

Executive Summary – Enforcement Matter – Case No. 60703

Gemini HDPE LLC

RN100229905

Docket No. 2021-0589-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

INEOS Polyethylene La Porte Plant, 1230 Independence Parkway South, La Porte, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2023-0375-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 12, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$360,938

Amount Deferred for Expedited Settlement: \$72,187

Total Paid to General Revenue: \$144,376

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$72,188

Name of SEP: Houston-Galveston Area Council-AERCO (Third-Party Pre-Approved)

Supplemental Environmental Project (“SEP”) Conditional Offset: \$72,187

Name of SEP: Houston Regional Monitoring Corporation (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 60703

Gemini HDPE LLC

RN100229905

Docket No. 2021-0589-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 14, 2020 through March 12, 2021 and October 19, 2020 through March 4, 2021

Date(s) of NOE(s): April 16, 2021

Violation Information

1. Failed to comply with the volatile organic compounds ("VOC") emissions limits for the polyethylene pellet handling systems between each extruder and product loadout and failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, the Respondent exceeded the emissions limit of 80 pounds of VOC per million pounds of high density polyethylene pellets ("lbs VOC/MM HDPP") emitted to the atmosphere after the extruder through product loadout based on a 24-hour rolling average by 4.92 lbs VOC/MM HDPP for the 24-hour periods ending from May 1, 2019 through May 13, 2019, by 10.16 lbs VOC/MM HDPP for the 24-hour periods ending from November 4, 2019 through November 10, 2019, and by 49.18 lbs VOC/MM HDPP for the 24-hour periods ending from March 2, 2020 through March 9, 2020 that caused the Respondent to exceed the VOC MAER of 12.80 lbs per hour ("lbs/hr") by a range from 0.10 lb/hr to 2.60 lbs/hr for a total of 256 hours from May 1, 2019 to May 14, 2019 and the VOC MAER of 14.40 lbs/hr by a range from 0.01 lb/hr to 1.75 lbs/hr for a total of 123 hours from November 4, 2019 to November 11, 2019 and by a range from 0.20 lb/hr to 10.06 lbs/hr for a total of 179 hours from March 2, 2020 to March 10, 2020 for PE-DRYER1 and PE-LOAD1, Emissions Point Number ("EPN") PE-FINISH1, resulting in approximately 1,967.71 pounds of unauthorized VOC emissions [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review ("NSR") Permit No. 106824, Special Conditions ("SC") Nos. 1, 5.B (effective January 20, 2017), and 6.B (effective May 31, 2019), Federal Operating Permit ("FOP") No. O3758, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the representations with regard to construction plans and operation procedures in a permit application. Specifically, the Respondent represented in the permit application for NSR Permit No. 106824 that the composition of the overhead vent for Vessel V6001 was expected to be primarily nitrogen, but the overhead vent was open to the atmosphere during normal operations due to system pressure and during a stack test conducted in August 2019, it was discovered that the overhead vent was emitting VOC, resulting in approximately 303.29 tons of unauthorized VOC emissions from October 1, 2017 through October 21, 2019 [30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(a)(1), and 122.143(4), NSR Permit No. 106824, SC No. 1, FOP No. O3758, GTC and STC No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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3. Failed to prevent unauthorized emissions. Specifically, the Respondent released 31,143.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 278913) that began on February 18, 2018 and lasted 15 hours and 50 minutes. The emissions event occurred due to the installation of flange protector instead of the spiral wound gasket that is required per the pipe specification, resulting in the leak from the flange on a valve assembly and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 106824, SC No. 1, FOP No. O3758, GTC and STC No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By April 12, 2018, reinstalled the valve with a gasket that meets the piping specifications, repaired the valve/flange surface that was affected by rubbing, and verified the proper gasket installation of the other similar flange connections in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 278913;
- b. By October 21, 2019, closed the overhead vent for Vessel 6001 and implemented measures in order to comply with representations for NSR Permit No. 106824; and
- c. By June 8, 2020, demonstrated compliance with the 24-hour rolling average total VOC emitted to the atmosphere after the extruder through product loadout and the VOC hourly MAER for PE-DRYER1 and PE-LOAD1, EPN PE-FINISH1.

