

2007 FEB 26 PM 3:30

DALVANT CORPORATION §
TAWAKONI GAS PLANT §
KAUFMAN COUNTY §
PERMIT NO. 674 §

BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY
CHIEF CLERK'S OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Application Request and Background Information

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this response to the request for a contested case hearing submitted by persons listed herein. The Texas Health and Safety Code (THSC) § 382.056(n) requires the commission to consider hearing requests in accordance with the procedures provided in Tex. Water Code § 5.556. This statute is implemented through the rules found in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F. A current compliance history report, the technical review summary and the Air Quality Standard Permit has been included with this response and has been provided to all persons on the attached mailing list.

On July 11, 2005 Dalvant Corporation (Dalvant) filed an application to renew Air Quality Permit Number 674 to authorize continued operations of the Tawakoni Gas Plant located on County Road 330, about 8 miles north of Hwy 80 on FM 429, in Kaufman County, Texas. The application was determined to be administratively complete on July 21, 2005. Dalvant published Notice of Receipt of Application and Intent to Obtain Air Permit Renewal on August 19, 2005 in the *Terrell Tribune*. The requirement to publish in an alternative language (Spanish) publication was waived under Title 30 of the Texas Administrative Code, Section 39.405(h)(8) (30 TAC § 39.405(h)(8)); although the appropriate school district requires a bilingual program under the Texas Education Code, Dalvant represented that it conducted a diligent search and found no newspaper or publication in the alternative language in the municipality or county where the facility will be located. Therefore, Dalvant did not publish Notice of Receipt of Application and Intent to Obtain Air Permit Renewal in Spanish. The TCEQ received a timely hearing

request from Yvonne and Dale Perkins on August 29, 2005. The Applicant is not delinquent on any administrative penalty payments to the TCEQ.

The Tawakoni Gas Plant has not been operational since 1994, with the exception of one operational flare to burn residual gas from a remaining uncapped well. A fewer amount of units have been authorized under the renewal permit, and the amount of permitted emissions have been reduced by 330 tons per year of sulfur dioxide, and 4 tons per year of hydrogen sulfide.¹

II. Analysis

This renewal would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. The THSC § 382.056(g) states "The commission may not seek further comment or hold a public hearing...in response to a request for a public hearing on an amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted."² Dalvant is seeking a renewal that would not result in an increase in allowable emissions and will not result in an emission of an air contaminant not previously emitted.

However, the THSC § 382.056(o) states that "notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant's compliance history is in the lowest classification under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections."³

¹ This permit will authorize only the flare that is currently operational. The remaining units on the site are not included in the draft permit. The applicant will need to apply for an amendment to operate the remaining units in the future.

² See also rule 30 TAC § 55.201(i)(3)(C) (Renewals of air applications that "would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted" are applications for which there is no right to a contested case hearing).

³ See also 30 TAC § 55.201(i)(3)(C) (stating the commission may hold a hearing if the application "involves a facility for which the applicant's compliance history contains violations which are unresolved and which constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for

The commission adopted 30 TAC Chapter 60 to evaluate compliance history. The lowest classification under the Texas Water Code §§ 5.753 and 5.754 and 30 TAC § 60.2 is a "poor performer." Under 30 TAC § 60.3(a)(3)(B), the TCEQ may hold a hearing on an air permit amendment if the site is classified as a poor performer. The compliance history for the company and the site is reviewed for the five-year period prior to the date the permit application was received by the Executive Director. The company and this site have been classified as "AVERAGE" and not "POOR" performers according to 30 TAC § 60. At the time of this filing, the compliance history has not changed for the company or the site. Therefore, a hearing should not be granted under § 382.056(o) based on the compliance history of the applicant.

III. Conclusion

The renewal of this permit would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. Under these circumstances, THSC § 382.056(g) directs the commission to "not seek further comment or hold a public hearing." Because consideration of hearing requests on a "no increase" renewal application is governed by THSC § 382.056(g) and (o), this response does not include an analysis of the individual hearing requests. Accordingly, the executive director respectfully recommends that the commission deny the hearing requests as a matter of law and approve the renewal of Dalvant Corporation's permit no. 674.

the regulatory process, including the failure to make a timely and substantial attempt to correct the violations").

