

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0797-MLM-E **TCEQ ID:** RN101975746 **CASE NO.:** 29879
RESPONDENT NAME: ExxonMobil Oil Corporation

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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 checked="" 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 checked="" 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: Magpetco Terminal, at the intersection of Port Neches Avenue and 1st Street, Jefferson County

TYPE OF OPERATION: Intermediate tank storage terminal

SMALL BUSINESS: Yes 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 December 4, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768

TCEQ Enforcement Coordinator: Ms. Jessica Rhodes, Enforcement Division, Enforcement Section III, MC 149, (512) 239-2879; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Ms. Lori J. Ryerkerk, Refinery Manager, ExxonMobil Oil Corporation, P.O. Box 3311, Beaumont, Texas 77704-3311

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>Dates of Investigations Relating to this Case: May 11, 2006 and May 8, 2006</p> <p>Date of NOE Relating to this Case: May 26, 2006 (NOE)</p> <p>Background Facts: These were routine investigations. Five violations were documented.</p> <p>AIR</p> <p>1) Failed to submit a timely and accurate annual compliance certification and associated deviation reports within 30 days of the end of the certification period [30 TEX. ADMIN. CODE §§ 122.146(2) and (5)(C), 122.143(4), 122.145(2)(A) and (B) and Federal Operating Permit No. O-02754, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to maintain the exterior color of uninsulated tanks exposed to the sun white or aluminum [NSR Permit No. 49133 Special Conditions No. 3.E., 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4) and Federal Operating Permit O-02754, General Terms and Conditions and Special Terms and Condition No. 6 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>WASTE</p> <p>3) Failed to prevent unauthorized discharges [30 TEX. ADMIN. CODE § 335.4].</p> <p>4) Failed to complete a hazardous waste determination and classify industrial solid waste [30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS § 262.11].</p> <p>5) Failed to notify of industrial solid waste activities including waste generated and waste management units [30 TEX. ADMIN. CODE § 335.6(c)].</p>	<p>Total Assessed: \$13,500</p> <p>Total Deferred: \$2,700 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,400</p> <p>Total Paid to General Revenue: \$5,400</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 (Air): <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Major Source (IHW): <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that:</p> <p>a. On April 20, 2006, ExxonMobil submitted the Annual Compliance Certification for the period February 27, 2005 to February 28, 2006 to the Beaumont Regional office.</p> <p>b. On August 30, 2006, ExxonMobil removed tanks 1509, 1560, 1561, and 1562 from service.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p> <p>3) The Order will also require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Submit the required corrected deviation reports for the deviations related to the exterior color of uninsulated tanks that occurred for the reporting period of March 3, 2005 through March 2, 2006;</p> <p>ii. Complete the removal, proper disposal and confirmation sampling of the hydrocarbon contaminated soil below the pipeline pursuant to the TCEQ Remediation Division guidance document entitled "Determining Which Releases are Subject to TRRP" revised October 21, 2003;</p> <p>iii. Complete a hazardous waste determination and waste classification for the waste in the two containers stored near tank 1523, in accordance with 30 TEX. ADMIN. CODE § 335.62; and</p> <p>iv. Submit a complete notification of all solid waste management activities (i.e., notification information on each waste and waste management unit) conducted at the Site.</p> <p>b. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a.i. through 3.a.iv.</p>

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: ExxonMobil Oil Corporation
Amount of Payable Penalty: Ten Thousand Eight Hundred Dollars (\$10,800)
Amount of Offset for the SEP: Five Thousand Four Hundred Dollars (\$5,400)
Type of SEP: Pre-approved
Third-Party Recipient: Jefferson County: Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles
Location of SEP: Jefferson County

The Texas Commission on Environmental Quality ("TCEQ"), agrees to offset a portion of the administrative penalty assessed in this Agreed Order under the condition that the Respondent shall perform and comply with the following Supplemental Environmental Project ("SEP") provisions. The amount of the offset for the SEP is conditioned upon completion of the project in accordance with the terms set forth below.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Third-Party Recipient will contribute to Jefferson County for its Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles. Specifically, the contribution will be used to purchase alternative fueled equipment such as propane or electric powered lawn mowers, propane powered light duty and heavy equipment, and alternative fueled vehicles and retire diesel and gasoline powered equipment and vehicles. Jefferson County will also convert current equipment and vehicles to alternative fueled equipment in order to lower emissions.

All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing air emissions generated by gasoline and diesel powered equipment and vehicles in the Beaumont/Port Arthur ozone non-attainment area.

