

**Executive Summary – Enforcement Matter – Case No. 59593**

**XTO Energy Inc.**

**RN102554243**

**Docket No. 2020-0960-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Russell Compressor Station, located approximately 0.5 mile south from the intersection of County Road 22 and Farm-to-Market Road 1757 near Denver City, Gaines County

**Type of Operation:**

Natural gas compressor station

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 27, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$129,375

**Amount Deferred for Expedited Settlement:** \$25,875

**Total Paid to General Revenue:** \$51,750

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$51,750

Name of SEP: Texas Natural Gas Foundation (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 1, 2020 through May 7, 2020

**Date(s) of NOE(s):** July 8, 2020

**Executive Summary – Enforcement Matter – Case No. 59593**

**XTO Energy Inc.**

**RN102554243**

**Docket No. 2020-0960-AIR-E**

***Violation Information***

Failed to comply with all representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration. Specifically, the Respondent represented in the certified registration for Permit by Rule ("PBR") Registration No. 113906 that the annual emissions rates for any consecutive 12-month period would not exceed 4.93 tons per year ("tpy") of sulfur dioxide ("SO<sub>2</sub>"), 0.18 tpy of hydrogen sulfide ("H<sub>2</sub>S"), 4.19 tpy of carbon monoxide ("CO"), 1.29 tpy of nitrogen oxides ("NO<sub>x</sub>"), 4.45 tpy of volatile organic compounds ("VOC"), and 1.14 tpy of hazardous air pollutants ("HAP") for the Flare, Emissions Point Number FL-1; but the SO<sub>2</sub>, H<sub>2</sub>S, NO<sub>x</sub>, and VOC annual emissions rates were exceeded for the 12-month periods ending from May 2018 through March 2020, the CO annual emissions rate was exceeded for the 12-month periods ending from June 2018 through March 2020, and the HAP annual emissions rate was exceeded for the 12-month periods ending from October 2018 through March 2020; resulting in 407.53 tons of unauthorized SO<sub>2</sub>, 7.06 tons of unauthorized H<sub>2</sub>S, 53.94 tons of unauthorized CO, 29.83 tons of unauthorized NO<sub>x</sub>, 66.88 tons of unauthorized VOC, and 3.59 tons of unauthorized HAP [30 TEX. ADMIN. CODE §§ 106.4(a)(1)(B) and 106.6(b), PBR Registration No. 113906, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On April 28, 2020, the Respondent obtained Standard Permit Registration No. 161129 that authorized the operations and emissions at the Plant.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Amanda Diaz, Enforcement Division, Enforcement Team 2, MC R-12, (713) 422-8912; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**SEP Third-Party Administrator:** Texas Natural Gas Foundation, 2315 Newfield Lane, Austin, Texas 78703

**Respondent:** Enrique M. Garcia, Production Manager, XTO Energy Inc., 22777 Springwoods Village Parkway, Spring, Texas 77389

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	14-Jul-2020	<b>Screening</b>	23-Jul-2020	<b>EPA Due</b>	
	<b>PCW</b>	16-Nov-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	XTO Energy Inc.
<b>Reg. Ent. Ref. No.</b>	RN102554243
<b>Facility/Site Region</b>	7-Midland
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59593	<b>No. of Violations</b>	1
<b>Docket No.</b>	2020-0960-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Diaz
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$172,500</b>
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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.

<b>Compliance History</b>	<b>0.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes: Since the reduction for one notice of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$43,125</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$90  
 Estimated Cost of Compliance: \$900  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$129,375</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$129,375</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$129,375</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$25,875</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$103,500</b>
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**Screening Date** 23-Jul-2020

**Docket No.** 2020-0960-AIR-E

**PCW**

**Respondent** XTO Energy Inc.

*Policy Revision 4 (April 2014)*

**Case ID No.** 59593

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN102554243

**Media** Air

**Enf. Coordinator** Amanda Diaz

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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 judgments 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> )	1	-1%
	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%
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)

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Since the reduction for one notice of intent to conduct an audit is below zero, the Adjustment Percentage (Subtotal 2) defaults to zero.

