

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1656-AIR-E **TCEQ ID:** RN100212109 **CASE NO.:** 31181

RESPONDENT NAME: Total Petrochemicals USA, Inc.

ORDER TYPE:

CHIEF CLERKS OFFICE

<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: La Porte Plant, 1818 South Battleground Road, La Porte, Harris County

TYPE OF OPERATION: Petrochemical manufacturing

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There are two pending enforcement actions regarding this facility location, Docket Nos. 2006-2092-AIR-E and 2006-1040-AIR-E.

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 February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Section III, MC R-12, (713) 422-8931; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Ms. Leslie Dixon, Houston Regional Office, MC R-12, (713) 767-3707

Respondent: Mr. Darrell Bailey, Plant Manager, Total Petrochemicals USA, Inc., P.O. Box 888, La Porte, Texas 77571

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

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 of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 17, 2006</p> <p>Date of NOE Relating to this Case: September 8, 2006 (NOE)</p> <p>Background Facts: This was a routine record review conducted in response to an emission event report submitted by the Respondent. Two violations were documented.</p> <p>AIR</p> <p>1) Failed to prevent unauthorized emissions during an emission event that started on June 26, 2006. Since the emissions event was not properly reported, Total failed to meet the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE §101.222 [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 21538, Special Condition No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to make initial notification within twenty-four hours after discovering the emissions event that started on June 26, 2006 [30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$12,699</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: \$12,699</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <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 Order Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violations.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Total conducted employee training on September 22, 2006, which detailed the requirements and procedures for properly reporting emissions events.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision April 25, 2006

DATES	Assigned	11-Sep-2006	Screening	13-Sep-2006	EPA Due	05-Jun-2007
	PCW	25-Sep-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Total Petrochemicals USA, Inc.
Reg. Ent. Ref. No.	RN100212109
Facility/Site Region	12-Houston
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	31181	No. of Violations	2
Docket No.	2006-1656-AIR-E	Order Type	Findings
Media Program(s)	Air Quality	Enf. Coordinator	Rebecca Johnson
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	159% Enhancement	Subtotals 2, 3, & 7	\$8,109
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Notes
Penalty enhancement due to five same or similar NOV's, five unrelated NOV's, ten self-reported effluent discharge violations, four agreed orders with a denial of liability, and one agreed order without a denial of liability. Penalty reduction due to one Notice of Audit submitted.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes
The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	10% Reduction	Subtotal 5	-\$510
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with a small x)

Notes
The respondent completed corrective actions on September 22, 2006.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$6	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,699
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$12,699
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,699
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
No deferral is recommended since this case involves a findings order.

PAYABLE PENALTY	\$12,699
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Screening Date	13-Sep-2006	Docket No.	2006-1656-AIR-E	PCW
Respondent	Total Petrochemicals USA, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	31181			<i>PCW Revision April 25, 2006</i>
Reg. Ent. Reference No.	RN100212109			
Media [Statute]	Air Quality			
Enf. Coordinator	Rebecca Johnson			

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 (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	15	30%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	4	80%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
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) 159%

>> 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

Penalty enhancement due to five same or similar NOVs, five unrelated NOVs, ten self-reported effluent discharge violations, four agreed orders with a denial of liability, and one agreed order without a denial of liability. Penalty reduction due to one Notice of Audit submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 159%

Screening Date	13-Sep-2006	Docket No.	2006-1656-AIR-E	PCW
Respondent	Total Petrochemicals USA, Inc.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	31181		<i>PCW Revision April 25, 2006</i>	
Reg. Ent. Reference No.	RN100212109			
Media [Statute]	Air Quality			
Enf. Coordinator	Rebecca Johnson			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 116.115(c) and Air Permit No. 21538, Special Condition No. 6			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failure to prevent unauthorized emissions. Specifically, during the emissions event that started on June 26, 2006, 2,226 pounds of unauthorized propylene emissions were released from the Train 8 Flare over a period of seventy hours and forty-five minutes. Since the emissions event was not properly reported, Total Petrochemical USA, Inc. failed to meet the demonstration criteria for an affirmative defense under 30 Tex. Admin. Code § 101.222.			
			Base Penalty	\$10,000

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

		Harm			
Release	Major	Moderate	Minor		
Actual		X			Percent <input type="text" value="50%"/>
Potential					

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
						Percent <input type="text"/>
Matrix Notes	The Houston-Galveston ozone nonattainment area has been exposed to a significant amount of highly reactive volatile organic compounds that did not exceed levels that are protective of human health or environmental receptors as a result of the violation.					

