

**Executive Summary – Enforcement Matter – Case No. 59975**  
**MarkWest Javelina Company, L.L.C.**  
**RN102190139**  
**Docket No. 2020-1484-AIR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Unauthorized emissions which are excessive emissions events.

**Media:**

AIR

**Small Business:**

Yes

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

Javelina Gas Processing Facility, 5314 IH-37, Corpus Christi, Nueces County

**Type of Operation:**

Natural gas liquids production plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 18, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,500

**Total Paid to General Revenue:** \$8,250

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$8,250

Name of SEP: Texas Congress of Parents and Teachers dba Texas PTA (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**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:** October 21, 2019 through May 22, 2020

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

**Executive Summary – Enforcement Matter – Case No. 59975**  
**MarkWest Javelina Company, L.L.C.**  
**RN102190139**  
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***Violation Information***

Failed to prevent unauthorized emissions. The emissions event was determined to be an excessive emissions event [30 TEX. ADMIN. CODE § 116.115(c), New Source Review ("NSR") Permit No. 19296, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent obtained an amendment for NSR Permit No. 19296 that increased the hourly maximum allowable emissions rates for the Flare on August 13, 2020.

**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:** Richard Garza, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2697; 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 PTA, 408 West 11<sup>th</sup> Street, Austin, Texas 78701

**Respondent:** Kelly Lockard, Facility Manager, MarkWest Javelina Company, L.L.C., 5438 Union Street, Corpus Christi, Texas 78407

Mitchel Smalik, Director of Operations, MarkWest Javelina Company, L.L.C., 5438 Union Street, Corpus Christi, Texas 78407

**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>	12-Oct-2020	<b>Screening</b>	15-Oct-2020	<b>EPA Due</b>	6-Apr-2021
	<b>PCW</b>	12-Feb-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	MarkWest Javelina Company, L.L.C.
<b>Reg. Ent. Ref. No.</b>	RN102190139
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59975	<b>No. of Violations</b>	1
<b>Docket No.</b>	2020-1484-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Richard Garza
		<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>\$15,000</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>35.0%</b>	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$5,250</b>
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Notes: Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one order without a denial of liability. Reduction for two notices of intent to conduct an audit.

<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>-\$3,750</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: \$63  
 Estimated Cost of Compliance: \$900  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$16,500</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>\$16,500</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$16,500</b>
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<b>DEFERRAL</b>	<b>0.0%</b>	Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$16,500</b>
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**Screening Date** 15-Oct-2020

**Docket No.** 2020-1484-AIR-E

**PCW**

**Respondent** MarkWest Javelina Company, L.L.C.

*Policy Revision 4 (April 2014)*

**Case ID No.** 59975

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN102190139

**Media** Air

**Enf. Coordinator** Richard Garza

### 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> )	2	10%
	Other written NOVs	1	2%
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	1	25%
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> )	2	-2%
	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)** 35%

**>> 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**

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one order without a denial of liability. Reduction for two notices of intent to conduct an audit.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 35%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 35%

Screening Date 15-Oct-2020

Docket No. 2020-1484-AIR-E

PCW

Respondent MarkWest Javelina Company, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 59975

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102190139

Media Air

Enf. Coordinator Richard Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), New Source Review ("NSR") Permit No. 19296, Special Conditions No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 12,010.44 pounds of sulfur dioxide from the Flare, Emissions Point Number 5, during an emissions event (Incident No. 304045) that began on March 21, 2019 and lasted 2,433 hours and 58 minutes. The emissions event occurred due to fouling and blockages within the water-cooling line from materials knocked loose during the turnaround of the water-cooling system prior to start-up of the process units, resulting in flaring. The emissions event was determined to be an excessive emissions event.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		15.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Based on the Air Quality Analysis for the air dispersion modeling that was submitted by the Respondent, human health or the environment has been exposed to significant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4 102 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four monthly events are recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$3,750

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes The Respondent achieved compliance on August 13, 2020, before the Notice of Enforcement dated October 8, 2020.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$16,500