Technical Requirements:

The Order will require the Respondent to implement and complete two SEPs (see SEP Attachments A and B).

**Executive Summary – Enforcement Matter – Case No. 60703
Gemini HDPE LLC
RN100229905
Docket No. 2021-0589-AIR-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; 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: Houston-Galveston Area Council-AERCO, 3555 Timmons Lane, Suite 120, Houston, Texas 77027

SEP Third-Party Administrator: Houston Regional Monitoring Corporation, Amandes Amandes PLLC, 1800 Post Oak Boulevard, Suite 400, Houston, Texas 77056

Respondent: Robert J. Bradshaw, Plant Manager, Gemini HDPE LLC, 1230 Independence Parkway South, La Porte, Texas 77571

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	21-Apr-2021	Screening	3-May-2021	EPA Due	12-Oct-2021
	PCW	24-Mar-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Gemini HDPE LLC
Reg. Ent. Ref. No.	RN100229905
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60703	No. of Violations	3
Docket No.	2021-0589-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$206,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	100.0%	Adjustment	Subtotals 2, 3, & 7	\$206,250
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Notes: Enhancement for three NOVs with same/similar violations, four NOVs with dissimilar violations, three orders containing a denial of liability, and one order without a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$51,562
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,183
 Estimated Cost of Compliance: \$21,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$360,938
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$360,938
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$360,938
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DEFERRAL	20.0%	Reduction	Adjustment	-\$72,187
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$288,751
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Screening Date 3-May-2021

Docket No. 2021-0589-AIR-E

PCW

Respondent Gemini HDPE LLC

Policy Revision 4 (April 2014)

Case ID No. 60703

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100229905

Media Air

Enf. Coordinator Yuliya Dunaway

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>)	3	15%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	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>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 108%

>> 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 three NOVs with same/similar violations, four NOVs with dissimilar violations, three orders containing a denial of liability, and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 108%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 3-May-2021
Respondent Gemini HDPE LLC
Case ID No. 60703
Reg. Ent. Reference No. RN100229905
Media Air
Enf. Coordinator Yuliya Dunaway

Docket No. 2021-0589-AIR-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review ("NSR") Permit No. 106824, Special Conditions ("SC") Nos. 1, 5.B (effective January 20, 2017), and 6.B (effective May 31, 2019), Federal Operating Permit ("FOP") No. O3758, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 9, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the volatile organic compounds ("VOC") emissions limits for the polyethylene pellet handling systems between each extruder and product loadout and failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, the Respondent exceeded the emissions limit of 80 pounds of VOC per million pounds of high density polyethylene pellets ("lbs VOC/MM HDPP") emitted to the atmosphere after the extruder through product loadout based on a 24-hour rolling average by 4.92 lbs VOC/MM HDPP for the 24-hour periods ending from May 1, 2019 through May 13, 2019, by 10.16 lbs VOC/MM HDPP for the 24-hour periods ending from November 4, 2019 through November 10, 2019, and by 49.18 lbs VOC/MM HDPP for the 24-hour periods ending from March 2, 2020 through March 9, 2020 that caused the Respondent to exceed the VOC MAER of 12.80 lbs per hour ("lbs/hr") by a range from 0.10 lb/hr to 2.60 lbs/hr for a total of 256 hours from May 1, 2019 to May 14, 2019 and the VOC MAER of 14.40 lbs/hr by a range from 0.01 lb/hr to 1.75 lbs/hr for a total of 123 hours from November 4, 2019 to November 11, 2019 and by a range from 0.20 lb/hr to 10.06 lbs/hr for a total of 179 hours from March 2, 2020 to March 10, 2020 for PE-DRYER1 and PE-LOAD1, Emissions Point Number ("EPN") PE-FINISH1, resulting in approximately 1,967.71 pounds of unauthorized VOC emissions.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to insignificant amounts of pollutants that do 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 3 31 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended for the instances of non-compliance that occurred from May 1, 2019 to May 14, 2019, from November 4, 2019 to November 11, 2019, and from March 2, 2020 to March 10, 2020.