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events Number of violation days

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	X

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$12,450"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$12,450"/>	

Economic Benefit Worksheet

Respondent Total Petrochemicals USA, Inc.
 Case ID No. 31181
 Reg. Ent. Reference No. RN100212109
 Media [Statute] Air Quality
 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
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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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Economic benefit for this violation is included in Violation No. 2.

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: Economic benefit for this violation is included in Violation No. 2.

Approx. Cost of Compliance TOTAL

Screening Date	13-Sep-2006	Docket No.	2006-1656-AIR-E	PCW
Respondent	Total Petrochemicals USA, Inc.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	31181	<i>PCW Revision April 25, 2006</i>		
Reg. Ent. Reference No.	RN100212109			
Media [Statute]	Air Quality			
Enf. Coordinator	Rebecca Johnson			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 101.201(a)(1)(B)"/>			
Secondary Rule Cite(s)	<input type="text" value="Tex. Health & Safety Code § 382.085(b)"/>			
Violation Description	<input type="text" value="Failure to make initial notification within twenty-four hours after discovering the emissions event that started on June 26, 2006. Specifically the emissions event was discovered on June 26, 2006, however it was not reported until June 28, 2006."/>			
Base Penalty	<input type="text" value="\$10,000"/>			

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

		Harm			
Release		Major	Moderate	Minor	
Actual	OR	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Potential		<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events Number of violation days

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$6"/>	Violation Final Penalty Total <input type="text" value="\$249"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$249"/>	

Economic Benefit Worksheet

Respondent: Total Petrochemicals USA, Inc.
 Case ID No.: 31181
 Reg. Ent. Reference No.: RN100212109
 Media [Statute]: Air Quality
 Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$500	27-Jun-2006	22-Sep-2006	0.2	\$6	n/a	\$6
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to conduct employee training on emissions event reporting. Date required based on the earliest date of noncompliance. Final date based on the 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 \$500

TOTAL \$6

Compliance History

Customer/Respondent/Owner-Operator: CN600582399 Total Petrochemicals USA, Inc. Classification: Average Rating: 3.04
 Regulated Entity: RN100212109 TOTAL PETROCHEMICALS USA Classification: Average Site Rating: 3.34

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0036S
	AIR OPERATING PERMITS	PERMIT	1293
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010880
	AIR NEW SOURCE PERMITS	PERMIT	3908B
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0036S
	AIR NEW SOURCE PERMITS	PERMIT	54961
	AIR NEW SOURCE PERMITS	PERMIT	2560
	AIR NEW SOURCE PERMITS	PERMIT	16138
	AIR NEW SOURCE PERMITS	PERMIT	5206B
	AIR NEW SOURCE PERMITS	PERMIT	2269C
	AIR NEW SOURCE PERMITS	PERMIT	41719
	AIR NEW SOURCE PERMITS	PERMIT	21538
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX989
	AIR NEW SOURCE PERMITS	PERMIT	18153
	AIR NEW SOURCE PERMITS	PERMIT	54856
	AIR NEW SOURCE PERMITS	REGISTRATION	72513
	AIR NEW SOURCE PERMITS	REGISTRATION	73925
	AIR NEW SOURCE PERMITS	REGISTRATION	77497
	AIR NEW SOURCE PERMITS	REGISTRATION	77776
	AIR NEW SOURCE PERMITS	REGISTRATION	77782
	AIR NEW SOURCE PERMITS	REGISTRATION	78963
	AIR NEW SOURCE PERMITS	REGISTRATION	78962
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0036S
	AIR NEW SOURCE PERMITS	AFS NUM	0008
	AIR NEW SOURCE PERMITS	PERMIT	2560
	AIR NEW SOURCE PERMITS	PERMIT	16138
	AIR NEW SOURCE PERMITS	PERMIT	2269C
	AIR NEW SOURCE PERMITS	PERMIT	5206B
	AIR NEW SOURCE PERMITS	PERMIT	5236B
	AIR NEW SOURCE PERMITS	PERMIT	21538
	AIR NEW SOURCE PERMITS	PERMIT	35874
	AIR NEW SOURCE PERMITS	PERMIT	41719
	WASTEWATER	PERMIT	WQ0001000000
	WASTEWATER	PERMIT	TPDES0007421
	WASTEWATER	PERMIT	TX0007421
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD086981172
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30551
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50374
	WATER LICENSING	LICENSE	1010880
	STORMWATER	PERMIT	TXR05M372

Location: 1818 S BATTLEGROUND RD, DEER PARK, TX, 77571 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 13, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 11, 2001 to September 11, 2006

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

Name: Rebecca Johnson Phone: (713) 422-8931

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? | Yes |

3. If Yes, who is the current owner?

Total Petrochemicals USA, Inc.

