



1206 San Antonio St.  
Austin, TX 78701  
[www.environmentalintegrity.org](http://www.environmentalintegrity.org)

December 21, 2020

*VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED*

DCP Operating Company, LP  
10 Desta Drive  
Suite 400W  
Midland, Texas 79705-4528  
Certified Mail #7019 0700 0001 4962 3726

Goldsmith Gas Plant  
Plant Manager  
1600 West Highway 158  
Goldsmith, Texas 79741  
Certified Mail #7019 0700 0001 4962 3733

Re: Notice of Intent to Sue the Owner and Operator of the Goldsmith Gas Plant in Ector County, Texas, for Violations of the Clean Air Act

To the Owners and Operators of the Goldsmith Gas Plant:

On behalf of Sierra Club, Environment Texas, and Texas Campaign for the Environment (collectively, the environmental “Organizations”), and their individual members, we are writing to provide you with notice that the Organizations intend to file a civil lawsuit against you for repeated violations, described below, of the federal Clean Air Act, 42 U.S.C. § 7401 et seq., which occurred and continue to occur at the Goldsmith Gas Plant.

DCP Operating Company, LP (“DCP”), a subsidiary of DCP Midstream GP, LLC, owns and operates the Goldsmith Gas Plant, located at 1600 West Highway 158, Goldsmith, Ector County, Texas 79741 (the “Plant”). Based on publicly available information, the Plant has repeatedly violated, and is in violation of, the federal Clean Air Act, the Texas State Implementation Plan, and DCP’s Clean Air Act permits by emitting air pollutants at rates and in amounts in excess of, and not authorized by, applicable permits.

The citizen suit provision of the Clean Air Act allows the Organizations to commence a civil action in a United States District Court for violations of a Clean Air Act emission standard or limitation. 42 U.S.C. § 7604(a). An emission standard or limitation is defined as any requirement under 42 U.S.C. § 7411 or § 7412, any condition or requirement applicable under a state implementation plan approved by the U.S. EPA, any Title V permit, or any requirement to obtain a permit as a condition of operations. 42 U.S.C. § 7604(f).

This notice is being provided pursuant to 42 U.S.C. § 7604(b) and 40 C.F.R. Part 54. Organizations will ask the Court to impose appropriate injunctive relief and civil penalties, and require a beneficial environmental project under 42 U.S.C. § 7604(g)(2) in the areas directly impacted by the unauthorized air pollution and emissions from the Plant. Organizations will also ask the Court to award their costs of litigation and attorneys' fees.

The names and addresses of the parties giving notice are:

Sierra Club  
2101 Webster St., Suite 1300  
Oakland, California 94612

Environment Texas  
200 E 30th St.  
Austin, Texas 78705

Texas Campaign for the Environment  
3903 S Congress Ave.  
P.O. Box 42278  
Austin, Texas 78704

You may contact parties through their counsel at:

Environmental Integrity Project  
Colin Cox  
1206 San Antonio St.  
Austin, Texas 78701  
832-316-0580  
colincox@environmentalintegrity.org

### **APPLICABLE CLEAN AIR ACT REQUIREMENTS**

The Plant is subject to applicable provisions of the Texas State Implementation Plan ("SIP"), which is a set of state regulations that are approved by the U.S. Environmental Protection Agency ("EPA"), pursuant to the federal Clean Air Act, 42 U.S.C. § 7410.

The Plant is a "stationary source" under the Clean Air Act. The Texas SIP requires DCP to report certain "emission events" – certain unauthorized emissions of air pollutants – to the Texas Commission on Environmental Quality ("TCEQ") within 24 hours of their discovery, through the State of Texas Environmental Electronic Reporting System ("STEERS"). 30 Tex. Admin. Code §§ 101.201(a) and 101.211(a). After submitting an initial report, DCP has two weeks to issue a final STEERS report concerning such emission events; if no final report is submitted, the initial report is considered final. 30 Tex. Admin. Code §§ 101.201(b) and (c) and 101.211(b) and (c).

