EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1522-AIR-E **TCEQ ID:** RN100711118 **CASE NO.:** 31043

RESPONDENT NAME: Crown Cork & Seal USA, Inc.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Crown Cork & Seal, 2501 North Frazier Street, Conroe, Montgomery County

TYPE OF OPERATION: Can manufacturing

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 22, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Sherronda Martin, Enforcement Division, Enforcement Section III, MC R-12, (713) 767-3680; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Mr. Cesar Bautista, Houston Regional Office, MC R-12, (713) 767-3722

Respondent: CT Corporation System, Registered Agent, Crown Cork & Seal USA, Inc., 350 North St. Paul, Dallas, Texas 75201
Mr. George R. Rice, Plant Manager, Crown Cork & Seal USA, Inc., 2501 North Frazier Street, Conroe, Texas 77303

Respondent's Attorney: Not represented by counsel on this enforcement matter

RESPONDENT'S NAME: Crown Cork & Seal USA, Inc.
DOCKET NO.: 2006-1522-AIR-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** June 15, 2006 **Date of NOE Relating to this Case:** August 11, 2006 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **AIR** Failed to prevent unauthorized emissions during a 13-hour emissions event on May 16, 2006. Specifically, the unauthorized release to the atmosphere consisted of 120 pounds of diethylene glycol monohexyl ether, 223 pounds of dimethylethanolamine, and 571 pounds of 2-butoxyethanol. Since these emissions could have been avoided by better operation practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense [30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 75271, Special Condition 3 and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $3,875 **Total Deferred:** $775 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $3,100 **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, complete improvements to operation practices to prevent the reoccurrence of same or similar emissions events as that occurring on May 16, 2006; and b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.

Attachment: Site Compliance History

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

DATES					
Assigned	21-Aug-2006				
PCW	28-Sep-2006	Screening	29-Aug-2006	EPA Due	26-May-2007

RESPONDENT/FACILITY INFORMATION

Respondent	Crown Cork & Seal USA Inc.		
Reg. Ent. Ref. No.	RN100711118		
Facility/Site Region	12-Houston	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	31043	No. of Violations	1
Docket No.	2006-1522-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Sherronda Martin
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 55% Enhancement *Subtotals 2, 3, & 7* $1,375

Notes: The penalty was enhanced by five NOVs for the same or similar violations, five NOVs for unrelated violations, and one 1660 agreed 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 EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

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

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$71
Approx. Cost of Compliance	$1,500

SUM OF SUBTOTALS 1-7 Final Subtotal $3,875

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:

Final Penalty Amount $3,875

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $3,875

DEFERRAL 20% Reduction Adjustment -$775

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $3,100

Screening Date	29-Aug-2006	**Docket No.** 2006-1522-AIR-E	**PCW**
Respondent	Crown Cork & Seal USA Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	31043		*PCW Revision April 25, 2006*
Reg. Ent. Reference No.	RN100711118		
Media [Statute]	Air Quality		
Enf. Coordinator	Sherronda Martin		

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)*	5	25%
	Other written NOVs	5	10%
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 judgements 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*	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) **55%**

>> 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 by five NOVs for the same or similar violations, five NOVs for unrelated violations, and one 1660 agreed order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **55%**

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	29-Aug-2006
Docket No.	2006-1522-AIR-E
Respondent	Crown Cork & Seal USA Inc.
Case ID No.	31043
Reg. Ent. Reference No.	RN100711118
Media [Statute]	Air Quality
Enf. Coordinator	Sherronda Martin

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 116.115(c) and NSR Permit No. 75271, Special Condition No. 3

Secondary Rule Cite(s) Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions during a 13-hour emissions event on May 16, 2006. Specifically, the unauthorized release to the atmosphere consisted of 120 pounds of diethylene glycol monohexyl ether, 223 pounds of dimethylethanolamine, and 571 pounds of 2-butoxyethanol. Since these emissions could have been avoided by better operation practices, the emissions do not meet the demonstrations in 30 Tex. Admin. Code § 101.222 and are not subject to an affirmative defense. This violation was documented during an investigation conducted on June 15, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	1