4. If Yes, who was/were the prior owner(s)?

Fina Oil and Chemical Company

5. When did the change(s) in ownership occur?

2/19/2002

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: 02/10/2005

ADMINORDER 2003-0089-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: SC1 PERMIT

Description: Failed to comply with emission limits stated in the Maximum Allowable Emission Rate Table (MAERT) for the Monument No. 2 Flare at emission point number (EPN) ES-205 and the Waste Heat Incinerator at EPN ES-202.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: SC3 PERMIT

Description: Failed to comply with the emission limits stated in the MAERT for the Train 8 Flare at EPN ES-805, respectively.

Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to make the notations of observations in the flare operation log regarding the EPNs ES-205 (Permit No. 3908B) and ES-805 (Permit No. 21538). Specifically, there was no documentation that the flares were observed, time of day, and whether or not they were smoking.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2[G]
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC4 PERMIT

Description: Failed to make the first attempt to repair components with tag numbers 05068.2, 00925, 01112, 00012.1, 00076.1, 00305, 00446, 00669.1, 02637.2, 02707, 02715.1 within 5 calendar days after the leak was discovered and to complete the repair for the component with tag number 00008 within 15 days after the leak was discovered.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8[G]

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

Rqmt Prov: SC4 PERMIT

Description: Failed to conduct the initial performance test to determine the destruction efficiency of the Blender/Feeder Vent Gas Catalytic Oxidizer at EPN ES-975.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 60, Subpart DDD 60.565(k)

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

Rqmt Prov: SC4 PERMIT

Description: Failed to submit the semiannual reports.

Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(C)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to maintain the records of operating hours and abrasive material usage for the outside abrasive blast cleaning activity.

Effective Date: 03/06/2006

ADMINORDER 2004-2037-IWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: Permit Condition 2.g. OP

Description: Failure to prevent unauthorized discharges (UDs) from the Outfall 001 collection system.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations OP

Description: Failure to comply with the permitted effluent limits for total suspended solids (TSS) and flow at Outfall 001.

Effective Date: 09/30/2005

ADMINORDER 2005-0146-AIR-E

Classification: Moderate

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

Rqmt Prov: 21538, S.C. 6 & 12.C PERMIT

Description: Failed to prevent unauthorized emissions at the Plant from the Train 8 Flare (EPN ES-805), causing the release of 3, 466 pounds (lbs.) of propylene, 1,724 lbs. of carbon monoxide, 215 lbs. of nitrogen oxide, 24 lbs. of nitrogen dioxide to the atmosphere.

Classification: Moderate

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

Rqmt Prov: 3908B, S.C. 1 PERMIT

Description: Failed to prevent unauthorized emissions at the Plant from the Monument 2 Flare (EPN ES-205), causing the release of 4,868 pounds (lbs.) of propylene, 1,724 lbs. of carbon monoxide, 215 lbs. of nitrogen oxide, 24 lbs. of nitrogen dioxide to the atmosphere.

Effective Date: 02/05/2006

ADMINORDER 2005-0540-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT
Special Condition 2 PERMIT

Description: Failed to prevent unauthorized emissions of 346.98 pounds (lbs) of volatile organic compounds (VOCs) and failed to operate the flare with a flame at all times.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Air Permit No. 21538, SC 12B PERMIT
TCEQ Air Permit No. 21538, SC 6 PERMIT

Description: Failed to prevent unauthorized emissions of 319.91 lbs of VOCs and failed to operate the flare with a flame at all times.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions of 4,892.56 lbs of VOCs.

Effective Date: 09/30/2005

ADMINORDER 2005-0171-AIR-E

Classification: Moderate

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

Rqmt Prov: TCEQ Air Permit No. 21538, SC #1 PERMIT

Description: Exceeded permit limits during an avoidable emissions event.