Emission event reports submitted to TCEQ are required to include the date, time, and duration of the event; the nature and cause of the event; any corrective action taken; the unit and

the specific emission point number (“EPN”) from which pollutants were emitted to the atmosphere; the permit or regulation applicable to the unit and emission point; the emission limit that has been exceeded; and the type and quantity of air pollutants emitted., among other information.

Emissions of air pollutants from the Plant are governed by, among other requirements, Texas New Source Review Permit (“NSR Permit”) Nos. 676A, 54944, 73563, and 76810, issued to DCP by the TCEQ pursuant to 30 Tex. Admin. Code § 116. These permits contain emission limits, including but not limited to: maximum hourly limits (expressed in pounds per hour or “lbs/hr”) and maximum annual limits (expressed in tons per year, or “tpy”) for each pollutant. Compliance with the emission limits in these permits is mandatory and a requirement of the Texas SIP. Texas Health & Safety Code § 382.085(b); 30 Tex. Admin. Code § 116.115(b)(2)(F).

Emission limits for EPN FLR-01 (the Acid Gas Flare) routine emissions authorized by Permit 676A beginning March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	0.01	0.01
H <sub>2</sub> S	0.01	0.01
NO <sub>x</sub>	0.04	0.17
VOC	0.01	0.01
CO	0.08	0.34

Emission limits for EPN FLR-01 routine emissions authorized by Permit 676A prior to March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	0.01	0.01
H <sub>2</sub> S	0.00	0.00
NO <sub>x</sub>	0.01	0.03
VOC	0.01	0.01
CO	0.02	0.1

Emission limits for EPN FLR-01 planned maintenance, startup, and shutdown emissions authorized by Permit 54944:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	6792.00	6.79
H <sub>2</sub> S	72.17	0.07
NO <sub>x</sub>	2.88	0.01
VOC	0.20	0.01
CO	8.17	0.01

Emission limits for EPN FLR-03 (the Residue Compression Flare) routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 73563:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	0.01	0.01
H <sub>2</sub> S	0.01	0.01
NO <sub>x</sub>	422.44	12.82
VOC	10.05	0.31
CO	843.35	25.6

Emission limits for EPN TGI (the tail gas incinerator) routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 676A:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	481.7	1521.8
H <sub>2</sub> S	3.77	16.5
NO <sub>x</sub>	2.88	12.61
VOC	0.2	0.87
CO	8.17	35.79

Additional emission limits for EPN TGI planned maintenance, startup, and shutdown emissions associated with SRU quench/burnout/startup authorized by Permit 54944:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
NO <sub>x</sub>	5.76	0.01
VOC	0.40	0.01
CO	8.17	0.03

Emission limits for EPN 5# Flare (the 5 Pound Flare) routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 676A, beginning March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	3513.5	52.7
H <sub>2</sub> S	38.18	0.57
NO <sub>x</sub>	64.28	1.01
VOC	381	5.71
CO	464.31	7.16

Emission limits for EPN 5# Flare routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 76810, prior to March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	2591	38.87
H <sub>2</sub> S	28.1	0.42
NO <sub>x</sub>	96.5	1.47
VOC	381	5.71
CO	525	7.89

Additional emission limits for EPN 5# Flare planned maintenance, startup, and shutdown emissions authorized by Permit 54944:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO <sub>2</sub>	3431.62	2.58
H <sub>2</sub> S	36.42	0.03
NO <sub>x</sub>	365.17	0.37
VOC	784.52	0.9
CO	1454.3	1.47

Permits 676A, 54944, 73563, and 76810 authorize planned maintenance, startup, and shutdown emissions, but they do not authorize unplanned maintenance, startup, and shutdown emissions. Nor do they authorize upset emissions. All unplanned maintenance, startup, and shutdown emissions, as well as all upset emissions, are unauthorized and a violation of the applicable permits. For the annual and hourly violations discussed below and detailed in Appendix A, if a source is subject to multiple emission limits in one or more permits, the highest limit is applied.

