

**Executive Summary – Enforcement Matter – Case No. 61694**  
**FOUNDATION ENERGY MANAGEMENT, L.L.C.**  
**RN105128409**  
**Docket No. 2021-1622-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

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

Smolik Tank Battery, located approximately 1.1 miles southwest from the Farm-to-Market Road 318 and U.S. Highway 77 intersection, Hallettsville, Lavaca County

**Type of Operation:**

Oil and gas handling and production facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** April 21, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,375

**Amount Deferred for Expedited Settlement:** \$3,275

**Total Paid to General Revenue:** \$6,550

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$6,550

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

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** October 5, 2021

**Complaint Information:** Alleged emissions coming onto their property with subsequent health effects.

**Date(s) of Investigation:** October 5, 2021

**Date(s) of NOE(s):** December 9, 2021

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**FOUNDATION ENERGY MANAGEMENT, L.L.C.**  
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***Violation Information***

1. Failed to maintain all air pollution emission capture and abatement equipment in good working order and operating properly during normal Plant operations. Specifically, on October 5, 2021, TCEQ staff used an Optical Gas Imaging Camera and observed unauthorized emissions being emitted from a crack on the top of the eastern most tank [30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(9), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Best Management Practices and Best Available Control Technology Requirements No. (e)(1), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to maintain records for the audio, visual, or olfactory inspections. Specifically, the Respondent did not maintain the records for the audio, visual, and olfactory inspections conducted at the Plant [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E) and (c) and 116.615(8), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Sampling and Monitoring Records No. (j)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to ensure tanks and vessels utilize a paint color that minimizes the effects of solar heating. Specifically, on October 5, 2021, TCEQ staff observed three tanks that were painted dark green with a few patches of dark grey [30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(9), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Best Management Practices and Best Available Control Technology Requirements No. (e)(7), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to create a final record for a non-reportable emissions event no later than two weeks after the end of an emissions event. Specifically, the final record for a non-reportable emissions event that ended on October 13, 2021 was due to be created by October 27, 2021, but was not created [30 TEX. ADMIN. CODE § 101.201(b) 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 October 13, 2021, repaired the crack on the top of the eastern most tank in order to stop the release of unauthorized emissions;
- b. By December 22, 2021, created the final record for the non-reportable emissions event that ended on October 13, 2021;
- c. By January 6, 2022, painted the exterior surfaces of the three tanks white; and

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d. By January 7, 2022, began maintaining the records for the audio, visual, and olfactory inspections.

**Technical Requirements:**

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

2. The Order will also require the Respondent to:

a. Within 30 days, implement measures and/or procedures designed to ensure that all emissions control equipment is maintained in good condition and operated properly during operation of the Plant; and

b. Within 45 days, submit written certification to demonstrate compliance with a.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

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

**Respondent:** James Smith, HSE and Regulatory Supervisor, FOUNDATION ENERGY MANAGEMENT, L.L.C., 5057 Keller Springs Road, Suite 650, Addison, Texas 75001  
Lance Bentley, Vice President - Engineering and Geosciences, FOUNDATION ENERGY MANAGEMENT, L.L.C., 5057 Keller Springs Road, Suite 650, Addison, Texas 75001

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

|              |                 |             |                  |             |                |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| <b>DATES</b> | <b>Assigned</b> | 13-Dec-2021 |                  |             |                |
|              | <b>PCW</b>      | 24-Feb-2023 | <b>Screening</b> | 14-Dec-2021 | <b>EPA Due</b> |

|  |                                      |
|--|--------------------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                                      |
| <b>Respondent</b>                      | FOUNDATION ENERGY MANAGEMENT, L.L.C. |
| <b>Reg. Ent. Ref. No.</b>              | RN105128409                          |
| <b>Facility/Site Region</b>            | 14-Corpus Christi                    |
| <b>Major/Minor Source</b>              | Minor                                |

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                 |                              |                    |
| <b>Enf./Case ID No.</b>                | 61694           | <b>No. of Violations</b>     | 4                  |
| <b>Docket No.</b>                      | 2021-1622-AIR-E | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Air             | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                 | <b>Enf. Coordinator</b>      | Danielle Porras    |
|  |                 | <b>EC's Team</b>             | Enforcement Team 2 |
| <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> | \$20,000 |
|---|-------------------|----------|