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	05/22/2003	(160544)
2	05/23/2002	(160543)
3	04/16/2003	(160540)
4	04/11/2002	(160539)
5	10/22/2004	(337805)
6	10/08/2004	(335547)
7	06/22/2006	(482925)
8	08/24/2004	(352560)
9	03/18/2003	(296374)
10	02/28/2006	(457140)
11	09/05/2006	(497455)
12	01/06/2005	(291924)
13	04/12/2004	(296375)
14	09/20/2004	(352561)
15	02/28/2006	(457170)
16	08/10/2005	(404200)
17	05/26/2004	(272485)
18	07/09/2004	(296376)
19	06/29/2006	(481055)
20	10/13/2004	(352562)
21	11/16/2004	(352563)
22	07/22/2004	(280434)
23	05/21/2004	(296378)
24	11/23/2004	(352564)
25	07/12/2005	(398015)
26	07/08/2005	(395152)
27	03/24/2003	(160535)
28	10/19/2004	(335923)
29	02/24/2005	(350282)
30	06/21/2004	(296380)
31	05/17/2006	(465592)
32	04/01/2002	(160534)
33	01/05/2004	(255495)
34	06/07/2004	(296382)
35	08/03/2006	(487671)
36	02/20/2003	(160532)
37	09/19/2003	(296385)
38	04/28/2005	(374278)
39	06/23/2006	(483058)
40	08/01/2003	(147147)
41	02/19/2002	(160531)
42	01/13/2005	(345723)
43	10/21/2003	(296387)
44	11/24/2003	(296388)
45	02/14/2006	(468736)
46	12/29/2003	(296389)
47	06/29/2006	(484017)
48	10/14/2003	(296390)

49 11/28/2005	(468737)
50 12/13/2004	(338130)
51 03/01/2005	(349965)
52 08/29/2003	(152894)
53 07/05/2005	(395955)
54 01/24/2006	(468738)
55 05/16/2006	(463577)
56 12/30/2002	(9673)
57 07/14/2006	(484429)
58 12/31/2001	(246586)
59 01/24/2006	(468739)
60 08/04/2006	(345748)
61 12/20/2004	(338479)
62 07/08/2005	(395145)
63 03/24/2005	(349942)
64 04/01/2005	(375065)
65 02/23/2006	(455888)
66 01/07/2005	(338040)
67 06/26/2003	(27171)
68 08/23/2005	(404907)
69 02/23/2005	(349878)
70 03/20/2006	(498411)
71 05/01/2006	(498412)
72 06/23/2005	(379202)
73 12/14/2004	(338399)
74 06/03/2005	(419886)
75 05/30/2006	(498413)
76 12/29/2004	(343604)
77 05/26/2006	(467560)
78 06/24/2005	(419887)
79 06/20/2006	(498414)
80 07/26/2006	(487037)
81 03/24/2005	(372227)
82 01/16/2003	(160574)
83 07/13/2006	(498415)
84 04/25/2006	(458264)
85 01/14/2002	(160573)
86 12/20/2004	(295860)
87 06/07/2006	(498416)
88 04/08/2005	(348307)
89 01/07/2005	(292094)
90 07/12/2006	(484022)
91 04/24/2006	(463428)
92 12/17/2002	(160570)
93 09/01/2004	(279062)
94 04/27/2006	(456175)
95 03/16/2004	(265480)
96 05/31/2006	(480475)
97 01/10/2002	(160569)
98 06/03/2005	(376795)
99 11/21/2005	(435975)
100 08/03/2006	(488357)
101 12/13/2004	(336657)
102 01/26/2005	(342525)
103 03/29/2004	(263338)
104 11/26/2002	(17533)
105 08/12/2002	(4743)
106 01/07/2005	(336686)
107 01/10/2005	(262199)
108 12/04/2002	(160566)
109 12/20/2004	(338218)
110 02/28/2006	(457150)
111 11/19/2001	(160565)
112 02/22/2005	(382035)
113 02/24/2005	(350275)
114 08/17/2006	(484538)
115 02/21/2006	(455020)

