

Executive Summary – Enforcement Matter – Case No. 41572

Zenergy, Inc.

RN106076391

Docket No. 2011-0660-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Zenergy Inc Roca Negra Well 1, located two miles east of Farm-to-Market Road 2917 on Farm-to-Market Road 2004, Brazoria County

Type of Operation:

Oil and 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: March 15, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$265,562

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$265,562

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41572

Zenergy, Inc.

RN106076391

Docket No. 2011-0660-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 28, 2011

Date(s) of NOE(s): April 19, 2011

Violation Information

1. Failed to route flashed gases from the Site to a vapor recovery system or a control device [30 TEX. ADMIN. CODE § 115.112(d)(5) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to obtain authorization to construct and operate a source of air emissions [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].
3. Failed to obtain a federal operating permit [30 TEX. ADMIN. CODE §§ 122.121 and 122.130(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On July 25, 2011, Respondent installed a 48-inch high volume flare to control emissions at the Site and demonstrated that the Site is being operated under a Permit by Rule and is no longer subject to the requirements for obtaining a federal operating permit.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Podlipny, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2603; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

Executive Summary – Enforcement Matter – Case No. 41572
Zenergy, Inc.
RN106076391
Docket No. 2011-0660-AIR-E

TCEQ SEP Coordinator: N/A

Respondent: Robert M. Zinke, President, Zenergy, Inc., One Warren Place, 6100
South Yale Avenue, Suite 1700, Tulsa, Oklahoma 74136

Robert Graham, Vice President of Operations, Zenergy, Inc., One Warren Place, 6100
South Yale Avenue, Suite 1700, Tulsa, Oklahoma 74136

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	25-Apr-2011	Screening	4-May-2011	EPA Due	14-Jan-2012
	PCW	23-Mar-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Zenergy, Inc.		
Reg. Ent. Ref. No.	RN106076391		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41572	No. of Violations	3
Docket No.	2011-0660-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		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** **\$265,000**

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.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts: \$2,498
Approx. Cost of Compliance: \$15,600
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$265,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.2%** **Adjustment** **\$562**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs associated with Violation No. 3.

Final Penalty Amount **\$265,562**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$265,562**

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

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$265,562**

Screening Date 4-May-2011

Docket No. 2011-0660-AIR-E

PCW

Respondent Zenergy, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41572

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106076391

Media [Statute] Air

Enf. Coordinator Heather Podlipny

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	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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 4-May-2011

Docket No. 2011-0660-AIR-E

PCW

Respondent Zenergy, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41572

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106076391

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.112(d)(5) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to route flashed gases from the Site to a vapor recovery system or a control device. Specifically, three storage tanks were not routed to a vapor recovery system or control device and the emissions from the tank battery contributed to the uncontrolled release of approximately 495.8 tons of volatile organic compounds from the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 25 Number of violation days 746

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

Violation Base Penalty \$250,000

Twenty-five monthly events are recommended based on the January 1, 2009 non-compliance date through the January 17, 2011 well shut-in date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$250,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,921

Violation Final Penalty Total \$250,530

This violation Final Assessed Penalty (adjusted for limits) \$250,530

Economic Benefit Worksheet

Respondent Zenergy, Inc.
Case ID No. 41572
Reg. Ent. Reference No. RN106076391
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)	\$15,000	1-Jan-2009	25-Jul-2011	2.56	\$1,921	n/a	\$1,921

Notes for DELAYED costs

Estimated cost to make the required modifications to the three tanks (\$5,000 per tank). The Date Required is the date controls were required to be installed by. The Final Date is the 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 \$15,000

TOTAL \$1,921

Screening Date 4-May-2011

Docket No. 2011-0660-AIR-E

PCW

Respondent Zenergy, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41572

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106076391

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 2

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 authorization to construct and operate a source of air emissions. Specifically, the Respondent failed to obtain an authorization prior to operating the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5 Number of violation days 382

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

Violation Base Penalty \$12,500

Five quarterly events are recommended based on the December 31, 2009 non-compliance date through the January 17, 2011 well shut-in date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$12,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$8

