

that no party agrees to this Judgment as a result of duress; and that all parties waive any claims of duress that might be made.

I.

Background

3. The State of Texas filed this lawsuit for alleged violations of the Federal and Texas Clean Air Acts and the rules promulgated and permits issued thereunder. The alleged violations occurred at the following plants owned or operated by the Defendants: (1) the Millennium La Porte Plant located at 1350 Miller Cut-Off Road, La Porte, Texas 77571; (2) the Equistar La Porte Plant located at 1515 Miller Cut-Off Road, La Porte, Texas 77571; (3) the Equistar Channelview Plant located at 8280 Sheldon Road, Channelview, Texas 77530; (4) the Equistar Chocolate Bayou Plant located twelve (12) miles south of Alvin, Texas, on FM 2917, Alvin, Texas, 77512 (including the polymers plant located three (3) miles south of the main Chocolate Bayou Plant); (5) the Equistar Corpus Christi Plant located at 1501 McKinzie Road, Corpus Christi, Texas 78410 and 1748 Marvin Berry Road, Corpus Christi, Texas 78410 (including the barge dock facility); (6) the Equistar Bayport Plant located at 5761 Underwood Road, Pasadena, Texas 77075; and (7) the PD Glycol Beaumont Plant located at 3510 Gulf States Road, Beaumont, Texas 77701.

4. Millennium Petrochemicals Inc. ("Millennium") owned and operated the Millennium La Porte Plant when most of the alleged violations at that plant occurred. In December 2004, Lyondell Chemical Company ("Lyondell") acquired Millennium and currently owns or controls the Millennium La Porte Plant. Equistar Chemicals, LP ("Equistar"), a subsidiary of Lyondell, owned or controlled the four Equistar plants at all relevant times. Equistar and E.I. duPont de Nemours and Company owned or controlled the PD Glycol Beaumont Plant at all relevant times.

II.

General Provision

5. Millennium and Equistar shall cause to be paid civil penalties as provided in Section III, shall cause to be paid attorneys' fees as provided in Section IV, and shall cause to be funded the supplemental environmental projects described in Section V of this Judgment. All payments shall be made in the manner described in Section VI. These payments constitute consideration for the release and covenant not to sue described in Section VII.

III.

Civil Penalties

6. It is hereby ORDERED that a civil penalty of three million two hundred fifty thousand dollars (\$3,250,000) be assessed against Millennium. It is further ORDERED that within thirty (30) days of the date the Court signs this Judgment, Millennium shall cause to be paid to the State of Texas the amount of two million seven hundred fifty thousand dollars (\$2,750,000) as the cash portion of the civil penalty against Millennium. It is further ORDERED that if Millennium does not comply with the terms and conditions of Section V of this Judgment, then Millennium shall cause to be paid to the State of Texas deferred civil penalties in an amount up to five hundred thousand dollars (\$500,000).

7. It is further ORDERED that a civil penalty of three million two hundred fifty thousand dollars (\$3,250,000) be assessed against Equistar, of which three hundred thousand dollars (\$300,000) shall be in settlement for the alleged violations that occurred at the PD Glycol Beaumont Plant. It is further ORDERED that within thirty (30) days of the date the Court signs this Judgment, Equistar shall cause to be paid to the State of Texas the amount of two million seven hundred fifty thousand dollars (\$2,750,000) as the cash portion of the civil penalty against Equistar. It is further ORDERED that if Equistar does not comply with the terms and conditions

of Section V of this Judgment, then Equistar shall cause to be paid to the State of Texas deferred civil penalties in an amount up to five hundred thousand dollars (\$500,000).

IV.

Attorneys' Fees

8. It is further ORDERED that within thirty (30) days of the date the Court signs this Judgment, Millennium shall cause to be paid to the State of Texas attorneys' fees in the amount of two hundred fifty thousand dollars (\$250,000).

9. It is further ORDERED that within thirty (30) days of the date the Court signs this Judgment, Equistar shall cause to be paid to the State of Texas attorneys' fees in the amount of two hundred fifty thousand dollars (\$250,000).

V.