Good Faith Efforts to Comply

25.0%

Reduction \$2,812

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

The Respondent completed the corrective measures by June 8, 2020, prior to the Notice of Enforcement ("NOE") dated April 16, 2021.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$83

Violation Final Penalty Total \$19,688

This violation Final Assessed Penalty (adjusted for limits) \$19,688

Economic Benefit Worksheet

Respondent Gemini HDPE LLC
Case ID No. 60703
Reg. Ent. Reference No. RN100229905
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				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	1-May-2019	8-Jun-2020	1.11	\$83	n/a	\$83

Notes for DELAYED costs

Estimated cost to demonstrate compliance with the 24-hour rolling average total VOC emitted to the atmosphere after the extruder through product loadout and the VOC hourly MAER for PE-DRYER1 and PE-LOAD1, EPN PE-FINISH1. 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

\$1,500

TOTAL

\$83

Screening Date 3-May-2021

Docket No. 2021-0589-AIR-E

PCW

Respondent Gemini HDPE LLC

Policy Revision 4 (April 2014)

Case ID No. 60703

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100229905

Media Air

Enf. Coordinator Yuliya Dunaway

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 116.116(a)(1), and 122.143(4), NSR Permit No. 106824, SC No. 1, FOP No. O3758, GTC and STC No. 9, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the representations with regard to construction plans and operation procedures in a permit application. Specifically, the Respondent represented in the permit application for NSR Permit No. 106824 that the composition of the overhead vent for Vessel V6001 was expected to be primarily nitrogen, but the overhead vent was open to the atmosphere during normal operations due to system pressure and during a stack test conducted in August 2019, it was discovered that the overhead vent was emitting VOC, resulting in approximately 303.29 tons of unauthorized VOC emissions from October 1, 2017 through October 21, 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 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 the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 25 751 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$187,500

Twenty-five monthly events are recommended for the period of non-compliance from October 1, 2017 through October 21, 2019.

Good Faith Efforts to Comply

25.0%

Reduction \$46,875

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

Extraordinary		
Ordinary	x	
N/A		

Notes

The Respondent completed the corrective measures by October 21, 2019, prior to the NOE dated April 16, 2021.

Violation Subtotal \$140,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,027

Violation Final Penalty Total \$328,125

This violation Final Assessed Penalty (adjusted for limits) \$328,125

Economic Benefit Worksheet

Respondent Gemini HDPE LLC
Case ID No. 60703
Reg. Ent. Reference No. RN100229905
Media Air
Violation No. 2

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				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Oct-2017	21-Oct-2019	2.05	\$1,027	n/a	\$1,027

Notes for DELAYED costs

Estimated cost to close the overhead vent for Vessel 6001 and implement measures in order to comply with the representations for NSR Permit No. 106824. 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

\$10,000

TOTAL

\$1,027

Screening Date 3-May-2021
Respondent Gemini HDPE LLC
Case ID No. 60703
Reg. Ent. Reference No. RN100229905
Media Air

Docket No. 2021-0589-AIR-E

PCW

*Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014*

Enf. Coordinator Yuliya Dunaway
Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 106824, SC No. 1, FOP No. O3758, GTC and STC No. 9, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 31,143.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 278913) that began on February 18, 2018 and lasted 15 hours and 50 minutes. The emissions event occurred due to the installation of flange protector instead of the spiral wound gasket that is required per the pipe specification, resulting in the leak from the flange on a valve assembly and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			x		30.0%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 the environmental receptors as a result of this violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes

The Respondent completed the corrective measures by April 12, 2018, prior to the NOE dated May 17, 2021.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$73

Violation Final Penalty Total \$13,125

This violation Final Assessed Penalty (adjusted for limits) \$13,125

Economic Benefit Worksheet

Respondent Gemini HDPE LLC
Case ID No. 60703
Reg. Ent. Reference No. RN100229905
Media Air
Violation No. 3

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				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	18-Feb-2018	12-Apr-2018	0.15	\$73	n/a	\$73

