

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43924
Enterprise Hydrocarbons L.P.
RN100668573
Docket No. 2012-0776-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Unauthorized emissions which are excessive emissions events.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

20733 Lamm Road, Elmendorf, Bexar County

Type of Operation:

natural gas processing plant

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: September 27, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$95,000

Total Paid to General Revenue: \$95,000

Total Due to General Revenue: \$0

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average
Site/RN – High

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 15, 2011; August 22, 2011

Date(s) of NOV(s): N/A

Date(s) of NOE(s): September 8, 2011; September 30, 2011

Enterprise Hydrocarbons L.P.

RN100668573

Docket No. 2012-0776-AIR-E

Violation Information

1. Failed to notify the Executive Director within 30 days of a change in operations at the Plant [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.615, and Standard Permit Registration No. 88396].
2. Failed to submit an application for a new authorization before implementing a change in operations [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 122.503(a)(1), and General Operating Permit No. 513/Federal Operating Permit No. O872].
3. Failed to prevent unauthorized emissions (approx. 91,026.4 pounds of volatile organic compounds during an emissions event that began on January 1, 2011, and lasted for 289 hours (Incident No. 151641). The TCEQ determined that this was an excessive emissions event) [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.615(1) and (2), and Standard Permit Registration No. 88396].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. Installed a flare on January 12, 2011, to control emissions such as those resulting in the emission event described in violation no. 3 above;
2. Received an amendment to TCEQ Standard Permit Registration No. 88396 on June 1, 2012, to authorize the new flare and the production and handling of additional condensate; and
3. Received an amendment to General Operating Permit No. 513/Federal Operating Permit No. O872 on December 27, 2011, to authorize the new flare.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: April 3, 2013
Date Answer(s) Filed: April 23, 2013
SOAH Referral Date: May 28, 2013
Hearing Date(s):
Preliminary Hearing: July 18, 2013 (waived)
Evidentiary Hearing: N/A
Settlement Date: August 14, 2013

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Amancio Gutierrez, Enforcement Division, (512) 239-3921

TCEQ Regional Contact: George Ortiz, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Roger Thompson, Regional Environmental Manager, Enterprise Hydrocarbons L.P., 1100 Louisiana Street, Houston, Texas 77002

Respondent's Attorney: Edward Lewis, Fulbright & Jaworski L.L.P., 1301 McKinney, Suite 5100, Houston, Texas 77010



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Oct-2011		
	PCW	8-Aug-2013	Screening	30-Jan-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Enterprise Hydrocarbons L.P.
Reg. Ent. Ref. No.	RN100668573
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	43924	No. of Violations	2
Docket No.	2012-0776-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		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	\$125,000
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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	0.0% Enhancement Subtotals 2, 3, & 7 \$0

Notes: No adjustment for compliance history. The Respondent received one NOV for dissimilar violations and has submitted two notices of intent to conduct an audit and one disclosure of violations; however, since the adjustment would be below zero, the adjustment defaults to zero.

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	\$30,000
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$204	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$3,500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$95,000
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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	\$95,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$95,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$95,000
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Screening Date 30-Jan-2012

Docket No. 2012-0776-AIR-E

PCW

Respondent Enterprise Hydrocarbons L.P.

Policy Revision 2 (September 2002)

Case ID No. 43924

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100668573

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

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>)	0	0%
	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>)	2	-2%
	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>)	1	-2%
<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) 0%

>> 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

No adjustment for compliance history. The Respondent received one NOV for dissimilar violations and has submitted two notices of intent to conduct an audit and one disclosure of violations; however, since the adjustment would be below zero, the adjustment defaults to zero.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 30-Jan-2012 **Docket No.** 2012-0776-AIR-E **PCW**
Respondent Enterprise Hydrocarbons L.P. *Policy Revision 2 (September 2002)*
Case ID No. 43924 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100668573
Media [Statute] Air
Enf. Coordinator Amancio R. Gutierrez

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 116.615(2) and 122.503(a)(1), Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b), Standard Permit Registration No. 88396, and General Operating Permit No. 513/Federal Operating Permit No. O872

Violation Description Failed to notify the Executive Director within 30 days of a change in operations at the Plant. Specifically, Respondent accepted a new feed stock containing large amounts of condensate and installed a flare without notifying the Executive Director within 30 days of operation of the flare. Also failed to submit an application for a new authorization before implementing a change in operations. Specifically, Respondent installed and operated a flare without submitting an application for a new authorization before operating the flare.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="25%"/>
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Enterprise Hydrocarbons L.P.
Case ID No. 43924
Reg. Ent. Reference No. RN100668573
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				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	31-Jan-2012	23-Jun-2012	0.39	\$10	n/a	\$10

Notes for DELAYED costs
 Estimated cost to notify the Executive Director of operational changes at the Plant. The Date Required is the date the initial notification was due. The Final Date is the projected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$10

Screening Date 30-Jan-2012

Docket No. 2012-0776-AIR-E

PCW

Respondent Enterprise Hydrocarbons L.P.

Policy Revision 2 (September 2002)

Case ID No. 43924

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100668573

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.615(1) and (2), Tex. Health & Safety Code § 382.085(b), and Standard Permit Registration No. 88396

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released approximately 91,026.4 pounds of volatile organic compounds from Tanks 1, 2, and 3, during an emissions event that began on January 1, 2011 and lasted for 289 hours (Incident No. 151641). The release occurred when the Plant began receiving feed stock containing large amounts of condensate which the Plant was not equipped to process. This was determined to be an excessive emissions event.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			100%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

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

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 12 Number of violation days 12

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$120,000

Twelve daily events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$30,000

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

Notes The Respondent completed corrective actions on January 12, 2011, prior to the September 30, 2011.

