

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0701-AIR-E TCEQ ID: RN100218429 CASE NO.: 33359
RESPONDENT NAME: Channel Shipyard Company, Inc.

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input checked="" type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input checked="" type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Channel Shipyard, 999 South Lynchburg Road, Baytown, Harris County</p> <p>TYPE OF OPERATION: Barge cleaning operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Alan Bonds, Vice President, Channel Shipyard Company, Inc., 999 South Lynchburg Road, Baytown, Texas 77520 Mr. H. Dennis Steger, President, Channel Shipyard Company, Inc., 999 South Lynchburg Road, Baytown, Texas 77520 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 OCT 10 AM 8:23
CHIEF CLERKS OFFICE

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|---|---|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 6, 2006</p> <p>Date of NOE Relating to this Case: April 7, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation has been documented.</p> <p>AIR</p> <p>Failure to operate the thermal oxidizer ("TO") properly and control a vent gas stream containing benzene from being emitted through the TO. Specifically, on June 2, 2006, Channel Shipyard failed to operate the TO at or greater than 1,300 degrees Fahrenheit ("°F"), while degassing a barge containing benzene. The TO temperature fell below 1,300°F from 7:19 a.m. to 7:45 a.m. The Lynchburg Ferry Continuous Air monitoring Site (CAMS 23/1015) located 625 feet south and directly downwind of the TO detected an average hourly benzene concentration of 400 parts per billion ("ppb") from 7:00 to 8:00 a.m. on June 2, 2006. The hourly average benzene concentrations were 2.3 ppb and 115 ppb from 6:00 to 7:00 a.m. and 8:00 to 9:00 a.m., respectively. [30 TEX. ADMIN. CODE §§ 115.121(a)(1), 115.122(a)(1)(A), and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].</p> | <p>Total Assessed: \$10,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$10,000</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Human health and Environmental Receptors have been exposed to pollutants which exceed levels that are protective.</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Implement improvements to designs, operations, and/or maintenance practices that address the causes leading to the June 2, 2006 benzene release from the thermal oxidizer that are designed to prevent recurrence of same or similar incidents; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

| | | | | | | |
|--------------|----------|-------------|-----------|------------|---------|--|
| DATES | Assigned | 16-Apr-2007 | Screening | 1-May-2007 | EPA Due | |
| | PCW | 1-May-2007 | | | | |

| | |
|--|--------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Channel Shipyard Company, Inc. |
| Reg. Ent. Ref. No. | RN100218429 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Major |

| | | | |
|-------------------------|-------------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 33359 | No. of Violations | 1 |
| Docket No. | 2007-0701-AIR-E | Order Type | Findings |
| Media Program(s) | Air | Enf. Coordinator | Miriam Hall |
| Multi-Media | | EC's Team | Enforcement Team 4 |
| Admin. Penalty \$ | Limit Minimum \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 41% Enhancement **Subtotals 2, 3, & 7** \$4,100

Notes: The penalty was enhanced for one similar NOV, eight non-similar NOVs, and one 1660 order.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

Before NOV NOV to EDRP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$79 **Subtotal 6** \$0
Approx. Cost of Compliance \$1,000 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$14,100

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: [Empty box]

Final Penalty Amount \$14,100

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$10,000

DEFERRAL 0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$10,000

Screening Date 1-May-2007

Docket No. 2007-0701-AIR-E

PCW

Respondent Channel Shipyard Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33359

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100218429

Media [Statute] Air

Enf. Coordinator Mirlam Hall

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 1 | 5% |
| | Other written NOVs | 8 | 16% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 1 | 20% |
| | 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 (number of judgments or consent decrees meeting criteria) | 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 (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 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 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act; 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| 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) 41%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced for one similar NOV, eight non-similar NOVs, and one 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%

Screening Date 1-May-2007

Docket No. 2007-0701-AIR-E

PCW

Respondent Channel Shipyard Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33359

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100218429

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 115.121(a)(1), 115.122(a)(1)(A), and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description