116 03/21/2005 (382036)
 117 03/22/2005 (382037)
 118 10/24/2002 (160562)
 119 12/27/2004 (382038)
 120 01/21/2003 (20384)
 121 08/25/2005 (405920)
 122 10/24/2001 (160561)
 123 11/12/2004 (335862)
 124 08/19/2005 (441002)
 125 09/19/2005 (441003)
 126 03/29/2005 (371421)
 127 09/26/2002 (160559)
 128 03/02/2005 (372226)
 129 07/08/2005 (395147)
 130 10/21/2005 (441004)
 131 09/24/2001 (160558)
 132 09/12/2005 (441005)
 133 05/31/2006 (480470)
 134 12/31/2004 (290574)
 135 09/01/2004 (278961)
 136 03/14/2003 (160556)
 137 08/08/2002 (2355)
 138 06/27/2005 (392492)
 139 01/31/2003 (23088)
 140 08/11/2004 (286884)
 141 03/08/2005 (372848)
 142 02/27/2006 (456559)
 143 08/22/2002 (160555)
 144 12/31/2004 (291344)
 145 09/08/2006 (489217)
 146 09/08/2003 (247910)
 147 05/12/2004 (269428)
 148 11/03/2005 (418739)
 149 07/21/2003 (160552)
 150 05/16/2006 (463907)
 151 12/29/2004 (343603)
 152 01/06/2005 (337400)
 153 07/22/2002 (160551)
 154 02/25/2006 (456928)
 155 02/15/2006 (453303)
 156 10/29/2001 (78300)
 157 06/02/2004 (269938)
 158 12/10/2001 (78301)
 159 12/17/2002 (13606)
 160 03/11/2002 (78302)
 161 12/28/2004 (338056)
 162 06/14/2004 (274068)
 163 11/03/2004 (338415)
 164 05/16/2006 (465691)
 165 05/12/2004 (269433)
 166 10/18/2004 (335599)
 167 08/23/2002 (2246)
 168 09/05/2006 (509499)
 169 11/21/2002 (13305)
 170 06/16/2003 (160548)
 171 09/07/2006 (510865)
 172 11/11/2004 (290843)
 173 06/24/2002 (160547)
 174 07/05/2005 (396243)
 175 02/23/2004 (296371)
 176 06/22/2006 (482832)

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

Date: 07/08/2005

(395145)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
 Description: Failure to update the Notice of Registration (NOR)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)
 30 TAC Chapter 335, SubChapter E 335.112(a)(8)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174
 Description: Failure to conduct the inspection of containers on a regular weekly basis

Date: 08/31/2004 (352561)
 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: 02/28/2003 (160535)
 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: 02/28/2002 (160534)
 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: 01/31/2003 (160532)
 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: 02/15/2006 (453303)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 Rqmt Prov: OP IA
 PERMIT IA
 Description: Exceeded their MAERT limit because the temperature in the Enclosed Vapor Combustor was not maintain in order to achieve the destruction efficiency for VOC.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 Rqmt Prov: OP IA
 PERMIT IA
 Description: Exceeded their VOC emissions limits in Train 7.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 Rqmt Prov: OP IA
 PERMIT IA
 Description: Failed to measure the residual VOC concentration in Train 7 using an approved TCEQ test method.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.146(4)

Rqmt Prov: OP IA
 PERMIT IA

Description: Failed to measure the residual VOC concentration in Trains 8 & 9 using an approved TCEQ test method.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)

Description: Failed to seal open-ended lines, which is a violation of 30 TAC 115.352(4) and 40 CFR 60.482-6 (a)(1).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP IA
 PERMIT IA

Description: Exceeded their MAERT emissions limit for the cooling tower, which is a violation of 30 TAC 116.115(b)(2)(F) and NSR 2269C S.C. 19.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.782(b)(1)

Description: Failed to preform a first attempt at repair for thirteen components, which is a violation of 30 TAC 115.782(b)(1) .

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(h)(2)

Description: Exceeded the 3 percent threshold of difficult to monitor valves in relation to the total number of valves, which is a violation of 40 CFR 60.482-7(h)(2).

Date: 12/31/2001 (246586)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 06/27/2006 (484538)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter C 37.251(d)

Description: Failure to provide a FT demonstration 90 days after company's fiscal year - but was subsequently resolved on 7-21-06 when we received a financial test demonstration.

Date: 01/17/2003 (20384)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter O 305.535(c)(1)[G]

Description: Failure to prevent unauthorized discharges from the collection system.