DCP's NSR Permits and all of the emission limits contained therein are also required to be incorporated into federal operating permit O2585, ("Title V permit"), which was issued to DCP by the TCEQ pursuant to Title V of the Clean Air Act, 42 U.S.C. §§ 7661-7661f. Any release of air pollutants into the atmosphere in excess of a limit or condition contained in any of DCP's NSR permits is a violation of both the underlying NSR permit and the corresponding Title V permit into which the limit has been incorporated. All such releases also violate both the Texas SIP and the federal Clean Air Act. 42 U.S.C. §§ 7604(a)(1) and(f) and 7661a(a); 30 Tex. Admin. Code § 116.115(b)(2)(F).

The Plant is also subject to applicable provisions of the Clean Air Act's New Source Performance Standards ("NSPS"), which are national, technology-based emission standards and limitations promulgated pursuant to Clean Air Act Section 111, 42 U.S.C. § 7411. Clean Air Act Section 111(e), 42 U.S.C. § 7411(e), prohibits the operation of any source in violation of an applicable NSPS. A violation of any NSPS is thus a violation of Section 111(e) of the Clean Air Act, the Texas SIP, and the Plant's permits.

## DCP VIOLATIONS OF THE CLEAN AIR ACT

The paragraphs below describe DCP’s violations of emission limits under the federal Clean Air Act. As these emission limits are required to be incorporated into DCP’s Title V permit, each of the violations described below is also a violation of the specified provision of DCP’s Title V permit. The information presented below is sufficient to enable DCP to ascertain the nature of each alleged violation and when and where it occurred.

### 1. Violations of Annual Emission Limits

The Plant is required to comply with the annual emission limits, expressed in tons per year, listed in Permits 676A, 54944, 76810, and 73563. During the five years prior to the date of this letter, the Plant has, on numerous occasions, violated the following:

- the annual limits for sulfur dioxide (SO<sub>2</sub>) and hydrogen sulfide (H<sub>2</sub>S) for EPN FLR-01, set forth in Permits 676A and 54944;
- the annual limits for SO<sub>2</sub> and H<sub>2</sub>S for EPN FLR-03, set forth in Permit 73563; and
- the annual limits for SO<sub>2</sub> and H<sub>2</sub>S for EPN 5# Flare, set forth in permits 676A and 76810.

Details of Plant emissions that violated annual limits during the period from January 2016 through December 2020 are provided in the attached Appendix A, Table 1. For each of those annual emission limits, Appendix A, Table 1 contains:

- the source unit and EPN from which the pollutants were emitted;
- the applicable permit number;
- the annual emission limit, in tons and converted into pounds (if the source is subject to multiple annual limits, the highest limit is listed);
- the reported emissions per month, in pounds; and
- each 12-month rolling total of emissions, in both tons and pounds.

The following table summarizes the calendar year violations of annual limits:

EPN	Year	Permits	Pollutant	Emission Limit (tons per year)	Amount Emitted (tons)
FLR-01	2016	676A, 54944	SO <sub>2</sub>	6.79	162.45
FLR-01	2017	676A, 54944	SO <sub>2</sub>	6.79	75.76
FLR-01	2018	676A, 54944	SO <sub>2</sub>	6.79	301.28
FLR-01	2019	676A, 54944	SO <sub>2</sub>	6.79	1005.38
FLR-01	2020	676A, 54944	SO <sub>2</sub>	6.79	251.48
FLR-01	2016	676A, 54944	H <sub>2</sub> S	0.07	1.76
FLR-01	2017	676A, 54944	H <sub>2</sub> S	0.07	0.82
FLR-01	2018	676A, 54944	H <sub>2</sub> S	0.07	3.48
FLR-01	2019	676A, 54944	H <sub>2</sub> S	0.07	10.91
FLR-01	2020	676A, 54944	H <sub>2</sub> S	0.07	2.62

FLR-03	2016	73563	SO <sub>2</sub>	0.01	182.22
FLR-03	2017	73563	SO <sub>2</sub>	0.01	241.85
FLR-03	2018	73563	SO <sub>2</sub>	0.01	102.08
FLR-03	2019	73563	SO <sub>2</sub>	0.01	175.22
FLR-03	2020	73563	SO <sub>2</sub>	0.01	43.88
FLR-03	2016	73563	H <sub>2</sub> S	0.00	2.43
FLR-03	2017	73563	H <sub>2</sub> S	0.00	2.63
FLR-03	2018	73563	H <sub>2</sub> S	0.00	1.18
FLR-03	2019	73563	H <sub>2</sub> S	0.00	1.90
FLR-03	2020	73563	H <sub>2</sub> S	0.00	0.48
5# Flare	2018	76810, 54944	SO <sub>2</sub>	38.87	45.61
5# Flare	2017	76810, 54944	H <sub>2</sub> S	0.57	0.77