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $71

Statutory Limit Test

Violation Final Penalty Total $3,875

This violation Final Assessed Penalty (adjusted for limits) $3,875

Economic Benefit Worksheet

Respondent: Crown Cork & Seal USA Inc.
Case ID No.: 31043
Reg. Ent. Reference No.: RN100711118
Media [Statute]: Air Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$1,500	16-May-2006	25-Apr-2007	0.9	$71	n/a	$71
Notes for DELAYED costs	Estimated costs to improve the procedures, equipment, and communications that contributed to the emission event. The Date Required is the date of the emission event and the Final Date is the date the Respondent is expected to return to compliance.						
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: $1,500

TOTAL: $71

Compliance History

Customer/Respondent/Owner-Operator:	CN601465230	Crown Cork & Seal USA, Inc.	Classification: AVERAGE	Rating: 3.10
Regulated Entity:	RN100711118	CROWN CORK & SEAL	Classification: AVERAGE	Site Rating: 4.46

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD092914662
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	38054
	AIR NEW SOURCE PERMITS	PERMIT	17848
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	MQ0117B
	AIR NEW SOURCE PERMITS	PERMIT	75271
	AIR NEW SOURCE PERMITS	AFS NUM	0034
	AIR OPERATING PERMITS	ACCOUNT NUMBER	MQ0117B
	AIR OPERATING PERMITS	PERMIT	1036

Location: 2501 N FRAZIER ST, CONROE, TX, 77303 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 05, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 05, 2001 to October 05, 2006

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

Name: Sherronda Martin Phone: 713-767-3680

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: 12/15/2005 Admin. Order 2005-0675-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
30 TAC Chapter 116, SubChapter D 116.315(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain authorization to operate. Specifically, Air Permit 17848 expired on August 1, 2003 and an alternative authorization to operate was not obtained prior to the permit's expiration.

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. (CCEDS Inv. Track. No.)

1 04/26/2004 (252443)
2 08/31/2004 (272254)
3 06/16/2003 (114077)
4 02/21/2006 (440115)
5 04/28/2006 (463917)
6 05/20/2005 (380978)
7 08/20/2002 (4641)
8 08/10/2006 (486973)
9 06/02/2004 (274039)
10 06/02/2004 (274040)
11 08/14/2006 (487167)

12 05/11/2006 (456210)
13 06/10/2004 (251396)
14 08/05/2005 (396842)
15 03/23/2005 (373588)
16 07/06/2006 (457533)
17 06/02/2004 (272841)
18 06/09/2005 (393668)
19 12/17/2004 (340681)
20 06/30/2006 (480828)
21 09/17/2003 (249114)
22 12/30/2004 (340618)
23 04/24/2006 (461451)
24 02/14/2005 (348821)
25 10/06/2004 (333815)
26 12/10/2004 (285252)
27 03/16/2005 (345965)

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

Date: 08/05/2005 (396842)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to notify the Agency in their deviation report that their NSR permit # 17848 has expired in August 2003.

Date: 12/10/2004 (285252)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT IA
Description: Failed to prevent to prevent the emergency stop button from being activated, thus causing the incinerator to shutdown, resulting in unauthorized emissions.

Date: 06/11/2004 (251396)
Self Report? NO Classification: Minor
Rqmt Prov: OP IA
Description: Failed to have a certified observer under EPA Method 9, conduct the opacity readings submitted by the RE in their annual compliance certification for 2003 and 2004.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT IA
Description: Failure to keep the temperature of the thermal oxidizer at the 1500 degree Fahrenheit required by the permit. The temperature fell by almost 160 degree Fahrenheit for a period of 15 minutes on August 16, 2003.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT IA
Description: Failure to store sponges or cloths that have been used for cleaning volatile organic compounds in sealed containers.

Date: 02/21/2006 (440115)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT IA
Description: Crown failed to control emissions from the beverage can coating line due to the failure of the actuator motor.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 101, SubChapter F 101.201(b)(1)
Description: Crown failed to submit the Initial Notification of the reportable incident (# 66069) within 24 hours of discovery and the final report within 14 days of the end of the incident.

Date: 04/26/2004 (252443)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)(1)(I)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)[G]

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to identify the estimated quantities of contaminants on an initial shutdown notification, resulting in unauthorized emissions.