Failed to operate the thermal oxidizer ("TO") properly and control a vent gas stream containing benzene from being emitted through the TO. Specifically, on June 2, 2006, Channel Shipyard failed to operate the TO at or greater than 1,300 degrees Fahrenheit ("°F"), while degassing a barge containing benzene. The TO temperature fell below 1,300°F from 7:19 a.m. to 7:45 a.m. The Lynchburg Ferry Continuous Air monitoring Site (CAMS 23/1015) located 625 feet south and directly downwind of the TO detected an average hourly benzene concentration of 400 parts per billion ("ppb") from 7:00 to 8:00 a.m. on June 2, 2006. The hourly average benzene concentrations were 2.3 ppb and 115 ppb from 6:00 to 7:00 a.m. and 8:00 to 9:00 a.m., respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | x | | |
| Potential | | | |

Percent 100%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant emissions which do exceed levels that are protective of human health or environmental receptors as a result of this violation. The Short Term Effects Screening Level for benzene is 25 ppb.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

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

Violation Base Penalty \$10,000

One single event is recommended for the June 2, 2006 event.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$14,100

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent Channel Shipyard Company, Inc.
 Case ID No. 33359
 Reg. Ent. Reference No. RN100218429
 Media Air
 Violation No. 1

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

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|-------------|-----|------|-----|------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 2-Jun-2006 | 31-Dec-2007 | 1.6 | \$79 | n/a | \$79 |

Notes for DELAYED costs

The estimated cost for taking corrective measures to ensure that the thermal oxidizer is working properly during barge degassing. The Date required is the day a violation was documented and Final Date is the projected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$79

Compliance History

| | | | |
|---|---|--|-------------------|
| Customer/Respondent/Owner-Operator: | CN600129662 Channel Shipyard Company, Inc. | Classification: AVERAGE | Rating: 2.84 |
| Regulated Entity: | RN100218429 CHANNEL SHIPYARD | Classification: AVERAGE | Site Rating: 2.84 |
| ID Number(s): | WASTEWATER PERMIT WQ0003059000 WASTEWATER PERMIT TPDES0104531 WASTEWATER PERMIT TX0104531 AIR NEW SOURCE PERMITS PERMIT 37907 AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG3585F AIR NEW SOURCE PERMITS PERMIT 56318 AIR NEW SOURCE PERMITS REGISTRATION 81472 AIR NEW SOURCE PERMITS REGISTRATION 81752 VOLUNTARY CLEANUP PROGRAM ID NUMBER 317 INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXD008097271 INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # (SWR) 31257 STORMWATER PERMIT TXR05U112 ON SITE SEWAGE FACILITY PERMIT 1010512 | | |
| Location: | 999 S LYNCHBURG RD, BAYTOWN, TX, 77520 | Rating Date: September 01 06 Repeat Violator: NO | |
| TCEQ Region: | REGION 12 - HOUSTON | | |
| Date Compliance History Prepared: | April 30, 2007 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | April 30, 2002 to April 30, 2007 | | |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Miriam Hall Phone: (512) 239-1044

Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 04/14/2006 ADMINORDER 2005-1609-AIR-E
- Classification: Moderate
- Citation: 30 TAC Chapter 115, SubChapter F 115.546(2)(A)
5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failed to maintain continuous temperature monitoring records of the Thermal Oxidizer during degassing activities of benzene on January 5 and 9, March 2, April 26, and June 27, 2004.
- Classification: Moderate
- Citation: 30 TAC Chapter 117, SubChapter D 117.479(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failed to install and operate a totalizing fuel flow meter on the EPN Boiler.
- Classification: Moderate
- Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failed to operate within standard permit representations.
- Classification: Major
- Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failed to obtain authorization to emit acrylates.

- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CEEDS Inv. Track. No.)

| | | |
|----|------------|----------|
| 1 | 05/10/2002 | (223122) |
| 2 | 06/14/2002 | (223125) |
| 3 | 07/17/2002 | (223128) |
| 4 | 08/13/2002 | (223131) |
| 5 | 09/16/2002 | (223135) |
| 6 | 10/18/2002 | (223138) |
| 7 | 11/18/2002 | (223141) |
| 8 | 12/13/2002 | (322677) |
| 9 | 01/10/2003 | (223146) |
| 10 | 02/17/2003 | (223112) |
| 11 | 03/04/2003 | (26254) |
| 12 | 03/21/2003 | (322666) |
| 13 | 04/21/2003 | (223119) |
| 14 | 05/20/2003 | (322669) |
| 15 | 06/24/2003 | (322672) |
| 16 | 06/26/2003 | (322670) |
| 17 | 08/21/2003 | (322673) |
| 18 | 09/23/2003 | (322674) |
| 19 | 10/14/2003 | (322675) |
| 20 | 11/18/2003 | (322676) |
| 21 | 12/16/2003 | (322678) |
| 22 | 01/12/2004 | (322679) |
| 23 | 02/20/2004 | (322665) |
| 24 | 03/12/2004 | (322667) |
| 25 | 04/15/2004 | (322668) |
| 26 | 05/21/2004 | (364270) |
| 27 | 06/07/2004 | (364271) |
| 28 | 06/17/2004 | (322671) |
| 29 | 06/21/2004 | (272974) |
| 30 | 08/16/2004 | (364272) |
| 31 | 09/21/2004 | (364273) |
| 32 | 10/20/2004 | (364274) |
| 33 | 11/19/2004 | (388661) |
| 34 | 12/17/2004 | (388662) |
| 35 | 01/05/2005 | (345291) |
| 36 | 01/18/2005 | (388663) |
| 37 | 02/18/2005 | (426211) |
| 38 | 03/18/2005 | (426212) |
| 39 | 04/26/2005 | (426213) |
| 40 | 05/04/2005 | (426216) |
| 41 | 05/23/2005 | (426214) |
| 42 | 06/14/2005 | (426215) |
| 43 | 06/20/2005 | (372465) |
| 44 | 06/20/2005 | (372123) |
| 45 | 07/20/2005 | (400408) |
| 46 | 07/22/2005 | (401510) |
| 47 | 07/22/2005 | (401251) |
| 48 | 07/29/2005 | (402519) |
| 49 | 07/29/2005 | (402195) |
| 50 | 08/03/2005 | (402976) |
| 51 | 08/05/2005 | (403528) |
| 52 | 08/15/2005 | (405177) |
| 53 | 08/15/2005 | (404717) |
| 54 | 08/17/2005 | (405280) |
| 55 | 08/17/2005 | (405558) |
| 56 | 08/22/2005 | (406435) |
| 57 | 08/23/2005 | (446593) |
| 58 | 08/29/2005 | (418283) |
| 59 | 09/08/2005 | (418319) |
| 60 | 09/08/2005 | (418481) |
| 61 | 09/23/2005 | (446594) |
| 62 | 10/24/2005 | (479359) |
| 63 | 11/18/2005 | (479360) |
| 64 | 11/28/2005 | (437674) |
| 65 | 12/20/2005 | (479361) |

66 01/18/2006 (479362)
 67 02/21/2006 (479357)
 68 03/15/2006 (479358)
 69 04/18/2006 (505122)
 70 05/16/2006 (505123)
 71 06/19/2006 (505124)
 72 06/20/2006 (505125)
 73 06/20/2006 (505126)
 74 08/21/2006 (527426)
 75 09/25/2006 (527427)
 76 10/23/2006 (551163)
 77 10/29/2006 (514877)
 78 11/21/2006 (551164)
 79 11/30/2006 (517087)
 80 12/18/2006 (551165)
 81 02/23/2007 (537673)
 82 03/07/2007 (543073)
 83 03/09/2007 (537412)
 84 03/15/2007 (543063)
 85 03/15/2007 (540130)
 86 03/15/2007 (540132)
 87 03/26/2007 (553889)
 88 03/30/2007 (532739)
 89 04/10/2007 (512544)
 90 04/10/2007 (539962)
 91 04/13/2007 (542039)