ExxonMobil Oil Corporation
Agreed Order
Attachment A

C. Minimum Expenditure

The Amount of Offset for the SEP is based upon the Respondent's agreement to spend at least the amount of offset to complete the project described above and to comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall make the required contribution to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The Honorable Carl R. Griffith, Jr.
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

Concurrent with the payment of the SEP contribution, The Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the contribution to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of all required funds and the submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the Amount of Offset for the SEP.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES
 Assigned
 PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION
 Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION
 Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Media Program(s) Enf. Coordinator
 Multi-Media EC's Team
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with a small x)

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$4,200"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$4,800"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 13-Jun-2006 **Docket No.** 2006-0797-MLM-E **PCW**
Respondent ExxonMobil Oil Corporation *Policy Revision 2 (September 2002)*
Case ID No. 29879 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101975746
Media [Statute] Air Quality
Enf. Coordinator J. Mac Vilas, P.G.

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)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	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%
	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%
Judgments and Consent Decrees	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%
	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 disclosed)	0	0%
Audits	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%
	Environmental management systems in place for one year or more	No	0%
Other	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) 0%

>> **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 No adjustments for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 13-Jun-2006

Docket No. 2006-0797-MLM-E

PCW

Respondent ExxonMobil Oil Corporation

Policy Revision 2 (September 2002)

Case ID No. 29879

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101975746

Media [Statute] Air Quality

Enf. Coordinator J. Mac Vilas, P.G.

Violation Number

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 122.146(2), and (5)(C), 122.143(4), 122.145(2)(A) & (B) and Federal Operating Permit No. O-02754, General Terms and Conditions

Secondary Rule Cite(s)

Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a timely and accurate annual compliance certification and associated deviation reports, as documented during an investigation conducted on May 11, 2006. Specifically, the annual certification was due on or before March 30, 2006 and was submitted on April 3, 2006 and received on April 21, 2006. The certification did not list the deviations for four storage tanks that were not compliant with Special Condition 3.E of NSR Permit No. 49133 incorporated into the Federal Operating Permit by reference.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent ExxonMobil Oil Corporation
 Case ID No. 29879
 Reg. Ent. Reference No. RN101975746
 Media [Statute] Air Quality
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 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)	\$800	30-Mar-2006	03-Apr-2006	0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to prepare an accurate annual compliance certification and deviation report. Date required is the due date of the annual compliance certification and the final date is the date the annual compliance certification was submitted.

Item	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

TOTAL

Screening Date 13-Jun-2006

Docket No. 2006-0797-MLM-E

PCW

Respondent ExxonMobil Oil Corporation

Policy Revision 2 (September 2002)

Case ID No. 29879

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101975746

Media [Statute] Air Quality

Enf. Coordinator J. Mac Vilas, P.G.

Violation Number

Primary Rule Cite(s)	NSR Permit No. 49133 Special Conditions No. 3.E., 30 Tex. Admin. Code §§ 116.115(c), 122.143(4) and Federal Operating Permit No. O-02754, General Terms and Conditions and Special Terms and Conditions No. 6
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)
Violation Description	Failed to maintain the exterior color of uninsulated tanks exposed to the sun white or aluminum as documented during an investigation conducted on May 11, 2006. Specifically, tanks 1509, 1560, 1561 and 1562 were not painted white or aluminum. Tank 1509 was dark grey and the other three tanks were painted black.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent ExxonMobil Oil Corporation
 Case ID No. 29879
 Reg. Ent. Reference No. RN101975746
 Media [Statute] Air Quality
 Violation No. 2

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Percent Interest	Years of Depreciation
						5.0	15
						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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$4,000	11-May-2006	30-Aug-2006	1.0	\$200	\$4,000	\$4,200
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs Estimated costs to paint the four tanks. Date required is the date of the investigation and final date is the date the tanks were removed from service.

Approx. Cost of Compliance \$4,000

TOTAL \$4,200



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	30-May-2006	Screening	13-Jun-2006	EPA Due	
	PCW	21-Jun-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	ExxonMobil Oil Corporation
Reg. Ent. Ref. No.	RN101975746
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29879	No. of Violations	3
Docket No.	2006-0797-MLM-E	Order Type	1660
Media Program(s)	Industrial & Hazardous Waste	Enf. Coordinator	J. Mac Vilas, P.G.
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 **\$7,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7 **\$0**

Notes: No adjustments for compliance history.

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 criteria.

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

Total EB Amounts	\$48	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,700	

SUM OF SUBTOTALS 1-7 Final Subtotal **\$7,000**

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 **\$7,000**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$7,000**

DEFERRAL 20% Reduction Adjustment **-\$1,400**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$5,600**

Screening Date	13-Jun-2006	Docket No.	2006-0797-MLM-E	PCW
Respondent	ExxonMobil Oil Corporation		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	29879	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN101975746			
Media [Statute]	Industrial & Hazardous Waste			
Enf. Coordinator	J. Mac Vilas, P.G.			