Violation Subtotal \$90,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$185

Violation Final Penalty Total \$90,000

This violation Final Assessed Penalty (adjusted for limits) \$90,000

Economic Benefit Worksheet

Respondent Enterprise Hydrocarbons L.P.
Case ID No. 43924
Reg. Ent. Reference No. RN100668573
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)	\$2,500	1-Jan-2011	23-Jun-2012	1.48	\$185	n/a	\$185

Notes for DELAYED costs
 Estimated cost to implement measures to prevent the recurrence of emissions events due to the same or similar cause as Incident No. 151641. The Date required is the date the emissions event began. The Final Date is the projected 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 \$2,500

TOTAL \$185

Compliance History Report

Customer/Respondent/Owner-Operator: CN602718553 Enterprise Hydrocarbons L.P. Classification: AVERAGE Rating: 1.60
Regulated Entity: RN100668573 SAN MARTIN GAS PLANT Classification: HIGH Site Rating: 0.00
ID Number(s): AIR OPERATING PERMITS ACCOUNT NUMBER BG0064A
AIR OPERATING PERMITS PERMIT 872
AIR NEW SOURCE PERMITS ACCOUNT NUMBER BG0064A
AIR NEW SOURCE PERMITS REGISTRATION 88396
AIR NEW SOURCE PERMITS AFS NUM 4802900022
AIR EMISSIONS INVENTORY ACCOUNT NUMBER BG0064A

Location: 20733 LAMM RD, ELMENDORF, TX, 78112
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: April 05, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 05, 2007 to April 05, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Roshondra Lowe Phone: (713) 767-3553

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. If **YES**, 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	12/27/2007	(612110)
2	10/13/2008	(704434)
3	11/18/2009	(778565)
4	12/09/2010	(881235)
5	12/22/2010	(881360)
6	12/22/2010	(884895)
7	08/30/2011	(891999)
8	09/28/2011	(943799)

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

DISSIM-1 Date: **10/03/2008** (704434) CN602718553

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
Description: Amended Leak Detection and Repair (LDAR) deviation report submitted late for missed annual monitoring for "Difficult to Monitor" components in 2007.

- F. Environmental audits.

NOI-1 Notice of Intent Date: **03/05/2009** (739382)

DOV-1 Disclosure Date: **10/09/2009**

Viol. Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter A 106.4(a)
Description: Failure to include combustion sources in checklist included with permit by rule application.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145
Description: Failure to include the audit findings in previous deviation reports/compliance certifications.

NOI-2 Notice of Intent Date: **01/30/2012** (989647)

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ENTERPRISE HYDROCARBONS L.P.;
RN100668573**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-0776-AIR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Enterprise Hydrocarbons L.P. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Edward Lewis of the law firm Fulbright & Jaworski L.L.P., presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a natural gas processing plant located at 20733 Lamm Road in Elmendorf, Bexar County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on February 15, 2011, a TCEQ San Antonio Regional Office investigator documented that Respondent:
 - a. Failed to notify the Executive Director within 30 days of a change in operations at the Plant. Specifically, Respondent accepted a new feed stock containing large amounts of condensate and installed a flare without notifying the Executive Director within 30 days of operation of the flare; and
 - b. Failed to submit an application for a new authorization before implementing a change in operations. Specifically, Respondent installed and operated a flare without submitting an application for a new authorization before operating the flare.
3. During an investigation conducted on August 22, 2011, a TCEQ San Antonio Regional Office investigator documented that Respondent failed to prevent unauthorized emissions. Specifically, Respondent released approximately 91,026.4 pounds of volatile organic compounds from Tanks 1, 2, and 3, during an emissions event that began on

- January 1, 2011, and lasted for 289 hours (Incident No. 151641). The release occurred when the Plant began receiving feed stock containing large amounts of condensate which the Plant was not equipped to process. The TCEQ determined that this was an excessive emissions event.
4. Respondent received notice of the violations alleged in Finding of Fact No. 2 on or about September 13, 2011. Respondent received notice of the violations alleged in Finding of Fact No. 3 on or about October 4, 2011.
 5. The Executive Director recognizes that Respondent implemented the following corrective measures at the Plant:
 - a. Installed a flare on January 12, 2011, to control emissions such as those resulting in emission event Incident No. 151641 described in Finding of Fact No. 3;
 - b. Received an amendment to TCEQ Standard Permit Registration No. 88396 on June 1, 2012, to authorize the new flare and the production and handling of additional condensate; and
 - c. Received an amendment to General Operating Permit No. 513/Federal Operating Permit No. O872 on December 27, 2011, to authorize the new flare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to notify the Executive Director within 30 days of a change in operations at the Plant, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.615, and Standard Permit Registration No. 88396.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit an application for a new authorization before implementing a change in operations, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 122.503(a)(1), and General Operating Permit No. 513/Federal Operating Permit No. O872.
4. As evidenced by Finding of Fact No. 3, Respondent failed to prevent unauthorized emissions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.615(1) and (2), and Standard Permit Registration No. 88396. Since this was determined to be an excessive emissions event, Respondent is precluded from asserting any affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of ninety-five thousand dollars (\$95,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid ninety-five thousand dollars (\$95,000.00) of the administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 6, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. All relief not expressly granted in this Agreed Order is denied.
3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 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. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving,

imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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



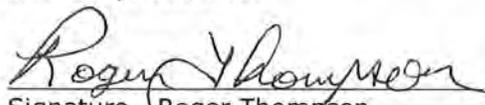
Date

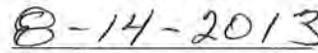
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Enterprise Hydrocarbons L.P., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.


Signature - Roger Thompson
Regional Environmental Manager
Enterprise Hydrocarbons L.P.



Date