Notes for DELAYED costs

Estimated cost to reinstall the valve with a gasket that meets the piping specifications, repair the valve/flange surface that was affected by rubbing, and verify the proper gasket installation of the other similar flange connections in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 278913. 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

\$10,000

TOTAL

\$73



Compliance History Report

Compliance History Report for CN604683599, RN100229905, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN604683599, Gemini HDPE LLC **Classification:** SATISFACTORY **Rating:** 6.97
Regulated Entity: RN100229905, INEOS POLYETHYLENE NORTH AMERICA LA PORTE PLANT **Classification:** SATISFACTORY **Rating:** 8.65
Complexity Points: 25 **Repeat Violator:** NO
CH Group: 05 - Chemical Manufacturing
Location: 1230 INDEPENDENCE PKWY S, LA PORTE, HARRIS COUNTY, TX
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0665E
AIR OPERATING PERMITS PERMIT 3758

AIR NEW SOURCE PERMITS PERMIT 49823
AIR NEW SOURCE PERMITS REGISTRATION 33637
AIR NEW SOURCE PERMITS REGISTRATION 42369
AIR NEW SOURCE PERMITS AFS NUM 4820100004
AIR NEW SOURCE PERMITS REGISTRATION 110990
AIR NEW SOURCE PERMITS REGISTRATION 111012
AIR NEW SOURCE PERMITS REGISTRATION 110997
AIR NEW SOURCE PERMITS REGISTRATION 166822
AIR NEW SOURCE PERMITS REGISTRATION 167326
AIR NEW SOURCE PERMITS REGISTRATION 164778
AIR NEW SOURCE PERMITS REGISTRATION 160743
AIR NEW SOURCE PERMITS REGISTRATION 156179
AIR NEW SOURCE PERMITS REGISTRATION 156176

WASTEWATER PERMIT WQ0000544000

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0665E

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30704

TAX RELIEF ID NUMBER 20448

TAX RELIEF ID NUMBER 20438

AIR OPERATING PERMITS PERMIT 1439

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1011097

AIR NEW SOURCE PERMITS REGISTRATION 28146

AIR NEW SOURCE PERMITS REGISTRATION 41293

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0665E

AIR NEW SOURCE PERMITS PERMIT 106824

AIR NEW SOURCE PERMITS REGISTRATION 111004

AIR NEW SOURCE PERMITS REGISTRATION 110971

AIR NEW SOURCE PERMITS REGISTRATION 164349

AIR NEW SOURCE PERMITS REGISTRATION 168529

AIR NEW SOURCE PERMITS REGISTRATION 164776

AIR NEW SOURCE PERMITS REGISTRATION 153914

AIR NEW SOURCE PERMITS REGISTRATION 160744

AIR NEW SOURCE PERMITS REGISTRATION 170967

PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 57482

WASTEWATER EPA ID TX0006033

POLLUTION PREVENTION PLANNING ID NUMBER P00633

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD980625958

TAX RELIEF ID NUMBER 20444

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: December 20, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 20, 2017 to December 20, 2022

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

Name: Yuliya Dunaway

Phone: (210) 403-4077

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: 08/22/2018 ADMINORDER 2017-0736-AIR-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-9(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term & Condition 1A OP

Description: Failure to repair delay of repair components during a scheduled unit shutdown (CATEGORY B19.g.7 Violation)

2 Effective Date: 04/26/2019 ADMINORDER 2018-0400-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failure to identify NSR authorization or regulatory compliance documentation for four small atmospheric process vents. (Category B9)

3 Effective Date: 05/12/2020 ADMINORDER 2019-0975-AIR-E (1660 Order-Agreed Order With Denial)

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)

Rqmt Prov: FOP, Special Term & Condition 13 OP
NSR, Special Condition 2 PERMIT

Description: Failure to maintain vents (EPNs: PE-FCM2DRY and PE-FCM2STG) VOC emissions within Maximum Allowable Emission Rates (MAERT) limit. [Category A8, GC 2]

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)

Rqmt Prov: FOP, Special Term & Condition 13 OP
NSR, Special Condition 2 PERMIT

Description: Failure to maintain process vents (EPNs: PE-FCM3DRY and PE-FCM3STG) VOC emissions within Maximum Allowable Emission Rates (MAERT) limit. [Category A8, GC 2]