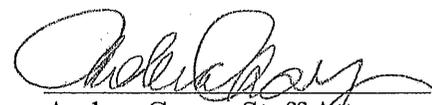
Respectfully submitted,

Texas Commission on
Environmental Quality

Glenn Shankle,
Executive Director

Stephanie Bergeron Perdue,
Deputy Director
Office of Legal Services

Robert Martinez, Director
Environmental Law Division



Andrea Casey, Staff Attorney
Environmental Law Division
State Bar No. 24050390
PO Box 13087, MC 173
Austin, Texas 78711-3087

CERTIFICATE OF SERVICE

I certify that true and correct copies of the foregoing Executive Director's Response To Hearing Request has been served on the following in the manner indicated below on this 26th day of February, 2007.

FOR THE APPLICANT

Via facsimile and regular mail
W.H. Hudson
Dalvant Corporation
8235 Douglas Avenue, Ste. 1201
Dallas, Texas 75255
Tel: (214) 691-9436
Fax: (214) 691-9419

FOR THE EXECUTIVE DIRECTOR:

Via interagency mail
Juan Barrientez, Technical Staff
Texas Commission on Environmental Quality
Air Permits Division, MC-163
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-1286
Fax: (512) 239-1300

Beecher Cameron
Texas Commission on Environmental Quality
Air Permits Division, MC-163
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-1495
Fax: (512) 239-1300

FOR PUBLIC INTEREST COUNSEL:

Via interagency mail
Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

FOR OFFICE OF PUBLIC ASSISTANCE:

Via interagency mail
Ms. Jody Henneke, Director
Texas Commission on Environmental Quality
Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007

FOR ALTERNATIVE DISPUTE
RESOLUTION:

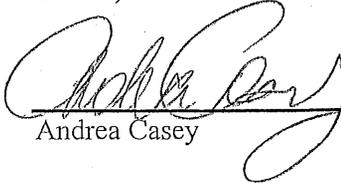
Via interagency mail
Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-22
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

FOR THE CHIEF CLERK:

Via hand delivery
Ms. LaDonna Castanuela
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

REQUESTOR:

Via regular mail
Dale and Yvonne Perkins
P.O. Box 2353
Terrell, Texas 75160


Andrea Casey

Compliance History

Customer/Respondent/Owner-Operator:	CN600491682 Dalvant Corporation	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN100807478 DALVANT CORPORATION	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS PERMIT		674
	AIR NEW SOURCE PERMITS ACCOUNT NUMBER		KB0002G
	AIR NEW SOURCE PERMITS AFS NUM		4825700001
Location:	Go 8 miles N of Hwy 80 on FM 489, turn L on CR 330, Go 1/8th mile to first gate on right.	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	February 22, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 22, 2002 to February 22, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Guillermo Reyes</u>	Phone:	<u>239-5716</u>

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 of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>Dalvant Corporation</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Dalvant Corporation</u> |
| 5. When did the change(s) in ownership occur? | <u>07/19/2005</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, 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.)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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

Permit Renewal Technical Review Analysis

Company:	Dalvant Corporation	Permit No.:	674
City:	Terrell	Project No.:	116669
County:	Kaufman	Account No.:	KB-0002-G
Project Type:	RNEW	Regulated Entity No.:	RN100807478
Project Reviewer:	Mr. Guillermo Reyes	Customer Reference No.:	CN600491682
Facility Name:	Tawakoni Gas Plant		

AUTHORIZATION CHECKLIST SECTION: (If YES to questions in this section, then ED signature required.)

Will a new policy/precedent be established? No
 Is a state or local official opposed to the permit? No
 Is waste or tire derived fuel involved? No
 Are waste management facilities involved? No
 Will action on this application be posted on the Executive Director's agenda? Yes
 Have any changes to the application or subsequent proposals been required to increase protection of public health and the environment during the review? No

PROJECT OVERVIEW SECTION: The project consists of the renewal of permit No. 674. A hearing request was submitted for this project.

REVIEW SUMMARY SECTION:

The facility authorized by this permit has not operated in more than ten years. A flare is still in operation to burn residual gas from the remaining well. The facility wishes to retain the permit in case market conditions make it profitable to operate the well again.

