

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF	§	BEFORE THE
MOTIVA ENTERPRISES LLC	§	
ACCOUNT NO. JE-0095D	§	TEXAS COMMISSION ON
CUSTOMER NO. 600124051	§	
REGULATED ENTITY NO. 100209451	§	ENVIRONMENTAL QUALITY

DOCKET NO. 2004-0843-SIP

AGREED ORDER

The Texas Commission on Environmental Quality (the Commission or TCEQ) and Motiva Enterprises LLC (the Company) enter into this Agreed Order for the purpose of achieving reductions, and to make those reductions enforceable by TCEQ and the United States Environmental Protection Agency (EPA) in the Beaumont/Port Arthur ozone nonattainment area (BPA). The Commission and the Company agree that these reductions by the Company will improve air quality in BPA. As part of this continuing local effort, the Company has voluntarily agreed to reduce emissions as agreed herein.

The Commission hereby orders the Company to comply with the requirements herein regarding control of emissions from the facilities referenced below, pursuant to §§ 382.011, 382.012, 382.016, 382.023, 382.024, and 382.025 of Texas Health & Safety Code, Chapter 382 (the Texas Clean Air Act [TCAA]), and §§ 101 and 110 of the Federal Clean Air Act, 42 U.S.C. § 7401 et. seq., (FCAA) for the purpose of revising the Texas SIP.

I. STIPULATIONS

For the purpose of this Agreed Order, the parties have agreed and stipulated as follows:

1. Section 101 of the FCAA states that the one of the purposes of the FCAA is to protect and enhance the quality of the Nation's air resources, and a primary goal of the FCAA is to encourage or otherwise promote reasonable Federal, State and local governmental actions, consistent with the provisions of the FCAA, for pollution prevention. Section 110 of the FCAA requires Texas to submit SIP revisions to the United States Environmental Protection Agency (EPA) for approval and to demonstrate that such SIP revisions provide for protection of the National Ambient Air Quality Standards (NAAQS).

2. Sections 382.011 and 382.012 of the TCAA provide authority for the Commission to control the quality of the state's air and prepare and develop a general, comprehensive plan for the proper control of the state's air; § 382.016 of the TCAA provides the Commission's authority for measuring and monitoring the emission of air contaminants; and §§ 382.023, 382.024, and 382.025 of the TCAA provide the Commission's authority to issue orders. The issuance of this Order is in compliance with the TCAA.

3. The Commission and the Company agree that the Commission has jurisdiction to enter this Agreed Order, and the Company is subject to the Commission's jurisdiction.

4. In order to better safeguard the air resources of this state, the Company agrees to comply with the terms of this Order.

5. The Commission and the Company acknowledge that the Company has entered into this Order voluntarily. Nothing in this Order shall be interpreted as evidence that the Company is causing or contributing to a violation of the NAAQS or is in any respect non-compliant with any federal, state or local law and nothing in this Order shall impair the Company's compliance history. The Company is subject to enforcement action by the TCEQ for failure to comply with this Order.

Violations of this Order shall be subject to the Commission's rules regarding Compliance History in 30 Tex. Admin. Code Chapter 60.

6. The parties agree that this Order will be submitted to the EPA as a revision to the Texas SIP within 60 days of its final execution and approval by the Commission. The parties agree that the emissions reductions achieved pursuant to this Order are not otherwise required by federal or state law and will not be used for the purpose of offsetting or banking future emissions.

7. Nothing in this Order supercedes any requirement of the TCAA or the rules and requirements of the Commission.

8. The Company owns and operates a refinery, located at 2100 Houston Avenue, Port Arthur, Jefferson County, Texas (the plant).

9. The plant consists of one or more sources as defined in § 382.003(12) of the TCAA.

10. Monitoring, recordkeeping, reporting, and testing necessary to demonstrate compliance with this Order shall be conducted as specified in the commission's rules and requirements, or where applicable in any commission authorization, in addition to any requirement contained in this Order to demonstrate compliance with stipulations 15 through 18, except that records shall be maintained until the latter of five years from the date of this Order or five years from the dates of compliance in paragraphs 15 through 18 below. The Company shall make records available upon request by the TCEQ or any other air pollution control agency with jurisdiction. No shut-down shall be deemed in compliance with this Order unless operation of the facility is precluded by physically disconnecting the facility from both the process and all utilities and support equipment, and permanently removed from service. For the shut-down of units which occur after the date of this Order, the Company shall notify the TCEQ in writing no later than thirty days after the date of shut-

down. The notification shall include documentation of the method used to shut down the facility. The Company understands that TCEQ shall remove the shutdown facilities from the TCEQ inventory of BPA. The Company shall take appropriate action with the TCEQ to alter its permit to remove the facilities from the permit or any permit by rule registration.