Date: 05/31/2005 (419887)

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: 05/31/2006 (498414)

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: 07/31/2005 (441002)

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: 08/01/2003 (147147)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.222(b)(2)
 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PERMIT IA
 Description: Failure to meet the hourly MAERT limit for VOC, CO, and NOx.

Date: 10/31/2002 (160566)
 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: 06/22/2005 (379202)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(2)
 Description: Failure to properly seal the end of a line containing VOCs

Date: 11/30/2004 (382038)
 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: 07/31/2002 (160555)
 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: 08/13/2002 (4743)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(2)(F)
 30 TAC Chapter 101, SubChapter A 101.6(a)(2)(G)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Description: Failure to estimate compound quantities, and failure to list actions taken to minimize emissions.

Date: 03/29/2004 (263338)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)(1)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PA IA
 Description: The facility failed to control unauthorized emissions.

Date: 01/06/2004 (255495)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(c)(4)
 Description: Atofina Petrochemicals, Inc. failed to make revisions to the second half of 2002,

and the first half 2003 semiannual reports.

Self Report? NO

Classification: Minor

Citation:

30 TAC Chapter 101, SubChapter A 101.20(1)

Description:

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(c)(2)(vii)
API failed to include facts why repairs of leaking components with list components tag numbers in the PP9 Train were not made within 15 days in their semiannual reports.
API failed to include facts why repairs of leaking components with list components tag numbers in the PP9 Train were not made within 15 days in thei

F. Environmental audits.

Notice of Intent Date: 04/16/2004

(274485)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOTAL PETROCHEMICALS USA,
INC.
RN100212109**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1656-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 Total Petrochemicals USA, Inc. ("Total") 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 Total presented this agreement to the Commission.

Total 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, Total 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 Total.

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

I. FINDINGS OF FACT

1. Total owns and operates a petrochemical manufacturing plant located at 1818 South Battleground Road, Deer Park, 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 a record review conducted on July 17, 2006, TCEQ staff documented the release of 2,226 pounds of unauthorized propylene emissions from the Train 8 Flare during an emissions event that started on June 26, 2006 and lasted seventy hours and forty-five minutes.
4. During a record review conducted on July 17, 2006, TCEQ staff documented that the initial notification for the emissions event that started on June 26, 2006, and was discovered on June 26, 2006, was not reported until June 28, 2006.
5. Total received notice of the violations on September 11, 2006.
6. The Executive Director recognizes that Total conducted employee training on September 22, 2006, which detailed the requirements and procedures for properly reporting emissions events.

II. CONCLUSIONS OF LAW

1. Total is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Total failed to prevent unauthorized emissions during an emission event that started on June 26, 2006, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 21538, Special Condition No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event was not properly reported, Total failed to meet the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. As evidenced by Finding of Fact No. 4, Total failed to make initial notification within twenty-four hours after discovering the emissions event that started on June 26, 2006, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Total 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.
5. An administrative penalty in the amount of Twelve Thousand Six Hundred Ninety-Nine Dollars (\$12,699) 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. Total has paid the Twelve Thousand Six Hundred Ninety-Nine Dollar (\$12,699) administrative penalty.

III. ORDERING PROVISIONS

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

1. Total is assessed an administrative penalty in the amount of Twelve Thousand Six Hundred Ninety-Nine Dollars (\$12,699), as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Total'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: Total Petrochemicals USA, Inc., Docket No. 2006-1656-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. The provisions of this Agreed Order shall apply to and be binding upon Total. Total is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. 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 Total if the Executive Director determines that Total has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. This Agreed Order, issued by the Commission, shall not be admissible against Total 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.
6. 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.
7. 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

3/2/07

Date

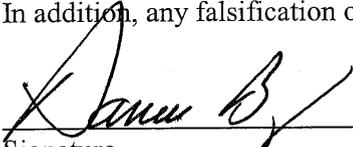
I, the undersigned, have read and understand the attached Agreed Order in the matter of Total Petrochemicals USA, Inc.. I am authorized to agree to the attached Agreed Order on behalf of Total Petrochemicals USA, Inc., and do agree to the specified terms and conditions. I further acknowledge that the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

I understand that by entering into this Agreed Order, Total Petrochemicals USA, 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 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

11-14-06

Date

DARRELL E. BAILEY

Name (printed or typed)
Authorized Representative
Total Petrochemicals USA, Inc.

PLANT MANAGER

Title