW</b>	15-Nov-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Braden Exploration, LLC
<b>Reg. Ent. Ref. No.</b>	RN106022320
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	3
<b>Enf./Case ID No.</b>	42947	<b>Order Type</b>	1660
<b>Docket No.</b>	2011-2113-AIR-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Miriam Hall
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$625
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Notes: Enhancement for one NOV with the same violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,875
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$129
Approx. Cost of Compliance	\$2,800

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$11,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,250
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$2,250
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$9,000
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Screening Date 10-Nov-2011

Docket No. 2011-2113-AIR-E

PCW

Respondent Braden Exploration, LLC

Policy Revision 2 (September 2002)

Case ID No. 42947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106022320

Media [Statute] Air

Enf. Coordinator Miriam Hall

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with the same violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 10-Nov-2011

Docket No. 2011-2113-AIR-E

PCW

Respondent Braden Exploration, LLC

Policy Revision 2 (September 2002)

Case ID No. 42947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106022320

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s)

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

Violation Description

Failed to prevent the discharge from any source whatsoever, one or more air contaminants or combinations thereof, in such concentration and of such duration as to interfere with the normal use and enjoyment of animal life, vegetation, or property. Specifically, nuisance odors were documented on October 14, 2010, October 29, 2010, November 10, 2010, November 13, 2010, and November 23, 2010.

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 amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5

5 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$5,000

Five single events are recommended for each documented odor nuisance.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent completed corrective actions by November 30, 2010, and the NOE was issued on September 27, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$4,000

This violation Final Assessed Penalty (adjusted for limits) \$4,000

# Economic Benefit Worksheet

**Respondent** Braden Exploration, LLC  
**Case ID No.** 42947  
**Reg. Ent. Reference No.** RN106022320  
**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	\$800	14-Oct-2010	30-Nov-2010	0.13	\$0	\$7	\$7
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)	\$500	14-Oct-2010	30-Nov-2010	0.13	\$3	n/a	\$3

#### Notes for DELAYED costs

The Equipment cost is the estimated cost for replacing springs and other components on valves and hatches and removing the temporary tanks. The Other cost is for tweaking operating procedures to prevent nuisance odors. (The Site consists of two new wells that were coming into production). The Date Required is the date of the first documented nuisance condition. 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

\$1,300

**TOTAL**

\$10

Screening Date 10-Nov-2011

Docket No. 2011-2113-AIR-E

PCW

Respondent Braden Exploration, LLC

Policy Revision 2 (September 2002)

Case ID No. 42947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106022320

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 2

Rule Cite(s)

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

Violation Description

Failed to prevent the discharge from any source whatsoever, one or more air contaminants or combinations thereof, in such concentration and of such duration as to interfere with the normal use and enjoyment of animal life, vegetation, or property. Specifically, nuisance odors were documented on October 15, 2010.

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 amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One monthly event is recommended for October 15, 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent completed corrective actions by November 30, 2010, and the NOE was issued on September 27, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

# Economic Benefit Worksheet

**Respondent** Braden Exploration, LLC

**Case ID No.** 42947

**Reg. Ent. Reference No.** RN106022320

**Media** Air

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 1.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

Screening Date 10-Nov-2011

Docket No. 2011-2113-AIR-E

PCW

Respondent Braden Exploration, LLC

Policy Revision 2 (September 2002)

Case ID No. 42947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106022320

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain an authorization for the Site. Specifically, the Respondent did not obtain a permit or demonstrate compliance with a Permit By Rule before production started at the Site on November 1, 2010.