All the units that are not currently active have been removed from the permit. Only the flare (EPN 3) is being included in the renewal. The glycol dehydrator reboiler (EPN 1), the amine still reboiler (EPN 4) and the condensate tank (EPN 2) are being removed from the permit. The removal of these units will reduce the amount of permitted annual emissions by 330 tons of SO2 and four tons of H2S.

COMPLIANCE HISTORY SECTION:

In accordance with 30 TAC Chapter 60, a compliance history report was reviewed on: 10/22/2006
 The compliance period was from 09/01/2001 to 58/31/2006
 Was the application received after September 1, 2002? Yes
 If yes, what was the site rating & classification? 3.01, Average Company rating & classification? 3.01, Average
 Is the permit recommended to be denied on the basis of compliance history or rating? No
 Has the permit changed on the basis of the compliance history or rating? No

30 TAC CHAPTER 116 RULES:

§116.315(b) Date of expiration of permit 01/17/2006
 §116.310 Date written notice of review was mailed 01/31/2008
 §116.310 Date application for Renewal (PI-1R) rec'd 07/11/2005
 §116.311(a)(1) Do dockside vessel emissions associated with the facility comply with all regulations? N/A
 §116.311(a)(2) Is the facility being operated in accordance with all requirements, conditions, and representations specified in the current permit and do the emissions from the facility comply with all TCEQ air quality rules and regulations, and with the intent of the Texas Clean Air Act? Yes
 §116.311(a)(3) Compliance with applicable NSPS? N/A
 §116.311(a)(4) Compliance with applicable NESHAPS? N/A
 §116.311(a)(5) Compliance with applicable NESHAPS for source categories? N/A
 §116.311(a)(6) Compliance with applicable hazardous air pollutant requirements in 30 TAC §§ 116.180 - 116.183? N/A
 §116.311(b)(1) Is additional information regarding emissions from the facility and their impacts on the surrounding area required? No
 §116.311(b)(2) Were additional controls/permit conditions necessary to avoid a condition of air pollution or to ensure compliance with

Permit Renewal
Technical Review Analysis

Permit No. 674

Regulated Entity No. RN100807478

applicable federal or state rules? No
§116.311(c) Compliance History: Is the facility in substantial compliance with the TCAA and the terms of the current permit? Yes
§116.314(a) The facility meets all permit renewal requirements? Yes
§116.313(a) Permit Renewal Fee: \$ 3,187.76 Paid? Yes

PUBLIC NOTICE INFORMATION SECTION:

§39.403 Public notification required? Yes
Date application received: July 11, 2005 Date Administrative Complete: 07/21/2006
Small Business source? No
§39.418 Date 1st Public Notice /Admin Complete/Legislators letters mailed: 07/21/2006
§39.603 Pollutants: VOC, CO, NOx, H₂S, SO₂
Date Published in Newspaper: 08/19/2005 in The Terrell Tribune
Date Affidavits/Copies received: 08/26/2005
Bilingual notice required? No
§39.604 Certification of Sign Posting / Application availability 08/19/2005
Public Comments Received? Yes
Notice and Comment Hearing requested? Yes
Hearing held? No
Was/were the request(s) withdrawn? No Date:
Replies to Comments sent to OCC: 09/28/2006
§39.419 2nd Public Notification required? No

REQUEST FOR COMMENTS SECTION:

Region: 4 Reviewed by: Kara Allen

The Regional Office did not have any comments or objections to the issuance of this renewal

CHAPTER 113 RULES SECTION:

§113.100 Compliance with applicable MACT standards expected? N/A

PROCESS DESCRIPTION SECTION:

The site was originally permitted as a natural gas treating facility. The facility has not operated as a treating facility in more than ten years. Currently only a flare operates at the site. The flare is used to burn residual gas from a well that has not been capped.

SOURCES AND CONTROLS SECTION:

The flare at the facility is required by the permit to comply with the requirements of Title 40 Code of Federal Regulations (40 CFR) § 60.18.

MISCELLANEOUS SECTION:

Is applicant in agreement with special conditions? Yes
Company representative? Alan Owens, P.E.