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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 (<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 (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 (<i>number of audits for which notices were</i>	0	0%
	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) 0%

>> 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 No adjustments for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	13-Jun-2006	Docket No.	2006-0797-MLM-E	PCW
Respondent	ExxonMobil Oil Corporation			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	29879			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101975746			
Media [Statute]	Industrial & Hazardous Waste			
Enf. Coordinator	J. Mac Vilas, P.G.			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 335.4			
Secondary Rule Cite(s)				
Violation Description	Failed to prevent unauthorized discharges, as documented during an investigation conducted on May 8, 2006. Specifically, an area of approximately two feet by two feet of hydrocarbon stained soil was observed under a pipeline.			
	Base Penalty	\$10,000		

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

Harm

Release	Major	Moderate	Minor	
Actual			X	Percent <input type="text" value="10%"/>
Potential				

OR

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
				Percent <input type="text"/>

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which would not exceed levels protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty

One quarterly event is recommended from the investigation date of May 8, 2006 to the screening date of June 14, 2006.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$14"/>	Violation Final Penalty Total <input type="text" value="\$1,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/>	

Economic Benefit Worksheet

Respondent: ExxonMobil Oil Corporation
 Case ID No: 29879
 Reg. Ent. Reference No: RN101975746
 Media [Statute]: Industrial & Hazardous Waste
 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
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	\$500	08-May-2006	30-Nov-2006	0.6	\$14	n/a	\$14
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to remediate and properly dispose of the area of contamination. Date required is the date of the investigation and final date is the estimated date of 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 \$500

TOTAL \$14

Screening Date 13-Jun-2006 **Docket No.** 2006-0797-MLM-E **PCW**

Respondent ExxonMobil Oil Corporation *Policy Revision 2 (September 2002)*

Case ID No. 29879 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101975746

Media [Statute] Industrial & Hazardous Waste

Enf. Coordinator J. Mac Vilas, P.G.

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.62 and 40 CFR § 262.11

Secondary Rule Cite(s)

Violation Description Failed to complete a hazardous waste determination and classify industrial solid waste as documented during an investigation conducted on May 8, 2006. Specifically two drums of unknown waste were stored near tank 1523.

Base Penalty \$10,000

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

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential	X			

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	Percent

Matrix Notes Failure to conduct a hazardous waste determination could result in the exposure of pollutants which would exceed levels that are protective of human health and the environment.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$5,000

Two single events are recommended, one for each drum of unknown waste.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$28	Violation Final Penalty Total \$5,000
This violation Final Assessed Penalty (adjusted for limits) \$5,000	

Economic Benefit Worksheet

Respondent: ExxonMobil Oil Corporation
 Case ID No: 29879
 Reg. Ent. Reference No: RN101975746
 Media [Statute]: Industrial & Hazardous Waste
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description: 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	\$1,000	08-May-2006	30-Nov-2006	0.6	\$28	n/a	\$28
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 costs to complete a proper hazardous waste determination and waste classification on two containers of industrial solid waste. Date required is the date of the investigation and final date is the estimated date of 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 \$1,000

TOTAL \$28

Screening Date	13-Jun-2006	Docket No.	2006-0797-MLM-E	PCW
Respondent	ExxonMobil Oil Corporation			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	29879			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101975746			
Media [Statute]	Industrial & Hazardous Waste			
Enf. Coordinator	J. Mac Vilas, P.G.			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code § 335.6(c)			
Secondary Rule Cite(s)				
Violation Description	Failure to notify of industrial waste activities including waste generated and waste management units, as documented during an investigation conducted on May 8, 2006. Specifically, a notice of registration has not been obtained for the site.			
	Base Penalty	\$10,000		

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

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

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				Percent <input type="text"/>
		X			

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: ExxonMobil Oil Corporation
 Case ID No: 29879
 Reg. Ent. Reference No: RN101975746
 Media (Statute): Industrial & Hazardous Waste
 Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	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)	\$200	08-May-2006	30-Nov-2006	0.6	\$6	n/a	\$6

Notes for DELAYED costs: Estimated costs to provide notification information to register the facility and associated waste and waste management units. Date required is the date of the investigation and final date is the estimated date of compliance.