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: The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5 Number of violation days 374

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Five quarterly events are recommended from the date authorization was required (November 1, 2010) to the screening date (November 10, 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$119

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

# Economic Benefit Worksheet

**Respondent:** Braden Exploration, LLC

**Case ID No.:** 42947

**Reg. Ent. Reference No.:** RN106022320

**Media:** Air

**Violation No.:** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   No commas or \$

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs	\$1,500	1-Nov-2010	31-May-2012	1.58	\$119	\$119
Other (as needed)			0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The estimated cost of preparing and submitting records to demonstrate compliance with a Permit By Rule or apply for a permit. The Date Required is the date that authorization was required. 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**

\$1,500

**TOTAL**

\$119

# Compliance History

Customer/Respondent/Owner-Operator:	CN603678400 Braden Exploration, LLC	Classification: AVERAGE	Rating: 3.10
Regulated Entity:	RN106022320 COLE ROBERTS 1H & 2H GAS WELL SITE	Classification: AVERAGE	Site Rating: 4.00
ID Number(s):	AIR QUALITY NON PERMITTED	ID NUMBER	R04106022320
Location:	ON COUNTY ROAD 265, WEST OF FARM-TO-MARKET ROAD 730 IN DECATUR TEXAS		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	November 10, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 10, 2006 to November 10, 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: 9/1/2011 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 01/23/2011 (878601)
  - 2 09/27/2011 (943716)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - Date: 01/26/2011 (878601)
  - Self Report? NO Classification: Major
  - Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
5C THSC Chapter 382 382.0518(a)  
5C THSC Chapter 382 382.085(b)
  - Description: Failure to obtain air quality authorization for facilities which emit air contaminants(EIC B.4)
  - Self Report? NO Classification: Moderate
  - Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382 382.085(b)
  - Description: Failure to prevent the discharge from any source whatsoever, one or more air contaminants or combinations thereof, in such concentration and of such duration as to interfere with the normal use and enjoyment of animal life, vegetation, or property in violation of 30 TAC §101.4. (EIC B.18)
- 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  
BRADEN EXPLORATION, LLC  
RN106022320

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

AGREED ORDER  
DOCKET NO. 2011-2113-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 Braden Exploration, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a gas well site on County Road 265, west of Farm-to-Market Road 730, in Decatur, Wise County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. 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 October 2, 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 Eleven Thousand Two Hundred Fifty Dollars (\$11,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Dollars (\$9,000) of the

administrative penalty and Two Thousand Two Hundred Fifty Dollars (\$2,250) 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 Site:
  - a. On November 1, 2010, discontinued the flow-back phase of pre-production which caused the nuisance odors on October 14, 2010, October 15, 2010, and October 29, 2010;
  - b. On November 10, 2010, replaced Seat 7 and the trim in the compressor, and on November 11, 2010, replaced the spring in the Enardo valve on the vent of the condensate tanks with a heavier gauge spring to address the nuisance odors on November 10, 2010; and
  - c. By November 30, 2010, adjusted all vents, hatches, and fugitive areas and removed the temporary tanks from the Site to address the nuisance odors on November 13, 2010 and November 23, 2010.
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 Site, the Respondent is alleged to have:

1. Failed to prevent the discharge from any source whatsoever, one or more air contaminants or combinations thereof, in such concentration and of such duration as to interfere with the normal use and enjoyment of animal life, vegetation, or property, in

violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during a record review conducted on July 28, 2011. Specifically, nuisance odors were documented on October 14, 2010; October 15, 2010; October 29, 2010; November 10, 2010; November 13, 2010 and November 23, 2010.

2. Failed to obtain an authorization for the Site, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during a record review conducted on July 28, 2011. Specifically, the Respondent did not obtain a permit or demonstrate compliance with a Permit by Rule before production started at the Site on November 1, 2010.

### 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: Braden Exploration, LLC, Docket No. 2011-2113-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. Within 30 days after the effective date of this Agreed Order, certify, as described in Ordering Provision 2.c., that the Site can satisfy the conditions for a Permit By Rule or submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. If a permit application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- c. If a permit application is submitted, within 180 days after the effective date of this Agreed Order, submit written certification that authorization to operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 Site 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

Pam Jones J.  
For the Executive Director

5/22/12  
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.

Sony Walker  
Signature

1-25-2012  
Date

Bony Green  
Name (Printed or typed)  
Authorized Representative of  
Braden Exploration, LLC

V.P. Ops.  
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.