4 Effective Date: 08/25/2021 ADMINORDER 2020-1179-AIR-E (1660 Order-Agreed Order With Denial)

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)

Rqmt Prov: General Terms and Conditions OP
Special Condition 1 PERMIT
Special Term and Condition 9 PERMIT

Description: Failed to comply with the MAERs. Specifically, the Respondent exceeded the NOx MAER of 12.66 tons per year ("tpy"), the CO MAER of 65.21 tpy, and the VOC MAER of 71.10 tpy, each based on a 12-month rolling period, for the 12-month periods ending from July 2018 through April 2019 for the Polyethylene Flare (Routine Operation), EPN PE-FLARE2, resulting in the unauthorized release of 3.73 tons of NOx emissions, 19.65 tons of CO emissions, and 18.17 tons of VOC emissions.

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 19, 2018	(1486757)
Item 2	April 20, 2018	(1493671)
Item 3	May 16, 2018	(1500589)

Item 4	June 08, 2018	(1481822)
Item 5	June 12, 2018	(1507706)
Item 6	July 17, 2018	(1514023)
Item 7	August 16, 2018	(1520085)
Item 8	September 17, 2018	(1527250)
Item 9	October 04, 2018	(1506534)
Item 10	October 17, 2018	(1533608)
Item 11	November 15, 2018	(1541443)
Item 12	December 19, 2018	(1545227)
Item 13	January 17, 2019	(1559656)
Item 14	March 19, 2019	(1559655)
Item 15	April 16, 2019	(1571824)
Item 16	May 20, 2019	(1583257)
Item 17	July 18, 2019	(1593137)
Item 18	September 20, 2019	(1606388)
Item 19	October 17, 2019	(1613234)
Item 20	November 14, 2019	(1619048)
Item 21	December 10, 2019	(1626400)
Item 22	January 17, 2020	(1634041)
Item 23	February 13, 2020	(1640660)
Item 24	February 19, 2020	(1624538)
Item 25	March 19, 2020	(1647180)
Item 26	April 16, 2020	(1653516)
Item 27	May 13, 2020	(1660103)
Item 28	June 18, 2020	(1666607)
Item 29	July 16, 2020	(1673564)
Item 30	August 20, 2020	(1680339)
Item 31	August 27, 2020	(1633655)
Item 32	October 15, 2020	(1693255)
Item 33	November 19, 2020	(1712455)
Item 34	December 17, 2020	(1712456)
Item 35	January 18, 2021	(1712457)
Item 36	February 22, 2021	(1725510)
Item 37	March 15, 2021	(1725511)
Item 38	April 16, 2021	(1725512)
Item 39	July 20, 2021	(1751704)
Item 40	August 20, 2021	(1757168)
Item 41	August 24, 2021	(1751418)
Item 42	September 20, 2021	(1766248)
Item 43	October 18, 2021	(1776711)
Item 44	November 29, 2021	(1783620)
Item 45	December 14, 2021	(1790646)
Item 46	January 17, 2022	(1798440)
Item 47	February 17, 2022	(1806314)
Item 48	April 19, 2022	(1819952)
Item 49	May 17, 2022	(1828791)
Item 50	July 20, 2022	(1842288)
Item 51	August 16, 2022	(1848421)
Item 52	August 25, 2022	(1811821)
Item 53	September 14, 2022	(1856219)

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: 02/28/2022 (1757064)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 115, SubChapter H 115.783(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)