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

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

**Screening Date** 23-Jul-2020 **Docket No.** 2020-0960-AIR-E **PCW**  
**Respondent** XTO Energy Inc. *Policy Revision 4 (April 2014)*  
**Case ID No.** 59593 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN102554243  
**Media** Air  
**Enf. Coordinator** Amanda Diaz

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 106.4(a)(1)(B) and 106.6(b), Permit by Rule ("PBR") Registration No. 113906, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to comply with all representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration. Specifically, the Respondent represented in the certified registration for PBR Registration No. 113906 that the annual emissions rates for any consecutive 12-month period would not exceed 4.93 tons per year ("tpy") of sulfur dioxide ("SO2"), 0.18 tpy of hydrogen sulfide ("H2S"), 4.19 tpy of carbon monoxide ("CO"), 1.29 tpy of nitrogen oxides ("NOx"), 4.45 tpy of volatile organic compounds ("VOC"), and 1.14 tpy of hazardous air pollutants ("HAP") for the Flare, Emissions Point Number FL-1; but the SO2, H2S, NOx, and VOC annual emissions rates were exceeded for the 12-month periods ending from May 2018 through March 2020, the CO annual emissions rate was exceeded for the 12-month periods ending from June 2018 through March 2020, and the HAP annual emissions rate was exceeded for the 12-month periods ending from October 2018 through March 2020; resulting in 407.53 tons of unauthorized SO2, 7.06 tons of unauthorized H2S, 53.94 tons of unauthorized CO, 29.83 tons of unauthorized NOx, 66.88 tons of unauthorized VOC, and 3.59 tons of unauthorized HAP.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="30.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes** Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

Twenty-three monthly events are recommended for the period of non-compliance from May 1, 2018 through March 31, 2020.

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

**Notes** The Respondent completed the corrective measures on April 28, 2020, prior to the Notice of Enforcement ("NOE") dated July 8, 2020.

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** XTO Energy Inc.  
**Case ID No.** 59593  
**Reg. Ent. Reference No.** RN102554243  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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	\$900	1-May-2018	28-Apr-2020	1.99	\$90	n/a	\$90
Other (as needed)				0.00	\$0	n/a	\$0

#### Notes for DELAYED costs

Actual cost to obtain Standard Permit Registration No. 161129 that authorized the operations and emissions at the Plant. The Date Required is the first date of non-compliance and the Final Date is the date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$900

**TOTAL**

\$90



# Compliance History Report

Compliance History Report for CN600601348, RN102554243, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600601348, XTO Energy Inc.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	0.27
<b>Regulated Entity:</b>	RN102554243, RUSSELL COMPRESSOR STATION	<b>Classification:</b>	HIGH	<b>Rating:</b>	0.00
<b>Complexity Points:</b>	5	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	03 - Oil and Gas Extraction				
<b>Location:</b>	APPROXIMATELY 0.5 MILE SOUTH FROM THE INTERSECTION OF COUNTY ROAD 22 AND FARM-TO-MARKET ROAD 1757 NEAR DENVER CITY, GAINES COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 07 - MIDLAND				

<b>ID Number(s):</b>					
<b>AIR OPERATING PERMITS</b>	PERMIT 4223	<b>AIR NEW SOURCE PERMITS</b>	ACCOUNT NUMBER GA0298A		
<b>AIR NEW SOURCE PERMITS</b>	REGISTRATION 113906	<b>AIR NEW SOURCE PERMITS</b>	REGISTRATION 161129		
<b>AIR NEW SOURCE PERMITS</b>	AFS NUM 4816500057	<b>AIR EMISSIONS INVENTORY</b>	ACCOUNT NUMBER GA0298A		