In addition to calendar year violations, EPN FLR-03 annual emission limits are based on a rolling 12-month period. DCP has violated the rolling 12-month annual SO<sub>2</sub> limit for EPN FLR-03 for every 12-month period from January 2016 through December 2020, for a total of 60 violations of the annual limit. DCP has violated the rolling 12-month annual H<sub>2</sub>S limit for EPN FLR-03 for every 12-month period from January 2016 through December 2020, for a total of 60 violations of the annual limit.

## 2. Violations of Hourly Emission Limits

The Plant is required to comply with the hourly emission rate limits, expressed in pounds per hour, set forth in Permits 676A, 54944, 76810, and 73563. During the five years prior to the date of this letter, the Plant repeatedly violated hourly emission limits set forth in those permits. DCP's self-reported STEERS reports show that the Plant has repeatedly violated the following:

- the hourly emission limits for SO<sub>2</sub>, H<sub>2</sub>S, NO<sub>x</sub>, VOC, and CO for EPN FLR-01, set forth in Permits 676A and 54944;
- the hourly emission limits for SO<sub>2</sub>, H<sub>2</sub>S, NO<sub>x</sub>, VOC, and CO for EPN FLR-03 (the Residue Compression Flare), set forth in Permit 73563; and
- the hourly emission limits for SO<sub>2</sub> and H<sub>2</sub>S for EPN TGI (the Tail Gas Incinerator), set forth in Permits 676A and 54944.

Details of Plant emissions that violated hourly limits during emission events occurring from January 2016 through December 2020 are provided in the attached Appendix A, Table 2. For each emission event, Table 2 contains:

- the tracking number of the STEERS event during which the emissions occurred;
- the start date, end date, and duration of the event;
- the applicable permit listed in the STEERS report (under the heading "Authorization");
- the type of event (maintenance, startup, shutdown, or emissions event);
- the source unit and EPN from which the pollutants were emitted;
- the name of the pollutant and the applicable emission limit;

- the amount released (in pounds) and the emission rate (in pounds per hour).
- the applicable permit that covers each source, as identified by the Organizations;
- the applicable hourly emission limit (if the source is subject to multiple hourly limits, the highest limit is applied);
- the calculated emission rate based on the amount of pollutant emitted and duration of the event (duration rounded up to the nearest hour); and
- whether the emission rate exceeds the applicable hourly limit, resulting in a violation.

The following table summarizes the violations of hourly emission limits per source and pollutant:

EPN	Permit	Pollutant	Hourly Limit (lbs/hr)	Total Hours of Violation
FLR-01	676A, 54944	SO <sub>2</sub>	6792	102
FLR-01	676A, 54944	H <sub>2</sub> S	72.17	128
FLR-01	676A, 54944	NO <sub>x</sub>	2.88	592
FLR-01	676A, 54944	VOC	0.2	1020
FLR-01	676A, 54944	CO	8.17	715
FLR-03	73563	SO <sub>2</sub>	0.01	1811
FLR-03	73563	H <sub>2</sub> S	0.01	1811
FLR-03	73563	NO <sub>x</sub>	424.44	159
FLR-03	73563	VOC	10.05	1629
FLR-03	73563	CO	843.35	70
TGI	676A	SO <sub>2</sub>	481.7	180
TGI	676A	H <sub>2</sub> S	3.77	310

### 3. Violations of Operational Limits

Permits 676A and 76810 limit operation of EPN 5# Flare to a maximum of 30 hours of emissions per year. EPN 5# Flare has very high hourly pollutant limits because it is allowed to operate only 30 hours per year. Any emissions from 5# Flare in excess of 30 hours per year are a violation of the operational limits imposed by permits 676A and 76810. DCP has violated these operational limits by emitting pollutants from EPN 5# Flare in excess of 30 hours per year in 2016, 2017, 2018, 2019, and 2020. Details of the specific events in which EPN 5# Flare exceeded this operational limit are listed in Appendix A, Table 3.