This violation Final Assessed Penalty (adjusted for limits) \$16,500

## Economic Benefit Worksheet

**Respondent** MarkWest Javelina Company, L.L.C.  
**Case ID No.** 59975  
**Reg. Ent. Reference No.** RN102190139  
**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	21-Mar-2019	13-Aug-2020	1.40	\$63	n/a	\$63
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated costs to obtain an amendment for NSR No. 19296 that increased the hourly maximum allowable emissions rates for the Flare. The Date Required is the date the emissions event began 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**

\$63

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN603319880, RN102190139, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN603319880, MarkWest Javelina Company, L.L.C. **Classification:** SATISFACTORY **Rating:** 6.00  
**Regulated Entity:** RN102190139, JAVELINA GAS PROCESSING FACILITY **Classification:** SATISFACTORY **Rating:** 6.00  
**Complexity Points:** 16 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 5314 IH 37, CORPUS CHRISTI, NUECES COUNTY, TX 78407-1524  
**TCEQ Region:** REGION 14 - CORPUS CHRISTI

## ID Number(s):

**AIR NEW SOURCE PERMITS PERMIT 19296** **AIR NEW SOURCE PERMITS ACCOUNT NUMBER NE0253K**  
**AIR NEW SOURCE PERMITS AFS NUM 4835500161** **AIR NEW SOURCE PERMITS REGISTRATION 79038**  
**AIR NEW SOURCE PERMITS REGISTRATION 83050** **AIR NEW SOURCE PERMITS REGISTRATION 87501**  
**WASTEWATER PERMIT WQ0003137000** **WASTEWATER EPA ID TX0105481**  
**AIR EMISSIONS INVENTORY ACCOUNT NUMBER NE0253K** **POLLUTION PREVENTION PLANNING ID NUMBER P00355**  
**INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD987985900** **INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 39228**  
**TAX RELIEF ID NUMBER 16197**

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

**Date Compliance History Report Prepared:** February 12, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 12, 2016 to February 12, 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:

- 1 Effective Date: 08/16/2020 ADMINORDER 2020-0056-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during a reportable emissions event discovered on July 24, 2019, TCEQ/STEERS Incident No. 317322.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to notify the TCEQ Corpus Christi Office within 24-hours after discovery of a reportable emissions event (EE).

### B. Criminal convictions:

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	August 18, 2016	(1367104)
Item 2	October 25, 2016	(1364501)
Item 3	December 14, 2016	(1392084)
Item 4	January 16, 2017	(1398688)
Item 5	February 14, 2017	(1405585)
Item 6	February 16, 2017	(1375917)
Item 7	March 06, 2017	(1388333)
Item 8	March 15, 2017	(1412665)
Item 9	April 10, 2017	(1185807)
Item 10	May 15, 2017	(1426814)
Item 11	June 12, 2017	(1432814)
Item 12	July 06, 2017	(1417255)
Item 13	July 17, 2017	(1441376)
Item 14	August 09, 2017	(1445048)
Item 15	September 19, 2017	(1451628)
Item 16	November 27, 2017	(1448495)
Item 17	December 12, 2017	(1469377)
Item 18	April 17, 2018	(1495208)
Item 19	April 19, 2018	(1481481)
Item 20	May 09, 2018	(1474276)
Item 21	May 16, 2018	(1502127)
Item 22	June 12, 2018	(1509250)
Item 23	July 10, 2018	(1515556)
Item 24	September 16, 2018	(1528795)
Item 25	November 15, 2018	(1542974)
Item 26	November 30, 2018	(1510764)
Item 27	December 11, 2018	(1546713)
Item 28	January 17, 2019	(1564252)
Item 29	January 31, 2019	(1540912)
Item 30	February 18, 2019	(1564250)
Item 31	February 19, 2019	(1513882)
Item 32	March 20, 2019	(1564251)
Item 33	April 16, 2019	(1573350)
Item 34	May 28, 2019	(1569318)
Item 35	September 19, 2019	(1607909)
Item 36	November 14, 2019	(1620563)
Item 37	November 25, 2019	(1603581)
Item 38	December 20, 2019	(1627913)
Item 39	January 17, 2020	(1635539)
Item 40	February 11, 2020	(1642156)
Item 41	March 16, 2020	(1648668)
Item 42	May 18, 2020	(1661582)
Item 43	June 11, 2020	(1652661)
Item 44	June 17, 2020	(1668116)
Item 45	June 23, 2020	(1632629)
Item 46	July 15, 2020	(1675063)
Item 47	August 14, 2020	(1681831)
Item 48	August 26, 2020	(1664074)
Item 49	September 15, 2020	(1688408)
Item 50	September 16, 2020	(1694769)
Item 51	October 21, 2020	(1678985)
Item 52	December 09, 2020	(1685838)