Will E. Jr. 11/1/06
Permit Reviewer Date

John Ban 11/1/06
Team Leader/Section Manager/Backup Date

SPECIAL CONDITIONS

Permit Number 674

EMISSION STANDARDS

1. This permit authorizes emissions only from those points listed in the attached table entitled "Emission Sources - Maximum Allowable Emission Rates," and the facilities covered by this permit are authorized to emit subject to the emission rate limits on that table and other operating requirements specified in the Special conditions.
2. Non-fugitive emissions from relief valves, safety valves, or rupture discs of gases containing volatile organic compounds (VOC) at a concentration of greater than 1 percent are not authorized by this permit unless authorized on the maximum allowable emission rates table (MAERT). Any releases directly to atmosphere from relief valves, safety valves, or rupture discs of gases containing VOC at a concentration greater than 1 weight percent are not consistent with good practice for minimizing emissions.

OPERATING STANDARDS

3. All acid gas or other waste gases from this facility shall be burned in the flare specified in the permit application. It is not permissible under any conditions to vent waste gases directly to the atmosphere.
4. Flares shall be designed and operated in accordance with the following requirements:
 - A. The flare systems shall be designed such that the combined assist natural gas and waste stream to each flare meets the Title 40 Code of Federal Regulations (40 CFR) § 60.18 specifications of minimum heating value and maximum tip velocity under normal, upset, and maintenance flow conditions.

The heating value and velocity requirements shall be satisfied during operations authorized by this permit. Flare testing per 40 CFR § 60.18(f) may be requested by the appropriate Texas Commission on Environmental Quality (TCEQ) Regional Office to demonstrate compliance with these requirements.
 - B. The flare shall be operated with a flame present at all times and/or have a constant pilot flame. The pilot flame shall be continuously monitored by a thermocouple or an infrared monitor. The time, date, and duration of any loss of pilot flame shall be recorded. Each monitoring device shall be accurate to, and shall be calibrated at a frequency in accordance with, the manufacturer's specifications
 - C. The flare shall be operated with no visible emissions except periods not to exceed a total of five minutes during any two consecutive hours.

SPECIAL CONDITIONS

Permit Number 674

Page 2

5. Fuel gas combusted at this facility shall be sweet natural gas containing no more than 5 grains of total sulfur per 100 dry standard cubic feet or propane.

CONTINUOUS MONITORING

6. The holder of this permit is required to use a flare monitoring system that will shut in the oil well and notify an operator when the flame on the flare fails to ignite.
7. Odorous emissions from this facility shall not become a nuisance as determined by the Executive Director of the TCEQ. If an odor nuisance develops, additional abatement measures acceptable to the TCEQ Executive Director shall be implemented.

FEDERAL PROGRAM APPLICABILITY

8. It shall be the responsibility of the owner/operator to determine and ensure the applicability of 40 CFR Part 63, Subpart HH, "National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities" whenever changes are made to the facility.

These facilities must be in compliance with all rules and regulations of the Texas Commission on Environmental Quality and of the U.S. Environmental Protection Agency at all times.

Dated _

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

Permit Number 674

This table lists the maximum allowable emission rates and all sources of air contaminants on the applicant's property covered by this permit. The emission rates shown are those derived from information submitted as part of the application for permit and are the maximum rates allowed for these facilities. Any proposed increase in emission rates may require an application for a modification of the facilities covered by this permit.

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates *	
			lb/hr	TPY**
1	FLARE	SO ₂	18.26	79.96
		H ₂ S	0.20	0.87
		NO _x	0.45	1.99
		VOC	1.06	4.64
		CO	0.91	3.97
2.	SITE FUGITIVES	VOC	0.11	0.16

- (1) Emission point identification - either specific equipment designation or emission point number from a plot plan.
- (2) Specific point source names. For fugitive sources, use an area name or fugitive source name.
- (3) VOC - volatile organic compounds as defined in Title 30 Texas Administrative Code S 101.1
 - NO_x - total oxides of nitrogen
 - SO₂ - sulfur dioxide
 - CO - carbon monoxide
 - H₂S - hydrogen sulfide

(4) Fugitive emissions are an estimate only and should not be considered as a maximum allowable emission rate.

* Emission rates are based on and the facilities are limited by the following maximum operating schedule:

24 Hrs/day 7 Days/week 52 Weeks/year or Hrs/year

** Compliance with annual emission limits is based on a rolling 12-month period.

Dated