5C THSC Chapter 382 382.085(b)
 Special Condition 11(E) PERMIT
 Special Terms & Conditions 1A & 13 OP
 Description: Failure to prevent open ended lines (OELs) (Category C10).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
 30 TAC Chapter 115, SubChapter H 115.782(b)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(2)
 5C THSC Chapter 382 382.085(b)
 Special Term & Condition 1A OP
 Description: Failure to perform the first repair attempt in the required timeframe (Category C1).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(4)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Term & Condition 1A OP
 Description: Failure to perform HRVOC sampling during analyzer downtime on the Polyethylene Flare (EPN: PE-FLARE) (Category C1).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
 5C THSC Chapter 382 382.085(b)
 Special Term & Condition 1A OP
 Description: Failure to maintain the minimum net heating value for the Polyethylene Flare (EPN: PE-Flare) (Category C4).
 Self Report? NO Classification: Minor
 Citation: 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)
 Special Condition 14 PERMIT
 Special Term & Condition 13 OP
 Description: Failure to conduct twice monthly sample of the PE flare and pellet handling system (EPNs: PE-CM10DRY; PE-CM10STG; and PE-CM10FV) (Category C1).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter H 115.782(a)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Term & Condition 1A OP
 Description: Failure to maintain tags on leaking components (Category C1).
 Self Report? NO Classification: Minor
 Citation: 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)
 Special Condition 2 PERMIT
 Special Term & Condition 13 OP
 Description: Failure to prevent exceedance of the MAERT for EPN: PE-HRSG23 (Category B13).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)
 5C THSC Chapter 382 382.085(b)
 Special Term & Condition 1A OP
 Description: Failure to prevent visible emissions from the Polyethylene Flare (EPN: PE-Flare) (Category C4).

2 Date: 02/28/2022 (1813381)
 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

3 Date: 05/12/2022 (1775647)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition 11E PERMIT

Special Term and Condition 1(A) OP
Special Term and Condition 9 OP
Description: Failure to prevent open-ended lines (Category C10).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
5C THSC Chapter 382 382.085(b)
Special Condition 8A PERMIT
Special Term and Condition 1A OP
Special Term and Condition 9 OP
Description: Failure to maintain the net heating value for the Polyethylene Flare unit (EPN: PE-FLARE2) within permitted limits (Category C7).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 8D PERMIT
Special Term and Condition 1A OP
Special Term and Condition 9 OP
Description: Failure to prevent visible emissions from the Polyethylene Flare unit (EPN: PE-FLARE2) (Category C7).
Self Report? NO Classification: Moderate
Citation: 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)
Special Condition 16D PERMIT
Special Term and Condition 9 OP
Description: Failure to conduct stack sampling for the Pellet Handling Systems unit (EPN: PE-FINISH1) within the required time frame (Category C1).
Self Report? NO Classification: Moderate
Citation: 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)
Special Condition 1 PERMIT
Special Term and Condition 9 OP
Description: Failure to maintain hourly volatile organic compound (VOC) emissions within permitted limits for the Pellet Handling Systems unit (EPN: PE-FINISH1) (Category B12).
Self Report? NO Classification: Moderate
Citation: 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)
Special Condition 6(B) PERMIT
Special Term and Condition 9 OP
Description: Failure to maintain the 24-hour rolling volatile organic compound (VOC) concentrations within permitted limits for the Pellet Handling Systems unit (EPN: PE-FINISH1) (Category B12).
Self Report? NO Classification: Moderate
Citation: 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)
Special Condition 7 PERMIT
Special Term and Condition 9 OP
Description: Failure to collect required additional polyethylene samples for the Pellet Handling Systems unit (EPN: PE-FINISH1) (Category C1).

4 Date: 05/31/2022 (1835083)
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

5 Date: 09/30/2022 (1862576)
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

6 Date: 11/29/2022 (1846835)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(v)
Description: Failure to provide a minimum pressure tank capacity of 220 gallons.

7

Date: 12/09/2022 (1841212)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 115, SubChapter H 115.783(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 11E PERMIT
Special Term and Condition 13 OP
Special Term and Condition 1A OP

Description: Failure to prevent open-ended lines for Area 150 Fugitives (EPN: PE-A150) (Category C10).