**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.

- 1 Date: 03/31/2020 (1655023)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 2 Date: 10/08/2020 (1436868)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
NSR 19296, Special Condition 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that occurred on March 21, 2016; TCEQ/STEERS Incident No. 229496.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
NSR 19296, Special Condition 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that occurred on May 24, 2016; TCEQ/STEERS Incident No. 233827.
  
- 3 Date: 11/23/2020 (1679256)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to notify the TCEQ Corpus Christi Region Office of a reportable emissions event within 24 hours after the discovery of the event.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
NSR 19296, Special Condition 1 PERMIT  
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on July 21, 2019, TCEQ/STEERS Incident No. 317581.

**F. Environmental audits:**

Notice of Intent Date: 07/08/2016 (1371840)  
No DOV Associated

Notice of Intent Date: 10/16/2019 (1603634)  
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:**

N/A



- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 10 Date: 03/31/2017 (1419182) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 11 Date: 09/30/2017 (1457512) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 12 Date: 10/31/2017 (1462945) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 13 Date: 12/31/2017 (1476077) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 14 Date: 01/31/2018 (1488246) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 15 Date: 02/28/2018 (1491914) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 16 Date: 06/08/2018 (1480884) Classification: Minor
- Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
 Monitoring Requirements No. 2.a., Pg. 4 PERMIT  
 Description: Failure to properly analyze the total residual chlorine sample.  
 Classification: Minor
- Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Other Requirements; No. 2., Pg. 12 PERMIT  
 Description: Failure to report violations of daily maximum limitations for Total Copper (MAL 0.010) and Total Zinc (MAL 0.005) orally or by facsimile to TCEQ Region 14, within 24 hours from the time the permittee becomes aware of the violation.
- 17 Date: 07/31/2018 (1521606)

- Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 18 Date: 09/30/2018 (1535117) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 19 Date: 04/30/2019 (1586297) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 20 Date: 05/31/2019 (1586298) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 21 Date: 06/30/2019 (1594692) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 22 Date: 07/31/2019 (1600992) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 23\* Date: 09/30/2019 (1614774) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 24\* Date: 03/31/2020 (1655023) Classification: Moderate
- Self Report? YES For Informational Purposes Only  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 25 Date: 10/08/2020 (1436868) Classification: Moderate
- Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)

Description: NSR 19296, Special Condition 1 PERMIT  
Failure to prevent unauthorized emissions to the atmosphere during an emissions event that occurred on March 21, 2016; TCEQ/STEERS Incident No. 229496.  
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
NSR 19296, Special Condition 1 PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that occurred on May 24, 2016; TCEQ/STEERS Incident No. 233827.

26 Date: 11/23/2020 (1679256) Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Description: Failure to notify the TCEQ Corpus Christi Region Office of a reportable emissions event within 24 hours after the discovery of the event.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
NSR 19296, Special Condition 1 PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on July 21, 2019, TCEQ/STEERS Incident No. 317581.

\* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

## Appendix B

### All Investigations Conducted During Component Period February 12, 2016 and February 12, 2021

Item 1	February 22, 2016**	(1326555) For Informational Purposes Only
Item 2	March 18, 2016**	(1333315) For Informational Purposes Only
Item 3	April 19, 2016**	(1340456) For Informational Purposes Only
Item 4	May 19, 2016**	(1347272) For Informational Purposes Only
Item 5	June 16, 2016**	(1353680) For Informational Purposes Only
Item 6	July 20, 2016**	(1360664) For Informational Purposes Only
Item 7*	August 18, 2016**	(1367104) For Informational Purposes Only
Item 8	September 12, 2016**	(1373826) For Informational Purposes Only
Item 9	October 19, 2016**	(1379975) For Informational Purposes Only
Item 10*	October 25, 2016**	(1364501) For Informational Purposes Only