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

Date: 10/31/2002 (223141)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2003 (322670)
 Self Report? YES. Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2003 (322672)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2003 (322673)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2003 (322674)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2003 (322675)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2003 (322676)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2006 (517087)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(f)(4)(B)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(4)
 Description: During the investigation and records review, it was noted that the facility did not

provide verification of contingency plan submittal to police, fire departments, hospitals,
and local emergency responders

Date: 04/13/2007 (542039)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PA 56318, Special Condition 7E

Description: Failure to cap/plug open-ended line. The lines were leaking above 500 ppm. VOC.

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

2007 OCT 10 AM 8:23



CHIEF CLERKS OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CHANNEL SHIPYARD COMPANY, INC.
RN100218429

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0701-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Channel Shipyard Company, Inc. ("Channel Shipyard") 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 Channel Shipyard presented this agreement to the Commission.

Channel Shipyard understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Channel Shipyard agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Channel Shipyard.

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

I. FINDINGS OF FACT

1. Channel Shipyard owns and operates a barge cleaning operation at 999 South Lynchburg Road in Baytown, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation that began on November 6, 2006, TCEQ staff determined Channel Shipyard failed to operate the thermal oxidizer ("TO") properly and control a vent gas stream containing benzene from being emitted through the TO. Specifically, on June 2, 2006, Channel Shipyard failed to operate the TO at or greater than 1,300 degrees Fahrenheit ("°F"), while degassing a barge containing benzene. The TO temperature fell below 1,300°F from 7:19 a.m. to 7:45 a.m. The Lynchburg Ferry Continuous Air Monitoring Site (CAMS 23/1015) located 625 feet south and directly downwind of the TO detected an average hourly benzene concentration of 400 parts per billion ("ppb") from 7:00 to 8:00 a.m. on June 2, 2006. The hourly average benzene concentrations were 2.3 ppb and 115 ppb from 6:00 to 7:00 a.m. and 8:00 to 9:00 a.m., respectively.
4. Channel Shipyard received notice of the violations on April 12, 2007.

II. CONCLUSIONS OF LAW

1. Channel Shipyard is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Channel Shipyard failed to operate the thermal oxidizer properly and control a vent gas stream containing benzene from being emitted through the TO on June 2, 2006, in violation of 30 TEX. ADMIN. CODE §§ 115.121(a)(1), 115.122(a)(1)(A), and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Channel Shipyard for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Channel Shipyard has paid the Ten Thousand Dollar (\$10,000) administrative penalty.

III. ORDERING PROVISIONS

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

1. Channel Shipyard is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Channel Shipyard's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth

by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Channel Shipyard Company, Inc., Docket No. 2007-0701-AIR-E" to:

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

2. Channel Shipyard shall undertake the following technical requirements:

- a. Implement improvements to designs, operations, and/or maintenance practices that address the causes leading to the June 2, 2006 benzene release from the thermal oxidizer that are designed to prevent recurrence of same or similar incidents; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Channel Shipyard. Channel Shipyard is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Channel Shipyard fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Channel Shipyard's failure to comply is not a violation of this Agreed Order. Channel Shipyard shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Channel Shipyard shall notify the Executive Director within seven days after Channel Shipyard becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Channel Shipyard shall be made in writing to the Executive Director. Extensions are not effective until Channel Shipyard receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Channel Shipyard if the Executive Director determines that Channel Shipyard has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against Channel Shipyard in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

~~6-29-07~~ 9/7/07
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Channel Shipyard Company, Inc. I am authorized to agree to the attached Agreed Order on behalf of Channel Shipyard Company, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Channel Shipyard Company, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

6-29-07
Date

H. Dennis Steger, Pres.
Name (Printed or typed)
Authorized Representative of
Channel Shipyard Company, Inc.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.