Supplemental Environmental Projects

10. It is further ORDERED that Millennium shall cause to be funded supplemental environmental projects in the amount of five hundred thousand dollars (\$500,000) and Equistar shall cause to be funded supplemental environmental projects in the amount of five hundred thousand dollars (\$500,000), for a combined total of one million dollars (\$1,000,000), on the following terms and conditions:

(a) No later than 60 days after the Court signs this Judgment, Millennium shall cause to be paid a total amount of five hundred thousand dollars (\$500,000) to fund the supplemental environmental project entitled Ambient Air Pollutants Monitoring Study (the "Monitoring SEP"). This project is described in Appendix A, which is incorporated herein by reference for all purposes as if a part of this Judgment.

(b) Once Millennium has effectuated payment of five hundred thousand dollars (\$500,000) to fund the Monitoring SEP, the penalty deferral described in Paragraph 6 above shall

be permanent, and Millennium shall have no further liability with respect to such deferred penalty amount.

(c) No later than 60 days after the Court signs this Judgment, Equistar shall cause to be paid a total of (1) four hundred thousand dollars (\$400,000) to fund the Nueces County, Texas, supplemental environmental project entitled "Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project" (the "Camera SEP"); and (2) one hundred thousand dollars (\$100,000) to fund the Jefferson County, Texas, supplemental environmental project entitled "West Port Arthur Home Energy Efficiency Program" (the "Home Energy SEP"). These projects are described in Appendix A, which is incorporated herein by reference for all purposes as if a part of this Judgment.

(d) Once Equistar has effectuated payment of four hundred thousand dollars (\$400,000) to fund the Camera SEP and one hundred thousand dollars (\$100,000) to fund the Home Energy SEP, the penalty deferral described in Paragraph 7 above shall be permanent, and Equistar shall have no further liability with respect to such deferred penalty amount.

11. If for any reason after 60 days from the date that the Court signs this Judgment, Millennium has not caused to be paid five hundred thousand dollars (\$500,000) to fund the Monitoring SEP, then Millennium shall pay the deferred civil penalty in the amount of five hundred thousand dollars (\$500,000) less any amount that has been paid already pursuant to the terms of Paragraph 10(a) above and Paragraph 15 below. This deferred civil penalty shall be paid in the manner set forth in Paragraph 17 below and shall be delivered no later than 135 days after the Court signs this Judgment.

12. If for any reason after 60 days from the date that the Court signs this Judgment, Equistar has not caused to be paid four hundred thousand dollars (\$400,000) to fund the Camera SEP and

one hundred thousand dollars (\$100,000) to fund the Home Energy SEP, then Equistar shall pay a deferred civil penalty in the amount of five hundred thousand dollars (\$500,000) less any amount that has been paid already pursuant to the terms of Paragraph 10(c) above and Paragraph 16 below. This deferred civil penalty shall be paid in the manner set forth in Paragraph 18 below and shall be delivered no later than 135 days after the Court signs this Judgment.

VI.

Manner of Payment

13. Millennium shall cause to be executed one check made payable to the State of Texas in the amount of three million dollars (\$3,000,000) for the civil penalties and attorneys' fees described in Paragraphs 6 and 8 of this Judgment. Millennium shall deliver this check to the attention of David Preister, Assistant Attorney General, Acting Chief, Natural Resources Division, Office of the Attorney General, at P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548 (U.S. mail delivery), or 300 West 15th Street, Suite 1000, Austin, Texas (personal delivery) referenced to AG # 052158375.

14. Equistar shall cause to be executed one check made payable to the State of Texas in the amount of three million dollars (\$3,000,000) for the civil penalties and attorneys' fees described in Paragraphs 7 and 9 of this Judgment. Equistar shall deliver this check to the attention of David Preister, Assistant Attorney General, Acting Chief, Natural Resources Division, Office of the Attorney General, P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548 (U.S. mail delivery), or 300 West 15th Street, Suite 1000, Austin, Texas (personal delivery) referenced to AG # 052158375.

15. Millennium shall cause to be executed one or more checks in the combined total amount of five hundred thousand dollars (\$500,000) to fund the Monitoring SEP, described in Paragraph 10(a) of this Judgment. The check(s) shall be made payable and delivered to the fund

recipient(s) in the manner specified by the TCEQ and in accordance with the terms and conditions set out in Appendix A.