		(1385932)
Item 11	November 16, 2016**	For Informational Purposes Only
		(1392084)
Item 12*	December 14, 2016**	For Informational Purposes Only
		(1398688)
Item 13*	January 16, 2017**	For Informational Purposes Only
		(1405585)
Item 14*	February 14, 2017**	For Informational Purposes Only
		(1375917)
Item 15*	February 16, 2017**	For Informational Purposes Only
		(1388333)
Item 16*	March 06, 2017**	For Informational Purposes Only
		(1412665)
Item 17*	March 15, 2017**	For Informational Purposes Only
		(1185807)
Item 18*	April 10, 2017**	For Informational Purposes Only
		(1419182)
Item 19	April 19, 2017**	For Informational Purposes Only
		(1426814)
Item 20*	May 15, 2017**	For Informational Purposes Only
		(1432814)
Item 21*	June 12, 2017**	For Informational Purposes Only
		(1417255)
Item 22*	July 06, 2017**	For Informational Purposes Only
		(1441376)
Item 23*	July 17, 2017**	For Informational Purposes Only
		(1445048)
Item 24*	August 09, 2017**	For Informational Purposes Only
		(1451628)
Item 25*	September 19, 2017**	For Informational Purposes Only
		(1457512)
Item 26	October 19, 2017**	For Informational Purposes Only
		(1462945)
Item 27	November 09, 2017**	For Informational Purposes Only
		(1448495)
Item 28*	November 27, 2017**	For Informational Purposes Only
		(1469377)
Item 29*	December 12, 2017**	For Informational Purposes Only
		(1476077)
Item 30	January 16, 2018**	For Informational Purposes Only
		(1488246)
Item 31	February 12, 2018**	For Informational Purposes Only
		(1491914)

Item 32	March 14, 2018**	For Informational Purposes Only (1495208)
Item 33*	April 17, 2018**	For Informational Purposes Only (1481481)
Item 34*	April 19, 2018**	For Informational Purposes Only (1474276)
Item 35*	May 09, 2018**	For Informational Purposes Only (1502127)
Item 36*	May 16, 2018**	For Informational Purposes Only (1480884)
Item 37	June 08, 2018**	For Informational Purposes Only (1509250)
Item 38*	June 12, 2018**	For Informational Purposes Only (1515556)
Item 39*	July 10, 2018**	For Informational Purposes Only (1521606)
Item 40	August 06, 2018**	For Informational Purposes Only (1528795)
Item 41*	September 16, 2018**	For Informational Purposes Only (1535117)
Item 42	October 16, 2018**	For Informational Purposes Only (1542974)
Item 43*	November 15, 2018**	For Informational Purposes Only (1510764)
Item 44*	November 30, 2018**	For Informational Purposes Only (1546713)
Item 45*	December 11, 2018**	For Informational Purposes Only (1564252)
Item 46*	January 17, 2019**	For Informational Purposes Only (1540912)
Item 47*	January 31, 2019**	For Informational Purposes Only (1564250)
Item 48*	February 18, 2019**	For Informational Purposes Only (1513882)
Item 49*	February 19, 2019**	For Informational Purposes Only (1564251)
Item 50*	March 20, 2019**	For Informational Purposes Only (1573350)
Item 51*	April 16, 2019**	For Informational Purposes Only (1586297)
Item 52	May 17, 2019**	For Informational Purposes Only (1569318)