**Compliance History Period:** September 01, 2015 to August 31, 2020      **Rating Year:** 2020      **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** January 29, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 29, 2016 to January 29, 2021

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

**Name:** Richard Garza      **Phone:** (512) 239-2697

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

**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.):**

Item 1	February 10, 2016	(1308632)
Item 2	April 04, 2016	(1322726)
Item 3	October 29, 2016	(1368676)
Item 4	November 10, 2016	(1370162)
Item 5	November 30, 2016	(1369246)
Item 6	February 06, 2017	(1388843)
Item 7	March 06, 2017	(1394997)
Item 8	March 07, 2017	(1388294)
Item 9	March 10, 2017	(1389955)
Item 10	March 23, 2017	(1396621)

Item 11	May 09, 2017	(1409987)
Item 12	June 15, 2017	(1416554)
Item 13	July 14, 2017	(1423455)
Item 14	July 19, 2017	(1422011)
Item 15	August 10, 2017	(1430263)
Item 16	August 12, 2017	(1415206)
Item 17	August 22, 2017	(1424931)
Item 18	October 18, 2017	(1437945)
Item 19	February 01, 2018	(1430128)
Item 20	March 19, 2018	(1473217)
Item 21	July 02, 2018	(1498364)
Item 22	July 07, 2018	(1498595)
Item 23	July 24, 2018	(1498705)
Item 24	August 31, 2018	(1510765)
Item 25	September 21, 2018	(1513070)
Item 26	December 28, 2018	(1533272)
Item 27	March 07, 2019	(1540302)
Item 28	April 26, 2019	(1555249)
Item 29	August 27, 2019	(1591448)
Item 30	November 15, 2019	(1609873)
Item 31	December 18, 2019	(1617206)
Item 32	January 10, 2020	(1617676)
Item 33	January 30, 2020	(1604827)
Item 34	February 11, 2020	(1617308)
Item 35	April 01, 2020	(1540299)
Item 36	April 23, 2020	(1605365)
Item 37	June 05, 2020	(1646135)
Item 38	June 07, 2020	(1646379)
Item 39	June 09, 2020	(1651576)
Item 40	June 18, 2020	(1646548)
Item 41	June 26, 2020	(1650933)
Item 42	July 06, 2020	(1646353)
Item 43	August 03, 2020	(1646619)
Item 44	August 05, 2020	(1665015)
Item 45	September 14, 2020	(1670487)
Item 46	October 02, 2020	(1678430)
Item 47	January 11, 2021	(1690235)

**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:**

Notice of Intent Date: 03/10/2020 (1638400)

No DOV Associated

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

*Compliance History Report for CN600601348, RN102554243, Rating Year 2020 which includes Compliance History (CH) components from January 29, 2016, through January 29, 2021.*



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
XTO ENERGY INC.  
RN102554243

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2020-0960-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 XTO Energy 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 together stipulate that:

1. The Respondent owns and operates a natural gas compressor station located approximately 0.5 mile south from the intersection of County Road 22 and Farm-to-Market Road 1757 near Denver City, Gaines County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$129,375 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$51,750 of the penalty and \$25,875 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$51,750 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that on April 28, 2020, the Respondent obtained Standard Permit Registration No. 161129 that authorized the operations and emissions at the Plant.