Date: 07/06/2006 (457533)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter E 115.412(1)(C)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP IA

Description: Failure to have a permanent label summarizing the operating requirements attached to the cleaner.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.495(b)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP IA

Description: Failure to provide quaterly reports to the Administrator of each instance in which the volume weighted average of the total mass of VOC per volume of coating solids, after the control device.

Date: 06/20/2003 (114077)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Rqmt Prov: OP IA

Description: Failure to submit the annual compliance certification within thirty (30) days after the certification end date.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)

Rqmt Prov: OP IA

Description: Failure to submit the semiannual deviation report within thirty (30) days after the certification end date.

Date: 08/21/2002 (4641)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Rqmt Prov: OP IA

Description: Failure to submit the annual compliance certification within thirty (30) days after the certification end date.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)

Rqmt Prov: OP IA

Description: Failure to submit the semiannual deviation report within thirty (30) days after the certification end date.

Date: 08/10/2006 (486973)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

Description: Failure to report initial notification in a timely manner.

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 IA

Description: Failure to prevent unauthorized emissions of volatile organic compounds (VOC).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PA IA

Description: Operated the process units while the thermal oxidizer was shutdown.

Date: 05/11/2006 (456210)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)[G]

30 TAC Chapter 101, SubChapter F 101.201(b)(8)

Description: Failure to submit initial notification in a timely manner and identify the permit number.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PA IA

Description: Failure to comply with the emissions events reporting requirements, resulting in unauthorized emissions.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CROWN CORK & SEAL USA, INC.	§	
RN100711118	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1522-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Crown Cork & Seal USA, Inc. ("Crown") 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 Crown appear before the Commission and together stipulate that:

1. Crown owns and operates a can manufacturing facility at 2501 North Frazier Street in Conroe, Montgomery County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Crown agree that the Commission has jurisdiction to enter this Agreed Order, and that Crown is subject to the Commission's jurisdiction.

4. Crown received notice of the violations alleged in Section II ("Allegations") on or about August 16, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Crown of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Eight Hundred Seventy-Five Dollars ($3,875) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Crown has paid Three Thousand One Hundred Dollars ($3,100) of the administrative penalty and Seven Hundred Seventy-Five Dollars ($775) is deferred contingent upon Crown's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Crown fails to

timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Crown to pay all or part of the deferred penalty.

7. 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.

8. The Executive Director of the TCEQ and Crown have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. 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 Crown has not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. 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.

II. ALLEGATIONS

As owner and operator of the Plant, Crown is alleged to have failed to prevent unauthorized emissions during a 13-hour emissions event on May 16, 2006, in violation of 30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 75271, Special Condition 3 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 15, 2006. Specifically, the unauthorized release to the atmosphere consisted of 120 pounds of diethylene glycol monohexyl ether, 223 pounds of dimethylethanolamine, and 571 pounds of 2-butoxyethanol. Since these emissions could have been avoided by better operation practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense.

III. DENIALS

Crown generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Crown pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Crown's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: Crown Cork & Seal USA, Inc., Docket No. 2006-1522-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. It is further ordered that Crown shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, complete improvements to operation practices to prevent the reoccurrence of same or similar emissions events as that occurring on May 16, 2006; and

b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.

The certification required by Ordering Provision 2.b. shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify that under the 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 obtained 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:

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

3. The provisions of this Agreed Order shall apply to and be binding upon Crown. Crown 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 Crown 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, Crown's failure to comply is not a violation of this Agreed Order. Crown shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Crown shall notify the Executive Director within seven days after Crown 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 Crown shall be made in writing to the Executive Director. Extensions are not effective until Crown receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Crown 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.

7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Crown, or three days after the date on which the Commission mails notice of the Order to Crown, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

2/14/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Signature

11/1/06
Date

GEORGE R. RICE
Name (Printed or typed)
Authorized Representative of
Crown Cork & Seal USA, Inc.

PLANT MANAGER
Title

State of Texas
County of Montgomery

MARY KETCHER
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
5-19-2009

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.

This instrument was acknowledged before me this 1st day of November 2006.
Mary Ketcher, State of Texas Notary Public