11. This Order does not authorize or prohibit any modification of the Plant listed above. Within 60 days of its final execution and approval by the Commission, the Company is ordered to submit the appropriate application or registration documentation to the TCEQ's Office of Permitting, Remediation and Registration for any authorization necessary to implement the requirements of this Order, including revision of its existing federal operating permit or application to include the applicable requirements of this Order.

12. Nothing in this Order shall preclude the Company from including the reductions in emissions from the change in operation or shutdown of the facilities at the plant in the Company's application for any voluntary emissions reduction permit (VERP), as authorized by 30 TAC Chapter 116, Subchapter H, however, nothing in this Order shall assure the eligibility of such reductions for inclusion in any application for any VERP.

13. Notwithstanding any other provision of this Order, any delays in or failure of performance by the Company, its contractors or any entity controlled by the Company under this Order caused by an act of God, war, strike, riot, or other catastrophe beyond the control of the company (Force Majeure), despite the Company's best efforts to anticipate and address the potential Force Majeure event such that the delay or failure of performance is minimized to the extent possible, shall not constitute a violation of this Order. The Company has the burden of establishing that such an event has occurred. In the event the Company's performance under this Order is

prevented by the Force Majeure condition, the Company shall notify the TCEQ within seven (7) business days of the causes, all measures taken to avoid and minimize the event and estimated duration of such condition, and shall keep TCEQ advised of the progress in eliminating such condition, and proceed with compliance with this Order as expeditiously as practicable.

14. All notifications required by this Order (unless otherwise specified herein) shall be sent to:

TCEQ Region 10 Office
3870 Eastex Freeway
Beaumont, Texas 77703-1892

Notifications required by this Order shall not substitute for any other notification requirement of the Commission or the TCAA.

15. On or before December 31, 2004, the Company will shut down the following boilers, currently authorized by Air Quality Permit No. 6056:

Boiler 26 (EPN SPS2-6)
Boiler 27 (EPN SPS2-7)

16. On or before December 31, 2004, the Company will shut down Boiler 31 (Emission Point No. [EPN] SPS3-1), currently authorized by Air Quality Permit No. 6056:

17. On or before December 31, 2004, the Company will uncouple Gas Turbine Generator 35 from Boilers 34 (EPN SPS3-4) and 35 (EPN SPS3-5) and route the exhaust gas to Waste Heat Boiler (EPN WHB37SCR). The Company will maintain the selective catalytic reduction (SCR) controls on the Waste Heat Boiler.

18. By December 31, 2003, the Company began compliance with 40 CFR § 60.11 to ensure New Source Performance Standards (NSPS) compliance at all refinery hydrocarbon flares which are not equipped with flare gas recovery systems by meeting the emission limitation, monitoring and other requirements for refinery fuel gas found in 40 CFR §§ 60.104 and 60.105, or alternative monitoring protocols approved pursuant to 40 CFR § 60.13(I). In addition to the four (4) flares which must meet this requirement under Consent Decree between the United States of America and the States of Delaware and Louisiana and Motiva Enterprises, Inc., the Company agrees to meeting these requirements for its remaining three (3) flares at the plant. The EPNs for these remaining three flares are: FCCU NO3FS, HCUNO1 FS, and VPSNO4FS.

II. ORDER

It is therefore ordered by the Texas Commission on Environmental Quality that Motiva Enterprises LLC, shall, from and after the date of this Agreed Order, limit its emissions as specified in paragraphs 15 through 18 above, and maintain compliance with this Order.

The provisions of this Agreed Order shall apply to and be binding upon Motiva Enterprises LLC, its successors, assigns and upon those persons in active concert or participation with them. The Authorized Representative of the Company signing this document represents that it is duly authorized to execute this Order and is duly authorized to bind the Company, its officers, directors, employees, agents, servants, authorized representatives, successors, subsequent purchasers and assigns to this Order. Motiva Enterprises LLC is hereby ordered to give notice of this Agreed Order to any successor in interest prior to transfer of ownership of all or any part of its plant, located at 2100 Houston Avenue, Port Arthur, Jefferson County, Texas and within ten days of any such

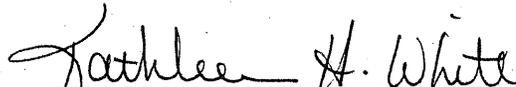
transfer, provide the Texas Commission on Environmental Quality with written notice via certified mail that such notice of transfer has been given.

No extensions of the deadlines in this Order shall be granted.

The Chief Clerk shall provide a copy of this Order to each of the parties.

PASSED AND APPROVED at the regular meeting of the Texas Commission on
Environmental Quality on DEC 15 2004.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



For the Commission

I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below
my signature, and do hereby agree to the terms and conditions specified therein.

Signature for Lydia González Gromatzky

Lydia González Gromatzky
Deputy Director, Office of Legal Services
Texas Commission on Environmental Quality

8/6/04

Date

W. J. Power

[name]
Authorized Representative of
Motiva Enterprises LLC

7/1/2004

Date