### 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> | -10.0% | Adjustment | <b>Subtotals 2, 3, &amp; 7</b> | -\$2,000 |
|---------------------------|--------|------------|--------------------------------|----------|

|              |  |
|--------------|--|
| <b>Notes</b> | Reduction for a High Performer Classification. |
|--------------|--|

|                    |    |      |             |                   |     |
|--------------------|----|------|-------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% | Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------|-------------|-------------------|-----|

|              |  |
|--------------|--|
| <b>Notes</b> | The Respondent does not meet the culpability criteria. |
|--------------|--|

|  |                   |          |
|--|-------------------|----------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | -\$1,625 |
|--|-------------------|----------|

|                         |      |              |                   |     |
|-------------------------|------|--------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% | Enhancement* | <b>Subtotal 6</b> | \$0 |
|-------------------------|------|--------------|-------------------|-----|

|                              |          |                                   |
|------------------------------|----------|-----------------------------------|
| Total EB Amounts             | \$300    | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$31,750 |                                   |

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$16,375 |
|-----------------------------|-----------------------|----------|

|   |      |            |     |
|---|------|------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | Adjustment | \$0 |
|---|------|------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> |  |
|--------------|--|

|                             |          |
|-----------------------------|----------|
| <b>Final Penalty Amount</b> | \$16,375 |
|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$16,375 |
|-----------------------------------|-------------------------------|----------|

|                 |       |           |            |          |
|-----------------|-------|-----------|------------|----------|
| <b>DEFERRAL</b> | 20.0% | Reduction | Adjustment | -\$3,275 |
|-----------------|-------|-----------|------------|----------|

Reduces the Final Assessed Penalty by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral offered for expedited settlement. |
|--------------|--|

|                        |          |
|------------------------|----------|
| <b>PAYABLE PENALTY</b> | \$13,100 |
|------------------------|----------|

**Screening Date** 14-Dec-2021

**Docket No.** 2021-1622-AIR-E

**PCW**

**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C.

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61694

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN105128409

**Media** Air

**Enf. Coordinator** Danielle Porras

### Compliance History Worksheet

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

| Component                     | Number of...   | Number | Adjust. |
|-------------------------------|--|--------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 0      | 0%      |
|                               | Other written NOVs   | 0      | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 0      | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0      | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )                               | 0      | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0      | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0      | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0      | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 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)** 0%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

#### >> Compliance History Summary

**Compliance History Notes**

Reduction for a High Performer Classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** -10%

**Screening Date** 14-Dec-2021 **Docket No.** 2021-1622-AIR-E **PCW**  
**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61694 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105128409  
**Media** Air  
**Enf. Coordinator** Danielle Porras

**Violation Number** 1

**Rule Cite(s)**  
 30 Tex. Admin. Code §§ 116.115(c) and 116.615(9), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Best Management Practices and Best Available Control Technology Requirements No. (e)(1), and Tex. Health & Safety Code § 382.085(b)

**Violation Description**  
 Failed to maintain all air pollution emission capture and abatement equipment in good working order and operating properly during normal Plant operations. Specifically, on October 5, 2021, TCEQ staff used an Optical Gas Imaging Camera and observed unauthorized emissions being emitted from a crack on the top of the eastern most tank.

**Base Penalty** \$25,000

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

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

**>> Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0.0%    |

**Matrix Notes**  
 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 1 8 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | x |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

**Violation Base Penalty** \$3,750

One monthly event is recommended from the October 5, 2021 investigation date to the October 13, 2021 compliance date.