16. Equistar shall cause to be executed (a) one or more checks in the combined total amount of four hundred thousand dollars (\$400,000) to fund the Camera SEP described in paragraph 10(c) of this Judgment; and (b) one or more checks in the combined total amount of one hundred thousand dollars (\$100,000) to fund the Home Energy SEP described in Paragraph 10(c) of this Judgment. These checks shall be made payable and delivered to the fund recipients in the manner specified by the TCEQ and in accordance with the terms and conditions set out in Appendix A.

17. If Millennium must pay deferred civil penalties under Paragraph 11 of this Judgment, then Millennium shall cause to be executed one check in the total amount of deferred civil penalties that it owes, made payable to the State of Texas and delivered to the attention of David Preister, Assistant Attorney General, Acting Chief, Natural Resources Division, Office of the Attorney General, at P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548 (U.S. mail delivery), or 300 West 15th Street, Suite 1000, Austin, Texas (personal delivery) referenced to AG # 052158375.

18. If Equistar must pay deferred civil penalties under Paragraph 12 of this Judgment, then Equistar shall cause to be executed one check in the total amount of deferred civil penalties that it owes, made payable to the State of Texas and delivered to the attention of David Preister, Assistant Attorney General, Acting Chief, Natural Resources Division, Office of the Attorney General, at P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548 (U.S. mail delivery), or 300 West 15th Street, Suite 1000, Austin, Texas (personal delivery) referenced to AG # 052158375.

VII.

Release and Covenant Not to Sue

19. For purposes of this Section VII, the term “Releasees” refers to Equistar Chemicals, LP; Millennium Petrochemicals Inc.; Millennium Petrochemicals GP LLC; Lyondell Chemical Company; PD Glycol LP; E.I. duPont de Nemours and Company; and any agent, officer, director, employee, former employee, affiliate, parent, subsidiary, division, successor, or assign of the entities named in this Paragraph 19. Also for purposes of this Section VII, the term “Plants” refers to the plants listed in Paragraph 3 of this Judgment.

20. As part of this Judgment, the State of Texas, through the Texas Attorney General and on behalf of the people of Texas and the TCEQ, releases and covenants not to sue on certain claims, as defined below, for alleged violations, known or unknown, that the State of Texas had, now has, or may hereafter claim to have against the Releasees (the “Released Claims”). The Released Claims are (1) claims that the State of Texas asserted in *State of Texas v. Equistar Chemicals, LP; Millennium Petrochemicals Inc.; Millennium Petrochemicals GP LLC; and Lyondell Chemical Company*, Civil Action No. D-1-GV-06-002509, in the 201st Travis County Judicial District Court; (2) claims of any kind—including, but not limited to, claims based on alleged violations of any state or federal environmental law, rule, regulation, order, or permit (regardless of whether such law, rule, regulation, order, or permit is specifically cited in any Notice of Enforcement)—that are based in whole or in part on any act or omission that (a) occurred at the Plants as of December 31, 2005 and (b) is described in any Notice of Enforcement that was issued on or before December 31, 2005 and referred by the TCEQ to the Texas Attorney General; (3) all claims based on any alleged violations identified in item 2 of this Paragraph 20 for all days of any such alleged violations up to and including December 31, 2005, regardless of whether those days are specifically identified in any Notice of Enforcement that was issued on or

before December 31, 2005 and referred by the TCEQ to the Texas Attorney General; and (4) all claims for attorneys' fees and other costs in this case.

Conclusion

21. This Judgment is final and disposes of all claims and parties in the case. All relief requested but not expressly granted in this case is denied.

SIGNED this ____ day of _____, 2008.

JUDGE PRESIDING

APPROVED AS TO FORM AND SUBSTANCE
AND ENTRY REQUESTED:

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CHEMICALS, LP; MILLENNIUM
PETROCHEMICALS INC.; MILLENNIUM
PETROCHEMICALS GP LLC; AND LYONDELL
CHEMICAL COMPANY