## II. ALLEGATIONS

During a record review for the Plant conducted from April 1, 2020 through May 7, 2020, an investigator documented that the Respondent failed to comply with all representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration, in violation of 30 TEX. ADMIN. CODE §§ 106.4(a)(1)(B) and 106.6(b), Permit by Rule ("PBR") Registration No. 113906, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent represented in the certified registration for PBR Registration No. 113906 that the annual emissions rates for any consecutive 12-month period would not exceed 4.93 tons per year ("tpy") of sulfur dioxide ("SO<sub>2</sub>"), 0.18 tpy of hydrogen sulfide ("H<sub>2</sub>S"), 4.19 tpy of carbon monoxide ("CO"), 1.29 tpy of nitrogen oxides ("NO<sub>x</sub>"), 4.45 tpy of volatile organic compounds ("VOC"), and 1.14 tpy of hazardous air pollutants ("HAP") for the Flare, Emissions Point Number FL-1; but the SO<sub>2</sub>, H<sub>2</sub>S, NO<sub>x</sub>, and VOC annual emissions rates were exceeded for the 12-month periods ending from May 2018 through March 2020, the CO annual emissions rate was exceeded for the 12-month periods ending from June 2018 through March 2020, and the HAP annual emissions rate was exceeded for the 12-month periods ending from October 2018 through March 2020; resulting in 407.53 tons of unauthorized SO<sub>2</sub>, 7.06 tons of unauthorized H<sub>2</sub>S, 53.94 tons of unauthorized CO, 29.83 tons of unauthorized NO<sub>x</sub>, 66.88 tons of unauthorized VOC, and 3.59 tons of unauthorized HAP.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: XTO Energy Inc., Docket No. 2020-0960-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 Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$51,750 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This 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 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.

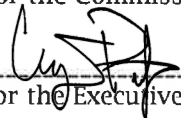
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

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Date

  
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For the Executive Director

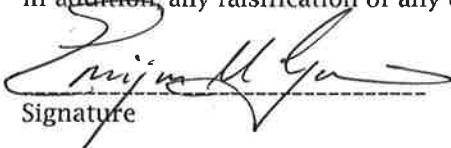
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2/27/2023  
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Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 OAG 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 OAG 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.

  
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Signature

  
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Date

  
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Name (Printed or typed)  
Authorized Representative of  
XTO Energy Inc.

XTO   
-----  
Title

If mailing address has changed, please check this box and provide the new address below:

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

**Attachment A**  
**Docket Number: 2020-0960-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>XTO Energy Inc.</b>
<b>Payable Penalty Amount:</b>	<b>\$103,500</b>
<b>SEP Offset Amount:</b>	<b>\$51,750</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Natural Gas Foundation</b>
<b>Project Name:</b>	<b><i>High Emission Vehicle Replacement Project</i></b>
<b>Location of SEP:</b>	<b>TCEQ Air Quality Control Region 218 - Midland-Odessa-San Angelo - Preference for Gaines County</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above, **Texas Natural Gas Foundation**, for the *High Emission Vehicle Replacement Project* (the “Project”). The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ, which details the terms and conditions of the Project.

Specifically, the SEP Offset Amount will be used to reimburse an eligible public entity for the total purchase price or five-year lease price of a standard base model alternative-fueled vehicle that will replace an eligible older, diesel-fueled vehicle that the public entity has decommissioned and removed from its fleet. Public entities eligible to receive assistance include state agencies, counties, municipalities, school districts, or other political subdivisions created under the constitution or any statute of this state.

Old, diesel-fueled vehicles emit large amounts of nitrogen oxides (“NOx”) and particulate matter (“PM”), as well as other harmful pollutants such as volatile organic compounds (“VOCs”) and carbon monoxide (“CO”). These pollutants contribute to serious public health problems. This Project shall reduce NOx, PM, VOCs, and CO emissions by replacing high-emission, diesel-fueled vehicles with low-emission, alternative-fueled vehicles. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

This Project will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, replacing a model year 2002 heavy-duty diesel dump truck with a model year 2010 or newer dump truck powered by natural gas or propane may reduce passengers' exposure to NOx by 95% and PM by 99.9%. Moreover, replacing a model year 1989 diesel school bus with a model year 2010 or newer school bus powered by natural gas or propane may reduce passengers' exposure to NOx by 98%, VOCs by 83%; and PM by 99%.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Natural Gas Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Natural Gas Foundation  
Attention: Heather Ball, Executive Director  
2315 Newfield Lane  
Austin, Texas 78703

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached

XTO Energy Inc.  
Docket No. 2020-0960-AIR-E  
Agreed Order - Attachment A

Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.