Statutory Limit Test

Violation Final Penalty Total \$12,527

This violation Final Assessed Penalty (adjusted for limits) \$12,527

Economic Benefit Worksheet

Respondent Zenergy, Inc.
Case ID No. 41572
Reg. Ent. Reference No. RN106076391
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
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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	\$100	31-Dec-2009	25-Jul-2011	1.56	\$8	n/a	\$8
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to satisfy the conditions to operate under a Permit By Rule. The Date Required is the first date of non-compliance at the Site and Final Date is the 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 \$100

TOTAL \$8

Screening Date 4-May-2011

Docket No. 2011-0660-AIR-E

PCW

Respondent Zenergy, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41572

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106076391

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 122.121 and 122.130(b) and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description Failed to obtain a federal operating permit. Specifically, the Respondent did not obtain a federal operating permit after site-wide emissions exceeded the 25 tons per year major source threshold.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

382 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$562

Violation Final Penalty Total \$2,505

This violation Final Assessed Penalty (adjusted for limits) \$2,505

Economic Benefit Worksheet

Respondent Zenergy, Inc.
Case ID No. 41572
Reg. Ent. Reference No. RN106076391
Media Air
Violation No. 3

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

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]	\$500	31-Dec-2009	25-Jul-2011	2.48	\$62	\$500	\$562
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided costs for submitting a federal operating permit application. The Date Required is the date the federal operating permit application was required to be submitted and the Final Date is the date of compliance.

Approx. Cost of Compliance \$500

TOTAL \$562

Compliance History

Customer/Respondent/Owner-Operator:	CN603804469 Zenergy, Inc.	Classification:	Rating:
Regulated Entity:	RN106076391 ZENERGY INC ROCA NEGRA WELL 1	Classification:	Site Rating:
ID Number(s):	AIR NEW SOURCE PERMITS	AFS NUM	4803900748
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	BLA029C
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	BLA029C
Location:	2 MILES EAST OF FARM-TO-MARKET ROAD 2917 ON FARM-TO-MARKET ROAD 2004		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	April 29, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 29, 2006 to April 29, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Allison Fischer	Phone:	(512) 239 - 2574

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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. N/A

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 04/22/2011 (894660)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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
ZENENERGY, INC.
RN106076391

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

AGREED ORDER
DOCKET NO. 2011-0660-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Zenenergy, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates an oil and gas well site two miles east of Farm-to-Market Road 2917 on Farm-to-Market Road 2004 in Brazoria County, Texas (the "Site").

2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on January 28, 2011, TCEQ staff documented that the Respondent failed to route flashed gases from the Site to a vapor recovery system or a control device. Specifically, three storage tanks were not routed to a vapor recovery system or control device and the emissions from the tank battery contributed to the uncontrolled release of approximately 495.8 tons of volatile organic compounds from the Site.
4. During an investigation on January 28, 2011, TCEQ staff documented that the Respondent failed to obtain authorization to construct and operate a source of air emissions. Specifically, the Respondent failed to obtain an authorization prior to operating the Site.
5. During an investigation on January 28, 2011, TCEQ staff documented that the Respondent failed to obtain a federal operating permit. Specifically, the Respondent did not obtain a federal operating permit after site-wide emissions exceeded the 25 tons per year major source threshold.
6. The Respondent received notice of the violations on April 27, 2011.
7. The Executive Director recognizes that on July 25, 2011, the Respondent installed a 48" high volume flare to control emissions at the Site and demonstrated that the Site is being operated under a Permit by Rule and is no longer subject to the requirements for obtaining a federal operating permit.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to route flashed gases from the Site to a vapor recovery system or a control device, in violation of 30 TEX. ADMIN. CODE § 115.112(d)(5) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to obtain authorization to construct and operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to obtain a federal operating permit, in violation of 30 TEX. ADMIN. CODE §§ 122.121 and 122.130(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b).

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Two Hundred Sixty-Five Thousand Five Hundred Sixty-Two Dollars (\$265,562) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Two Hundred Sixty-Five Thousand Five Hundred Sixty-Two Dollar (\$265,562) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Two Hundred Sixty-Five Thousand Five Hundred Sixty-Two Dollars (\$265,562) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Zenergy, Inc., Docket No. 2011-0660-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.

5. 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.
6. 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ben Mason
For the Executive Director

3/28/13
Date

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

I understand that by entering into this Agreed Order, Zenergy, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Robert M. Zinke
Signature

4/10/12
Date

Robert M. Zinke
Name (Printed or typed)
Authorized Representative of
Zenergy, Inc.

President
Title

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