Self Report? NO Classification: Minor

Citation: 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)
Special Condition 10C PERMIT
Special Term and Condition 13 OP

Description: Failure to maintain firebox exit temperature and oxygen concentration for the Thermal Oxidizer (EPN: PE-RTO) (Category B18(g)(1)).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)
5C THSC Chapter 382 382.085(b)
Special Condition 3A PERMIT
Special Term and Condition 13 OP
Special Term and Condition 1A OP

Description: Failure to maintain the net heating value for the Polyethylene Flare (EPN: PE-FLARE) (Category C4).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(4)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Term and Condition 1A OP

Description: Failure to take highly reactive volatile organic compound (HRVOC) sample after analyzer downtime for the Polyethylene Flare (EPN: PE-FLARE) (Category C1).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(4)
5C THSC Chapter 382 382.085(b)
Special Condition 3C PERMIT
Special Term and Condition 13 OP
Special Term and Condition 1A OP

Description: Failure to prevent visible emissions for the Polyethylene Flare (EPN: PE-FLARE) (Category C4).

Self Report? NO Classification: Minor

Citation: 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)
Special Condition 18D(2) PERMIT
Special Term and Condition 13 OP

Description: Failure to clear equipment below the required lower explosive limit (LEL) value for Sitewide MSS Activities (EPN: MSSCAP2) (Category B18(g)(1)).

Self Report? NO Classification: Minor

Citation: 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)
Special Condition 2 PERMIT
Special Term and Condition 13 OP

Description: Failure to prevent an exceedance of the Maximum Allowable Emission Rate

(MAER) for Cogen Unit 2 (EPN: PE-HRSG22) (Category B13).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 115, SubChapter H 115.782(c)(1)(B)(iv)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-9(a)
5C THSC Chapter 382 382.085(b)
Special Term and Condition 1A OP
Description: Failure to repair delay of repair (DOR) components within the required timeframe (Category B1).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 115, SubChapter H 115.782(b)(1)
30 TAC Chapter 115, SubChapter H 115.782(b)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Term and Condition 1A OP
Description: Failure to perform first attempt at repair for fugitive components within the required timeframe (Category C1).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter H 115.764(a)(6)
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)
Special Condition 9B PERMIT
Special Term and Condition 13 OP
Special Term and Condition 1A OP
Description: Failure to take highly reactive volatile organic compound (HRVOC) sample after analyzer downtime for Cooling Tower CT2A (EPN: PE-CT2A) (Category C1).

Self Report? NO Classification: Minor
Citation: 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)
Special Condition 2 PERMIT
Special Term and Condition 13 OP
Description: Failure to prevent an exceedance of the Maximum Allowable Emission Rate (MAER) for Cogen Unit 3 (EPN: PE-HRSG23) (Category B13).

Self Report? NO Classification: Minor
Citation: 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)
Special Condition 2 PERMIT
Special Term and Condition 13 OP
Description: Failure to prevent an exceedance of the Maximum Allowable Emission Rate (MAER) for Cogen Unit 4 (EPN: PE-HRSG24) (Category B13).

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GEMINI HDPE LLC
RN100229905

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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0589-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 Gemini HDPE LLC (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 chemical manufacturing plant located at 1230 Independence Parkway South in La Porte, Harris 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 \$360,938 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$144,376 of the penalty and \$72,187 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, \$144,375 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 Agreements ("Attachment A and Attachment B", 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 Agreements, 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 the Respondent implemented the following corrective measures at the Plant:
 - a. By April 12, 2018, reinstalled the valve with a gasket that meets the piping specifications, repaired the valve/flange surface that was affected by rubbing, and verified the proper gasket installation of the other similar flange connections in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 278913;
 - b. By October 21, 2019, closed the overhead vent for Vessel 6001 and implemented measures in order to comply with representations for New Source Review ("NSR") Permit No. 106824; and
 - c. By June 8, 2020, demonstrated compliance with the 24-hour rolling average total volatile organic compounds ("VOC") emitted to the atmosphere after the extruder through product loadout and the VOC hourly maximum allowable emissions rate ("MAER") for PE-DRYER1 and PE-LOAD1, Emissions Point Number ("EPN") PE-FINISH1.