The following table summarizes the violations of operation limits at EPN 5# Flare:

<b>Year</b>	<b>Total Hours of Operation of EPN 5# Flare</b>	<b>Number of Incidents in Which the 5# Flare Operated After Exceeding 30 Hours in a Calendar Year</b>	<b>Number of Days of Violation</b>
2016	118.17	6	10
2017	237.90	8	17
2018	538.98	15	35
2019	358.42	17	28
2020	119.52	18	22

Permit 676A Special Condition 3 authorizes one scheduled maintenance, startup, and shutdown (“MSS”) emission event at EPN TGI per rolling 12-month period. Any unplanned emission event that results in emissions from EPN TGI is a violation of Permit 676A Special Condition 3. And any planned or unplanned emission events that result in emissions from EPN TGI beyond one event per rolling 12-month is a violation of Permit 676A Special Condition 3. From January 2016 through December 2020, DCP has violated this operational limit by exceeding one emission event per rolling 12-month period for 49 rolling 12-month periods. Details of violations of Permit 676A Special Condition 3 occurring from January 2016 through December 2020 are provided in the attached Appendix A, Table 4.

#### **4. Violations of New Source Performance Standards**

The Plant is a natural gas processing facility with a sweetening unit followed by a sulfur recovery unit. Therefore, it is subject to NSPS Subpart OOOO. 40 C.F.R. § 60.5365(g)(2). Permit 676A Special Condition 5 authorizes sulfur production of 110 long tons per day, so the Plant does not qualify for the exemption for facilities with a design capacity of less than 2 long tons per day in 40 C.F.R. § 60.5405(b)(3). The Plant does not completely re-inject acid gas into geologic strata, so it does not qualify for the exemption for such reinjection facilities under 40 C.F.R. § 60.5405(b)(4). The Plant is thus subject to all requirements of Subpart OOOO.

Sweetening facilities subject to all of the requirements of Subpart OOOO must meet an SO<sub>2</sub> emission reduction efficiency requirement through the use of some SO<sub>2</sub> control device, such as a sulfur recovery unit. 40 C.F.R. § 60.5405(b). The specific daily SO<sub>2</sub> reduction efficiency required by Subpart OOOO depends on the daily sulfur feed rate from the sweetening unit (i.e., the H<sub>2</sub>S in the acid gas expressed as sulfur in long tons per day), and is calculated according to Table 2 of Subpart OOOO.

When DCP utilizes the sulfur recovery unit, it is presumably achieving a minimum of 98% control, but no control of SO<sub>2</sub> occurs when DCP is flaring the acid gas at EPN FLR-01. Given the SO<sub>2</sub> control efficiency requirements of Subpart OOOO, DCP violated the SO<sub>2</sub> control efficiency requirements required to be met under 40 C.F.R. § 60.5405(b) for 130 days between January 1, 2016 and December 21, 2020, due to flaring of the acid gas from the sweetening unit on those days. The specific days of violation and flaring events are provided in Appendix A, Table 5.

## CONCLUSION

This notice letter and the attached tables are based on publicly available sources of information, including DCP's self-reported STEERS incident reports. Additional information, including information in the possession of DCP, may reveal additional details about the violations described above and may reveal additional violations of the emission limits described above at the Plant. This letter covers all such violations, including violations of the emission limits described above that occur after the date of this letter.

If you believe any of the facts described above are in error, have any information indicating that you have not violated the Clean Air Act, or if you have any questions concerning this letter or the described violations, please contact the undersigned attorney for the Organizations, Environmental Integrity Project (Colin Cox). Finally, we would welcome meeting with you to discuss resolution of this matter prior to the expiration of the 60-day pre-suit notice period.

Sincerely,

ENVIRONMENTAL INTEGRITY PROJECT



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Colin Cox

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### Attachment:

Appendix A – Violation Tables in Excel Format (on attached USB drive)

Copies to (by certified mail – return receipt requested):

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