Agreed Final Judgment Attachment A
Cause No.: D-1-GV-06-002509

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Defendant One (1):	EQUISTAR CHEMICALS, LP;
Civil Penalty Amount:	Three million two hundred fifty thousand dollars (\$3,250,000)
Type of SEP:	Pre-approved SEP
Third-Party Recipient No. 1:	University of Texas at Austin <i>Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project</i>
SEP Amount to Third-Party Recipient No. 1:	Four hundred thousand dollars (\$400,000)
Location of SEP:	Nueces County
Third-Party Recipient No. 2:	Southeast Texas Regional Planning Commission <i>West Port Arthur Home Energy Efficiency Project</i>
SEP Amount to Third Party Recipient No. 2:	One hundred thousand dollars (\$100,000)
Location of SEP:	Jefferson County
Defendant Two (2):	MILLENNIUM PETROCHEMICALS INC.; and MILLENNIUM PETROCHEMICAL GP LLC.
Civil Penalty Amount:	Three million two hundred fifty thousand dollars (\$3,250,000)
Type of SEP:	Pre-approved SEP
Third-Party Recipient:	Harris County <i>Ambient Air Pollutants Monitoring</i>
SEP Amount:	Five hundred thousand dollars (\$500,000)
Location of SEP:	Harris County

1. Project Descriptions

A.1 Project Descriptions – Defendant 1

Defendant 1 shall contribute the SEP Amounts to the Third-Party Recipients pursuant to the agreement between the Third-Party Recipients and the TCEQ. Specifically, the contributions will be to the **University of Texas at Austin** for the *Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project* in Nueces County and to the **Southeast Texas Regional Planning Commission** for the *West Port Arthur Home Energy Efficiency Project* in Jefferson County.

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Specifically, SEP Funds for the *Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project* will be used to maintain and operate the existing air monitoring and surveillance camera network in Nueces County, along the Corpus Christi ship channel to record the concentrations of specific air pollutants along the industrial area, and may use SEP Funds to expand, enhance, or continue the existing network. The University has installed at least seven air monitoring stations and two surveillance cameras along the ship channel. The air monitoring stations record concentrations of hydrogen sulfide (total reduced sulfur), sulfur dioxide, and volatile organic compounds including benzene, as well as meteorological data. Data obtained from the monitors is made available to the public via the TCEQ website (Internet) as soon as possible after it becomes available electronically, depending on the type of monitor. Additionally, access to view the images captured by the surveillance cameras will be made available to the public via the Internet. The University does not identify emission sources, investigate and remediate air quality concerns and/or initiate enforcement actions.

SEP Funds may be used to pay for the labor and equipment necessary to expand and continue operation of the existing monitoring network as follows:

- Addition of monitoring sites to the network – Additional monitoring sites could be added to the 7-site monitoring network.
- Development of air quality modeling capability for network – Addition of air quality modeling capability at the web site would allow the community to interpolate concentrations between monitors and track the trajectories of plumes.
- Addition of monitoring equipment to monitoring sites – Additional measurement capabilities could be added to the existing sampling sites.

SEP Funds for the **Southeast Texas Regional Planning Commission** for the *West Port Arthur Home Energy Efficiency Project* will be used to conduct home energy audits and to assist low income

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residents in the West Port Arthur area by weatherizing their homes which will improve their home's energy efficiency. SEP Funds will be used to pay the costs of caulking and insulating the homes and appliances, as well as replacing heating and cooling systems and major appliances with new, energy efficient equipment.

These projects will be administered in accordance with federal, state, and local environmental laws and regulations. Defendant 1 certifies that it has no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.

A.2 Project Description – Defendant 2

Defendant 2 shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to **Harris County** for the *Ambient Air Pollutants Monitoring* project in Harris County.

Specifically, SEP Funds for the *Ambient Air Pollutants Monitoring* project will be used to:

- 1) install or retrofit air monitoring stations in Harris County to continuously monitor ambient air for total non-methane hydrocarbons;
- 2) ensure the sampling systems continuously monitor ambient air and obtain an air sample in a passivated sampling canister whenever a preset trigger hydrocarbon concentration is met. The sample will then be sent to a laboratory for speciated analysis of selected hydrocarbons via EPA Method TO-15 including, but not limited to the following Hazardous Air Pollutants (HAPs): Benzene, 1,3-butadiene, 1,1-dichloroethylene, perchloroethylene, 1,1,2-trichloroethane, xylene (isomers), styrene, vinyl chloride, ethylbenzene, toluene; and,
- 3) collect and report data back to the TCEQ in a format acceptable to the agency, including acquisition of hardware, software, and services associated with ingesting the continuous monitoring data into TCEQ's LEADS data acquisition system.