II. ALLEGATIONS

1. During a record review for the Plant conducted from December 14, 2020 through March 12, 2021, an investigator documented that the Respondent:
 - a. Failed to comply with the VOC emissions limits for the polyethylene pellet handling systems between each extruder and product loadout and failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), NSR Permit No. 106824, Special Conditions ("SC") Nos. 1, 5.B (effective January 20, 2017), and 6.B (effective May 31, 2019), Federal Operating Permit ("FOP") No. O3758, General Terms and Conditions ("GTC") and

Special Terms and Conditions ("STC") No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the emissions limit of 80 pounds of VOC per million pounds of high density polyethylene pellets ("lbs VOC/MM HDPP") emitted to the atmosphere after the extruder through product loadout based on a 24-hour rolling average by 4.92 lbs VOC/MM HDPP for the 24-hour periods ending from May 1, 2019 through May 13, 2019, by 10.16 lbs VOC/MM HDPP for the 24-hour periods ending from November 4, 2019 through November 10, 2019, and by 49.18 lbs VOC/MM HDPP for the 24-hour periods ending from March 2, 2020 through March 9, 2020 that caused the Respondent to exceed the VOC MAER of 12.80 lbs per hour ("lbs/hr") by a range from 0.10 lb/hr to 2.60 lbs/hr for a total of 256 hours from May 1, 2019 to May 14, 2019 and the VOC MAER of 14.40 lbs/hr by a range from 0.01 lb/hr to 1.75 lbs/hr for a total of 123 hours from November 4, 2019 to November 11, 2019 and by a range from 0.20 lb/hr to 10.06 lbs/hr for a total of 179 hours from March 2, 2020 to March 10, 2020 for PE-DRYER1 and PE-LOAD1, Emissions Point Number ("EPN") PE-FINISH1, resulting in approximately 1,967.71 pounds of unauthorized VOC emissions.

- b. Failed to comply with the representations with regard to construction plans and operation procedures in a permit application, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(a)(1), and 122.143(4), NSR Permit No. 106824, SC No. 1, FOP No. O3758, GTC and STC No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent represented in the permit application for NSR Permit No. 106824 that the composition of the overhead vent for Vessel V6001 was expected to be primarily nitrogen, but the overhead vent was open to the atmosphere during normal operations due to system pressure and during a stack test conducted in August 2019, it was discovered that the overhead vent was emitting VOC, resulting in approximately 303.29 tons of unauthorized VOC emissions from October 1, 2017 through October 21, 2019.
2. During a record review for the Plant conducted from October 19, 2020 through March 4, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 106824, SC No. 1, FOP No. O3758, GTC and STC No. 9, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 31,143.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 278913) that began on February 18, 2018 and lasted 15 hours and 50 minutes. The emissions event occurred due to the installation of flange protector instead of the spiral wound gasket that is required per the pipe specification, resulting in the leak from the flange on a valve assembly and in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

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: Gemini HDPE LLC, Docket No. 2021-0589-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 SEPs as set forth in Section I, Paragraph No. 4. The amount of \$144,375 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEPs pursuant to the terms of the SEP Agreements, as defined in Attachment A and Attachment B. Penalty payments for any portion of the SEPs 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.

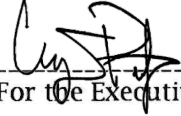
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic 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

For the Commission

Date



6/5/2023

For the Executive Director

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.



Signature



Date



Name (Printed or typed)
Authorized Representative of
Gemini HDPE LLC



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: 2021-0589-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Gemini HDPE LLC
Payable Penalty Amount:	\$288,751
SEP Offset Amount:	\$72,188
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

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. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency (“EPA”) emissions standards (“Old Buses”) with new, lower emission buses that meet the most recent EPA emissions standards (“New Buses”) or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities (“SEP Administrators”) that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards.

Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months.

All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. 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 to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

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 **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO
Emission Reduction Credit Corporation
Attn: Air Quality Program Manager
3555 Timmons Lane, Suite 120
Houston, Texas 77027

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 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.

Attachment B
Docket Number: 2021-0589-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Gemini HDPE LLC
Payable Penalty Amount:	\$288,751
SEP Offset Amount:	\$72,187
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

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 B.

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 **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor (“HRM”) 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed 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 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 provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number

of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

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 contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Amandes PLLC
1800 Post Oak Boulevard, Suite 400
Houston, Texas 77056

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 B, 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 Attachment B 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.