

**Executive Summary – Enforcement Matter – Case No. 46964
Davis Operating Company
RN106178932
Docket No. 2013-1066-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Davis Operating Co Smith Heirs Lease, located two miles southwest of Sweeny on County Road 809, Brazoria County

Type of Operation:

Gas plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 18, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,000

Amount Deferred for Expedited Settlement: \$3,600

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$14,400

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 13, 2013

Date(s) of NOE(s): May 6, 2013

**Executive Summary – Enforcement Matter – Case No. 46964
Davis Operating Company
RN106178932
Docket No. 2013-1066-AIR-E**

Violation Information

1. Failed to submit emissions inventories for calendar years 2009, 2010, and 2011. Specifically, in calendar years 2009, 2010, and 2011, the Plant emitted more than 10 tons per year of volatile organic compounds ("VOC"), but Respondent failed to submit an emissions inventory for those years by March 31, 2010, March 31, 2011, and March 31, 2012, respectively [30 TEX. ADMIN. CODE § 101.10(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to comply with control requirements for storage tanks. Specifically, Tank Nos. 111335 and 111336 were not equipped with a submerged fill pipe or a vapor control system by January 1, 2009, resulting in 12.6 tons of VOC in 2009, 14.18 tons of VOC in 2010, 9.42 tons of VOC in 2011, and 6.64 tons of VOC in 2012 [30 TEX. ADMIN. CODE § 115.112(d)(1) and (e)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to maintain all emissions control equipment in good condition and operating properly. Specifically, the investigators observed VOC emissions from Tank No. 111336 caused by a faulty seal at the thief hatch [30 TEX. ADMIN. CODE §§ 106.4(c) and 106.478 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On May 27, 2013, installed submerged fill pipes for Tank Nos. 111335 and 111336 and repaired the thief hatch of Tank No. 111336; and
- b. On June 3, 2013, submitted emissions inventories for calendar years 2009, 2010, and 2011.

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

**Executive Summary – Enforcement Matter – Case No. 46964
Davis Operating Company
RN106178932
Docket No. 2013-1066-AIR-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Tony Benavides, Vice President, Davis Operating Company, 2800 Mid-Continent Tower, Tulsa, Oklahoma 74103

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-May-2013	Screening	28-May-2013	EPA Due	
	PCW	28-May-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Davis Operating Company		
Reg. Ent. Ref. No.	RN106178932		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46964	No. of Violations	2
Docket No.	2013-1066-AIR-E	Order Type	1660
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** **\$20,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -10.0% Enhancement **Subtotals 2, 3, & 7** **-\$2,000**

Notes Reduction for high performer classification.

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** **\$2,000**

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

Total EB Amounts	\$3,320
Approx. Cost of Compliance	\$11,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$16,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$16,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$16,000**

DEFERRAL 20.0% Reduction **Adjustment** **-\$3,200**

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$12,800**

Screening Date 28-May-2013

Docket No. 2013-1066-AIR-E

PCW

Respondent Davis Operating Company

Policy Revision 2 (September 2002)

Case ID No. 46964

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106178932

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	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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 28-May-2013
Respondent Davis Operating Company
Case ID No. 46964
Reg. Ent. Reference No. RN106178932
Media [Statute] Air
Enf. Coordinator Amancio R. Gutierrez

Docket No. 2013-1066-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.10(a)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit emissions inventories for calendar years 2009 and 2010. Specifically, in calendar years 2009 and 2010, the Plant emitted more than 10 tons per year of volatile organic compounds ("VOC"), but the Respondent failed to submit an emissions inventory for those years by March 31, 2010 and March 31, 2011, respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 1160 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,000

Two single events are recommended, based on the two inventories that were not submitted.

Good Faith Efforts to Comply

10.0% Reduction

\$200

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

Notes: The Respondent completed corrective measures on June 3, 2013, after the NOE date of May 6, 2013.

Violation Subtotal \$1,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$238

Violation Final Penalty Total \$1,600

This violation Final Assessed Penalty (adjusted for limits) \$1,600

Economic Benefit Worksheet

Respondent Davis Operating Company
Case ID No. 46964
Reg. Ent. Reference No. RN106178932
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
<small>No commas or \$</small>							

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)	\$1,500	31-Mar-2010	3-Jun-2013	3.18	\$238	n/a	\$238

Notes for DELAYED costs

Estimated cost to prepare and submit the overdue emissions inventories. The Date Required is the date the first emissions inventory was due and 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

\$1,500

TOTAL

\$238

Screening Date 28-May-2013

Docket No. 2013-1066-AIR-E

PCW

Respondent Davis Operating Company

Policy Revision 2 (September 2002)

Case ID No. 46964

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106178932

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.112(d)(1) and (e)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with control requirements for storage tanks. Specifically, Tank Nos. 111335 and 111336 were not equipped with a submerged fill pipe or a vapor control system by January 1, 2009, resulting in 12.6 tons of VOC in 2009, 14.18 tons of VOC in 2010, 9.42 tons of VOC in 2011, and 6.64 tons of VOC in 2012.

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 the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 18

1607 Number of violation days

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

Violation Base Penalty \$18,000

Eighteen quarterly events are recommended from the January 1, 2009 control requirement date through the May 27, 2013 compliance date.

Good Faith Efforts to Comply

10.0% Reduction

\$1,800

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

Notes

The Respondent completed corrective measures on May 27, 2013, after the NOE date of May 6, 2013.