Item 53*	May 28, 2019**	For Informational Purposes Only (1586298)
Item 54	June 10, 2019**	For Informational Purposes Only (1594692)
Item 55	July 09, 2019**	For Informational Purposes Only (1600992)
Item 56	August 13, 2019**	For Informational Purposes Only (1607909)
Item 57*	September 19, 2019**	For Informational Purposes Only (1614774)
Item 58	October 17, 2019**	For Informational Purposes Only (1620563)
Item 59*	November 14, 2019**	For Informational Purposes Only (1603581)
Item 60*	November 25, 2019**	For Informational Purposes Only (1591468)
Item 61	December 05, 2019**	For Informational Purposes Only (1627913)
Item 62*	December 20, 2019**	For Informational Purposes Only (1635539)
Item 63*	January 17, 2020**	For Informational Purposes Only (1642156)
Item 64*	February 11, 2020**	For Informational Purposes Only (1648668)
Item 65*	March 16, 2020**	For Informational Purposes Only (1655023)
Item 66	April 17, 2020**	For Informational Purposes Only (1661582)
Item 67*	May 18, 2020**	For Informational Purposes Only (1652661)
Item 68*	June 11, 2020**	For Informational Purposes Only (1668116)
Item 69*	June 17, 2020**	For Informational Purposes Only (1632629)
Item 70*	June 23, 2020**	For Informational Purposes Only (1675063)
Item 71*	July 15, 2020**	For Informational Purposes Only (1681831)
Item 72*	August 14, 2020**	For Informational Purposes Only (1664074)
Item 73*	August 26, 2020**	For Informational Purposes Only (1688408)
Item 74*	September 15, 2020	For Informational Purposes Only



Item 75*	September 16, 2020	(1694769) For Informational Purposes Only
Item 76	October 08, 2020	(1436868) For Informational Purposes Only
Item 77*	October 21, 2020	(1678985) For Informational Purposes Only
Item 78	November 23, 2020	(1679256) For Informational Purposes Only
Item 79*	December 09, 2020	(1685838) For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARKWEST JAVELINA  
COMPANY, L.L.C.  
RN102190139**

**§  
§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2020-1484-AIR-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MarkWest Javelina Company, L.L.C. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a natural gas liquids production plant located at 5314 Interstate Highway 37 in Corpus Christi, Nueces 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. During a record review conducted from October 21, 2019 through May 22, 2020, an investigator documented that the Respondent released 12,010.44 pounds of sulfur dioxide from the Flare, Emissions Point Number 5, during an emissions event (Incident No. 304045) that began on March 21, 2019 and lasted 2,433 hours and 58 minutes. The emissions event occurred due to fouling and blockages within the water-cooling line from materials knocked loose during the turnaround of the water-cooling system prior to start-up of the process units, resulting in flaring. TCEQ staff determined that the emissions event was an excessive emissions event.

3. The Executive Director recognizes that on August 13, 2020, the Respondent obtained an amendment for New Source Review ("NSR") Permit No. 19296 that increased the hourly maximum allowable emissions rates for the Flare.

## **II. CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 19296, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). The emissions event was determined to be an excessive emissions event.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$16,500 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid \$8,250 of the penalty. Pursuant to TEX. WATER CODE § 7.067, \$8,250 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 this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

## **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MarkWest Javelina Company, L.L.C., Docket No. 2020-1484-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 an SEP as set forth in Section II, Paragraph No. 4. The amount of \$8,250 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. 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 in this Order.
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. 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.

10. 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.
11. 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

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
12/30/2021

\_\_\_\_\_  
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 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

\_\_\_\_\_  
10/20/2021  
Date

\_\_\_\_\_  
Mitchel Smolik  
Name (Printed or typed)  
Authorized Representative of  
MarkWest Javelina Company, L.L.C.

\_\_\_\_\_  
Director of Operations  
Title

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

**Attachment A**  
**Docket Number: 2020-1484-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>MarkWest Javelina Company, L.L.C.</b>
<b>Payable Penalty Amount:</b>	<b>\$16,500</b>
<b>SEP Offset Amount:</b>	<b>\$8,250</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Congress of Parents and Teachers dba Texas PTA</b>
<b>Project Name:</b>	<b><i>Texas PTA Clean School Bus Replacement Program</i></b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 214: Corpus Christi-Victoria - Preference for Nueces 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 SEP Offset Amount is set forth above and such offset 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. The contribution will be to the **Texas Congress of Parents and Teachers dba Texas PTA** for the *Texas PTA Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel school bus that is model year 2002 or older. 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 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.

MarkWest Javelina Company, L.L.C.  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it 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 in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

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 Congress of Parents and Teachers SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas PTA  
408 West 11th Street  
Austin, Texas 78701

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due 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 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 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 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.