**Good Faith Efforts to Comply**

0.0% Reduction \$0

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

**Notes**  
 The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$3,750

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$171

**Violation Final Penalty Total** \$3,375

**This violation Final Assessed Penalty (adjusted for limits)** \$3,375

# Economic Benefit Worksheet

**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C.  
**Case ID No.** 61694  
**Reg. Ent. Reference No.** RN105128409  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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        | \$1,500  | 5-Oct-2021 | 1-Oct-2023  | 1.99 | \$149 | n/a | \$149 |
| Remediation/Disposal     |          |            |             | 0.00 | \$0   | n/a | \$0   |
| Permit Costs             |          |            |             | 0.00 | \$0   | n/a | \$0   |
| Other (as needed)        | \$20,000 | 5-Oct-2021 | 13-Oct-2021 | 0.02 | \$22  | n/a | \$22  |

**Notes for DELAYED costs**

Estimated costs to repair the crack on the top of the eastern most tank in order to stop the release of unauthorized emissions (\$20,000) and to implement measures and/or procedures designed to ensure that all emissions control equipment is maintained in good condition and operated properly during operation of the Plant (\$1,500). The Dates Required are the investigation date and the Final Dates are the date of compliance and the estimated 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

\$21,500

**TOTAL**

\$171

**Screening Date** 14-Dec-2021 **Docket No.** 2021-1622-AIR-E **PCW**  
**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61694 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105128409  
**Media** Air  
**Enf. Coordinator** Danielle Porras

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(b)(2)(E) and (c) and 116.615(8), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Sampling and Monitoring Records No. (j)(2), and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to maintain records for the audio, visual, or olfactory inspections. Specifically, the Respondent did not maintain the records for the audio, visual, and olfactory inspections conducted at the Plant.

**Base Penalty** \$25,000

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

| OR        | Release | Harm   |          |       | Percent |
|-----------|---------|--------|----------|-------|---------|
|           |         | Major  | Moderate | Minor |         |
|           |         | Actual |          |       |         |
| Potential |         |        |          |       |         |

>> **Programmatic Matrix**

|  | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
|  |               | x     |          |       | 10.0%   |

Matrix Notes

100% of the rule requirements were not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 1 70 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

**Violation Base Penalty** \$2,500

One single event is recommended for the missing set of records.

**Good Faith Efforts to Comply** 10.0% Reduction \$250

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

Notes

The Respondent completed the corrective measures by January 7, 2022, after the Notice of Enforcement ("NOE") dated December 9, 2021.

**Violation Subtotal** \$2,250

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

**Estimated EB Amount** \$19

**Violation Final Penalty Total** \$2,000

**This violation Final Assessed Penalty (adjusted for limits)** \$2,000



# Economic Benefit Worksheet

**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C.  
**Case ID No.** 61694  
**Reg. Ent. Reference No.** RN105128409  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

## 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    | \$1,500 | 5-Oct-2021 | 7-Jan-2022 | 0.26 | \$19 | n/a | \$19 |
| 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)        |         |            |            | 0.00 | \$0  | n/a | \$0  |

**Notes for DELAYED costs** Estimated cost to begin maintaining the records for the audio, visual, and olfactory inspections conducted at the Plant. The Date Required is the investigation date 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** \$19

**Screening Date** 14-Dec-2021 **Docket No.** 2021-1622-AIR-E **PCW**  
**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61694 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105128409  
**Media** Air  
**Enf. Coordinator** Danielle Porras

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 116.615(9), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Best Management Practices and Best Available Control Technology Requirements No. (e)(7), and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to ensure tanks and vessels utilize a paint color that minimizes the effects of solar heating. Specifically, on October 5, 2021, TCEQ staff observed three tanks that were painted dark green with a few patches of dark grey.

**Base Penalty** \$25,000

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

|           |                |             |          |       |                      |
|-----------|----------------|-------------|----------|-------|----------------------|
| <b>OR</b> |                | <b>Harm</b> |          |       |                      |
|           | <b>Release</b> | Major       | Moderate | Minor |                      |
|           | Actual         |             |          | X     | <b>Percent</b> 15.0% |
| Potential |                |             |          |       |                      |

**>> Programmatic Matrix**

|  |               |       |          |       |                     |
|--|---------------|-------|----------|-------|---------------------|
|  | Falsification | Major | Moderate | Minor |                     |
|  |               |       |          |       | <b>Percent</b> 0.0% |

**Matrix Notes** 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 70 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | X |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

**Violation Base Penalty** \$11,250

Three monthly events are recommended from the October 5, 2021 investigation date to the December 14, 2021 screening date.