Violation Subtotal \$16,200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,082

Violation Final Penalty Total \$14,400

This violation Final Assessed Penalty (adjusted for limits) \$14,400

Economic Benefit Worksheet

Respondent Davis Operating Company
Case ID No. 46964
Reg. Ent. Reference No. RN106178932
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	\$10,000	1-Jan-2009	27-May-2013	4.40	\$147	\$2,935	\$3,082
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

Estimated cost to install submerged fill pipes for the two tanks. The Date Required is the date controls were required to be installed and 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

\$10,000

TOTAL

\$3,082



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	13-May-2013	Screening	28-May-2013	EPA Due	
	PCW	28-May-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Davis Operating Company				
Reg. Ent. Ref. No.	RN106178932				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	46964	No. of Violations	2
Docket No.	2013-1066-AIR-E	Order Type	1660
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	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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.

Compliance History	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$250
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Notes: Reduction for high performer classification.

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	\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$10
Approx. Cost of Compliance	\$1,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,000
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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 \$2,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,000
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DEFERRAL	20.0% Reduction	Adjustment	-\$400
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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.

PAYABLE PENALTY	\$1,600
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Screening Date 28-May-2013

Docket No. 2013-1066-AIR-E

PCW

Respondent Davis Operating Company

Policy Revision 3 (September 2011)

Case ID No. 46964

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106178932

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	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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 28-May-2013

Docket No. 2013-1066-AIR-E

PCW

Respondent Davis Operating Company

Policy Revision 3 (September 2011)

Case ID No. 46964

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106178932

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.10(a)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an emissions inventory for calendar year 2011. Specifically, in calendar year 2011, the Plant emitted more than 10 tons per year of volatile organic compounds ("VOC"), but the Respondent failed to submit an emissions inventory by March 31, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 58

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

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$125

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

Notes The Respondent completed corrective measures on June 3, 2013, after the NOE date of May 6, 2013.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Davis Operating Company

Case ID No. 46964

Reg. Ent. Reference No. RN106178932

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
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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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is reflected in the accompanying PCW.

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 28-May-2013
Respondent Davis Operating Company
Case ID No. 46964

Docket No. 2013-1066-AIR-E

PCW

*Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN106178932
Media [Statute] Air
Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 106.4(c) and 106.478 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain all emissions control equipment in good condition and operating properly. Specifically, the investigators observed VOC emissions from Tank No. 111336 caused by a faulty seal at the thief hatch.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

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 the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

75 Number of violation days

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

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 13, 2013 investigation date to the May 27, 2013 compliance date.

Good Faith Efforts to Comply

10.0% Reduction

\$125

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

Notes: The Respondent completed corrective measures on May 27, 2013, after the NOE date of May 6, 2013.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Davis Operating Company
Case ID No. 46964
Reg. Ent. Reference No. RN106178932
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
<small>No commas or \$</small>							

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)	\$1,000	13-Mar-2013	27-May-2013	0.21	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to repair the thief hatch of Tank No. 111336. The Date Required is the date of the investigation and 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

\$1,000

TOTAL

\$10



Compliance History Report

PUBLISHED Compliance History Report for CN603932161, RN106178932, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603932161, DAVIS OPERATING COMPANY **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN106178932, DAVIS OPERATING CO **Classification:** HIGH **Rating:** 0.00
SMITH HEIRS LEASE

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 03 - Oil and Gas Extraction

Location: TWO MILES SOUTHWEST OF SWEENEY ON COUNTY ROAD 809 IN BRAZORIA COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR NEW SOURCE PERMITS AFS NUM 4803900759

AIR EMISSIONS INVENTORY ACCOUNT NUMBER
BLA039M

AIR EMISSIONS INVENTORY ACCOUNT NUMBER
BLA039M

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: May 28, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 28, 2008 to May 28, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Amancio R. Gutierrez

Phone: (512) 239-3921

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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
DAVIS OPERATING COMPANY
RN106178932**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-1066-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Davis Operating Company ("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 together stipulate that:

1. The Respondent owns and operates a gas plant located two miles southwest of Sweeny, on County Road 809 in Brazoria County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 11, 2013.
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 Eighteen Thousand Dollars (\$18,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fourteen Thousand Four Hundred Dollars (\$14,400) of the administrative penalty and Three Thousand Six Hundred Dollars

- (\$3,600) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On May 27, 2013, installed submerged fill pipes for Tank Nos. 111335 and 111336 and repaired the thief hatch of Tank No. 111336; and
 - b. On June 3, 2013, submitted emissions inventories for calendar years 2009, 2010, and 2011.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit emissions inventories for calendar years 2009, 2010, and 2011, in violation of 30 TEX. ADMIN. CODE § 101.10(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 13, 2013. Specifically, in calendar years 2009, 2010, and 2011, the Plant emitted more than 10 tons per year of volatile organic compounds ("VOC"), but the Respondent failed to submit an emissions inventory for those years by March 31, 2010, March 31, 2011, and March 31, 2012, respectively.
2. Failed to comply with control requirements for storage tanks, in violation of 30 TEX. ADMIN. CODE § 115.112(d)(1) and (e)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 13, 2013. Specifically, Tank

Nos. 111335 and 111336 were not equipped with a submerged fill pipe or a vapor control system by January 1, 2009, resulting in 12.6 tons of VOC in 2009, 14.18 tons of VOC in 2010, 9.42 tons of VOC in 2011, and 6.64 tons of VOC in 2012.

3. Failed to maintain all emissions control equipment in good condition and operating properly, in violation of 30 TEX. ADMIN. CODE §§ 106.4(c) and 106.478 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 13, 2013. Specifically, the investigators observed VOC emissions from Tank No. 111336 caused by a faulty seal at the thief hatch.

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: Davis Operating Company, Docket No. 2013-1066-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

11/18/13
Date

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

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

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

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


Signature

11/4/13
Date

TONY BENAVIDES
Name (Printed or typed)
Authorized Representative of
Davis Operating Company

V.P.
Title

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