No portion of the SEP Funds will be used for administrative costs or salaries of Performing Party's

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personnel. These projects will be administered in accordance with federal, state, and local environmental laws and regulations. Defendant 2 certifies that it has no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.

B. Environmental Benefits

University of Texas at Austin *Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project*. This Project will provide significant and discernible environmental benefits to the Corpus Christi area by providing measurements of concentrations of certain air pollutants and an evaluation of those air pollutants being emitted. The information obtained from this network will provide the community with more knowledge of the types and quantities of pollutants emitted from the industries along the Corpus Christi ship channel. The raw data generated through the Project may be used to aid the University's research, teaching, and service missions through the implementation of additional projects. The University shall be solely responsible for, and shall not use any SEP Funds to pay for, any such additional Project cost increases resulting from any such research, teaching, or service activities. In addition, data obtained from the monitoring sites, and made available to the public, may be used by the TCEQ and the EPA to initiate enforcement actions.

Because air quality concerns in the Corpus Christi area include health impacts that may result from emissions in and around highly industrialized areas, this Project is focused on providing air quality data that may be used by the TCEQ and the EPA to investigate and remediate this air quality concern. Data from the Project may be used by the TCEQ and the EPA to detect and track air emissions in near real-time to determine air pollution source locations for enforcement actions, permitting and regulatory decisions, and potential future health effect studies. The data also can be used by the TCEQ and the EPA to help determine if additional air quality problems that have not yet been detected exist in the Corpus Christi area.

Southeast Texas Regional Planning Commission *West Port Arthur Home Energy Efficiency Project*. Implementation of this project will reduce residential fuel and electricity usage for heating and

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cooling. These reductions, in turn, will reduce emissions of particulate matter (PM), volatile organic compounds (VOC), and nitrogen oxides (NO_x) associated with the combustion of fuel and generation of electricity.

Harris County Ambient Air Pollutants Monitoring. This project will provide additional air monitoring data to identify any HAPs emissions in the targeted locations. The information may help local government better inform citizens about air toxins and enable regulators to better identify emission sources.

2. Performance Schedule

A. Defendant 1:

Within 60 days after the Court signs this Agreed Final Judgment, Defendant 1 shall cause to be funded \$400,000 to the designated Third-Party Recipient No. 1 by mailing or hand-delivering a copy of the Agreed Final Judgment with the check made payable to "University of Texas at Austin" to:

University of Texas at Austin
Bobby McQuiston, Director
Office of Sponsored Projects - Corpus Christi Air Monitoring and Surveillance Camera Installation
P.O. Box 7726, MC A9000
Austin, TX 78712-7726

Within 60 days after the Court signs this Agreed Final Judgment, Defendant 1 shall cause to be funded \$100,000 to the designated Third-Party Recipient No. 2 by mailing or hand-delivering a copy of the Agreed Final Judgment with the check made payable to "Southeast Texas Regional Planning Commission" to:

SETRPC
Bob Dickinson, Director
Transportation and Environmental Resources
South East Texas Regional Planning Commission
2210 Eastex Freeway,
Beaumont, TX 77703

B. Defendant 2:

Within 60 days after the Court signs this Agreed Final Judgment, Defendant 2 shall cause to be funded

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\$500,000 to the designated Third-Party Recipient by mailing or hand-delivering a copy of the Agreed Final Judgment with the check made payable to "Harris County Government" to:

Honorable Ed Emmet, County Judge
c/o Denise James, Compliance Coordinator, Harris County PHES
107 North Munger
P.O. Box 6031
Pasadena, Texas 77506

3. Records and Reporting

Concurrent with the payment of the SEP Amount, Defendants shall provide the TCEQ SEP Coordinator with a copy of the checks and transmittal letters indicating full payment of the SEP Amounts to the Third-Party Recipients. Defendants shall mail a copy of the checks and transmittal letters to:

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

5. Publicity

Any public statements concerning these SEPs made by or on behalf of Defendants must include a clear statement that the projects were performed as part of the settlement of an enforcement action brought by the State of Texas and TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Defendants shall not include these SEPs in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Defendants may not seek recognition for these contributions in any other state or federal regulatory program.

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7. Other SEPs by TCEQ or Other Agencies

The SEPs identified in this Agreed Final Judgment have not been, and shall not be, included as SEPs for Defendants under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.