**Good Faith Efforts to Comply** 10.0% Reduction \$1,125

|               |                |                                   |
|---------------|----------------|-----------------------------------|
|               | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
| Extraordinary |                |                                   |
| Ordinary      |                | X                                 |
| N/A           |                |                                   |

**Notes** The Respondent completed the corrective measures by January 6, 2022, after the NOE dated December 9, 2021.

**Violation Subtotal** \$10,125

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

**Estimated EB Amount** \$108 **Violation Final Penalty Total** \$9,000

**This violation Final Assessed Penalty (adjusted for limits)** \$9,000

## Economic Benefit Worksheet

**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C.  
**Case ID No.** 61694  
**Reg. Ent. Reference No.** RN105128409  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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)        | \$8,500 | 5-Oct-2021 | 6-Jan-2022 | 0.25 | \$108 | n/a | \$108 |

**Notes for DELAYED costs**

Actual cost to paint the exterior surfaces of the three tanks white. The Date Required is the date of the investigation 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**

\$8,500

**TOTAL**

\$108

**Screening Date** 14-Dec-2021 **Docket No.** 2021-1622-AIR-E **PCW**  
**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61694 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105128409  
**Media** Air  
**Enf. Coordinator** Danielle Porras

**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 101.201(b) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to create a final record for a non-reportable emissions event no later than two weeks after the end of an emissions event. Specifically, the final record for a non-reportable emissions event that ended on October 13, 2021 was due to be created by October 27, 2021, but was not created.

**Base Penalty** \$25,000

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

|           |                |             |          |       |                     |
|-----------|----------------|-------------|----------|-------|---------------------|
| <b>OR</b> |                | <b>Harm</b> |          |       |                     |
|           | <b>Release</b> | Major       | Moderate | Minor |                     |
|           | Actual         |             |          |       | <b>Percent</b> 0.0% |
| Potential |                |             |          |       |                     |

**>> Programmatic Matrix**

|                     |   |       |          |       |                      |
|---------------------|---|-------|----------|-------|----------------------|
|                     | Falsification                               | Major | Moderate | Minor |                      |
|                     |   | x     |          |       | <b>Percent</b> 10.0% |
| <b>Matrix Notes</b> | 100% of the rule requirements were not met. |       |          |       |                      |

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 1 54 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

**Violation Base Penalty** \$2,500

One single event is recommended for the missing final record.

**Good Faith Efforts to Comply** 10.0% Reduction \$250

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

**Notes** The Respondent completed the corrective measures by December 22, 2021, after the NOE dated December 9, 2021.

**Violation Subtotal** \$2,250

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

**Estimated EB Amount** \$2 **Violation Final Penalty Total** \$2,000

**This violation Final Assessed Penalty (adjusted for limits)** \$2,000

## Economic Benefit Worksheet

**Respondent** FOUNDATION ENERGY MANAGEMENT, L.L.C.  
**Case ID No.** 61694  
**Reg. Ent. Reference No.** RN105128409  
**Media** Air  
**Violation No.** 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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)        | \$250 | 27-Oct-2021 | 22-Dec-2021 | 0.15 | \$2 | n/a | \$2 |

**Notes for DELAYED costs** Estimated cost to create the final record for the non-reportable emissions event that ended on October 13, 2021. The Date Required is the date the final record was due to be created 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 \$250

**TOTAL** \$2

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 CN604804070, RN105128409, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN604804070, FOUNDATION ENERGY MANAGEMENT, L.L.C. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN105128409, SMOLIK TANK BATTERY **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 2 **Repeat Violator:** NO

**CH Group:** 03 - Oil and Gas Extraction

**Location:** Approximately 1.1 miles southwest from the Farm-to-Market Road 318 and United States Highway 77 intersection near Hallettsville, Lavaca County, Texas

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):**  
**AIR NEW SOURCE PERMITS REGISTRATION 80604** **AIR NEW SOURCE PERMITS REGISTRATION 162976**

**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:** Danielle Porras **Phone:** (713) 767-3682

## Site and Owner/Operator History:

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

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

N/A

### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

### **F. Environmental audits:**

N/A

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

N/A

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

N/A

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

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FOUNDATION ENERGY  
MANAGEMENT, L.L.C.  
RN105128409

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1622-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 FOUNDATION ENERGY MANAGEMENT, 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 together stipulate that:

1. The Respondent owns and operates an oil and gas handling and production facility located approximately 1.1 miles southwest from the Farm-to-Market Road 318 and United States Highway 77 intersection near Hallettsville, Lavaca 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 \$16,375 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,550 of the penalty and \$3,275 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, \$6,550 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A",



incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
  - a. By October 13, 2021, repaired the crack on the top of the eastern most tank in order to stop the release of unauthorized emissions;
  - b. By December 22, 2021, created the final record for the non-reportable emissions event that ended on October 13, 2021;
  - c. By January 6, 2022, painted the exterior surfaces of the three tanks white; and
  - d. By January 7, 2022, began maintaining the records for the audio, visual, and olfactory inspections.

## II. ALLEGATIONS

During an investigation at the Plant conducted on October 5, 2021, an investigator documented that the Respondent:

1. Failed to maintain all air pollution emission capture and abatement equipment in good working order and operating properly during normal Plant operations, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(9), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Best Management Practices and Best Available Control Technology Requirements No. (e)(1), and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, on October 5, 2021, TCEQ staff used an Optical Gas Imaging Camera and observed unauthorized emissions being emitted from a crack on the top of the eastern most tank.

2. Failed to maintain records for the audio, visual, or olfactory inspections, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E) and (c) and 116.615(8), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Sampling and Monitoring Records No. (j)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not maintain the records for the audio, visual, and olfactory inspections conducted at the Plant.
3. Failed to ensure tanks and vessels utilize a paint color that minimizes the effects of solar heating, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(9), Standard Permit Registration No. 162976, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Best Management Practices and Best Available Control Technology Requirements No. (e)(7), and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, on October 5, 2021, TCEQ staff observed three tanks that were painted dark green with a few patches of dark grey.
4. Failed to create a final record for a non-reportable emissions event no later than two weeks after the end of an emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the final record for a non-reportable emissions event that ended on October 13, 2021 was due to be created by October 27, 2021, but was not created.

### 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: FOUNDATION ENERGY MANAGEMENT, L.L.C., Docket No. 2021-1622-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$6,550 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. The Respondent shall undertake the following technical requirements at the Plant:
  - a. Within 30 days after the effective date of this Order, implement measures and/or procedures designed to ensure that all emissions control equipment is maintained in good condition and operated properly during operation of the Plant.
  - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5839

4. All relief not expressly granted in this Order is denied.
5. 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.
6. 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.

7. 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
8. 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.
9. 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.
10. 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  
5/15/2023  
-----  
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  
3/20/23  
-----  
Date

Lance Bentley  
-----  
Name (Printed or typed)  
Authorized Representative of  
FOUNDATION ENERGY MANAGEMENT, L.L.C.  
VP, Engineering & Geosciences  
-----  
Title

If mailing address has changed, please check this box and provide the new address below:  
FOUNDATION ENERGY MANAGEMENT, LLC  
5057 KELLER SPRINGS RD  
SUITE 650  
ADDISON TX 75001

**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: 2021-1622-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

|                                   |  |
|-----------------------------------|--|
| <b>Respondent:</b>                | <b>FOUNDATION ENERGY MANAGEMENT, L.L.C.</b>  |
| <b>Payable Penalty Amount:</b>    | <b>\$13,100</b>  |
| <b>SEP Offset Amount:</b>         | <b>\$6,550</b>   |
| <b>Type of SEP:</b>               | <b>Contribution to a Third-Party Administrator SEP</b>   |
| <b>Third-Party Administrator:</b> | <b>Texas Natural Gas Foundation</b>  |
| <b>Project Name:</b>              | <b><i>High Emission Vehicle Replacement Project</i></b>  |
| <b>Location of SEP:</b>           | <b>TCEQ Air Quality Control Region 214 – Corpus Christ-Victoria - Preference for Lavaca County</b> |

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

**1. Project Description**

a. Project

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

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

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

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

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

b. Environmental Benefit

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

c. Minimum Expenditure

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

**2. Performance Schedule**

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

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

FOUNDATION ENERGY MANAGEMENT, L.L.C.  
Docket No. 2021-1622-AIR-E  
Agreed Order - Attachment A

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

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

**5. Publicity**

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

**6. Recognition**

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

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

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