Item Description	ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$200

TOTAL \$6

Compliance History

Customer/Respondent/Owner-Operator:	CN600920748 ExxonMobil Oil Corporation	Classification: AVERAGE	Rating: 2.09
Regulated Entity:	RN101975746 MAGPETCO TERMINAL	Classification: AVERAGE	Site Rating: 0.44
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	49133
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0066K
	AIR NEW SOURCE PERMITS	AFS NUM	0024
	STORMWATER	PERMIT	TXR05K938
	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0066K
	AIR OPERATING PERMITS	PERMIT	2754
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	ID NUMBER	F1893
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000069369
Location:	INTERSECTION OF PORT NECHES AVENUE AND 1ST ST., JEFFERSON COUNTY, TEXAS	Rating Date: 9/1/2005	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	June 13, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 13, 2001 to June 13, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jessica Rhodes	Phone:	(512) 239-2879

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? | ExxonMobil Oil Corporation |
| 4. If Yes, who was/were the prior owner(s)? | Exxon Mobil Corporation |
| 5. When did the change(s) in ownership occur? | 06/10/2005 |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- 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	08/11/2004	(280381)
2	05/03/2002	(129706)
3	02/05/2002	(129705)
4	05/03/2002	(106204)
5	02/05/2002	(106203)
6	05/26/2006	(465959)
7	05/03/2002	(124921)
8	02/05/2002	(124920)
9	05/26/2006	(464967)
10	05/03/2002	(138249)
11	02/05/2002	(138248)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A

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
ENFORCEMENT ACTION
CONCERNING
EXXONMOBIL OIL CORPORATION
RN101975746

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-0797-MLM-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 ExxonMobil Oil Corporation ("ExxonMobil") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Exxon Mobil appear before the Commission and together stipulate that:

1. ExxonMobil owns and operates an intermediate tank storage terminal at the intersection of Port Neches Avenue and 1st Street in Jefferson County, Texas (the "Site").
2. The site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12) and involves or involved the management industrial solid waste and hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and ExxonMobil agree that the Commission has jurisdiction to enter this Agreed Order, and that ExxonMobil is subject to the Commission's jurisdiction.
4. ExxonMobil received notice of the violations alleged in Section II ("Allegations") on or about May 31, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission ExxonMobil of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirteen Thousand Five Hundred Dollars (\$13,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). ExxonMobil has paid Five Thousand Four Hundred Dollars (\$5,400) of the administrative penalty and Two Thousand Seven Hundred Dollars (\$2,700) is deferred contingent upon ExxonMobil'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 ExxonMobil fails to timely

and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require ExxonMobil to pay all or part of the deferred penalty. Five Thousand Four Hundred Dollars (\$5,400) shall be conditionally offset by ExxonMobil's completion of a Supplemental Environmental Project.

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 ExxonMobil have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that:
 - a. on April 3, 2006, ExxonMobil submitted the Annual Compliance Certification for the period March 3, 2005 to February 28, 2006 to the Beaumont Regional office.
 - b. on August 30, 2006, ExxonMobil removed tanks 1509, 1560, 1561, and 1562 from service.
10. 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 ExxonMobil has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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 Site, ExxonMobil is alleged to have:

1. Failed to submit a timely and accurate annual compliance certification and associated deviation reports within 30 days of the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.146(2) and (5)(C), 122.143(4), 122.145(2)(A) and (B) and Federal Operating Permit No. O-02754, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 11, 2006.
2. Failed to maintain the exterior color of uninsulated tanks exposed to the sun white or aluminum, in violation of NSR Permit No. 49133 Special Conditions No. 3.E., 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4) and Federal Operating Permit O-02754, General Terms and Conditions and Special Terms and Condition No. 6 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 11, 2006.

3. Failed to prevent unauthorized discharges, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during as documented during an investigation conducted on May 8, 2006.
4. Failed to complete a hazardous waste determination and classify industrial solid waste, in violation of 30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS § 262.11, as documented during an investigation conducted on May 8, 2006.
5. Failed to notify of industrial solid waste activities including waste generated and waste management units, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on May 8, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that ExxonMobil pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and ExxonMobil'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: ExxonMobil Oil Corporation, Docket No. 2006-0797-MLM-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. ExxonMobil shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Jurisdiction and Stipulations section above, Five Thousand Four Hundred Dollars (\$5,400) of the assessed administrative penalty shall be offset with the condition that ExxonMobil implement the SEP defined in Attachment A, incorporated herein by reference. ExxonMobil's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that ExxonMobil shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order:

- i. Submit the required corrected deviation reports for the deviations related to the exterior color of uninsulated tanks that occurred for the reporting period of March 3, 2005 through March 2, 2006, in accordance with 30 TEX. ADMIN. CODE § 122.145(2);
 - ii. Complete the removal, proper disposal and confirmation sampling of the hydrocarbon contaminated soil below the pipeline pursuant to the TCEQ Remediation Division guidance document entitled "Determining Which Releases are Subject to TRRP" revised October 21, 2003;
 - iii. Complete a hazardous waste determination and waste classification for the waste in the two containers stored near tank 1523, in accordance with 30 TEX. ADMIN. CODE § 335.62; and
 - iv. Submit a complete notification of all solid waste management activities (i.e., notification information on each waste and waste management unit) conducted at the Site, in accordance with of 30 TEX. ADMIN. CODE § 335.6.
- b. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a.i. through 3.a.iv. as described below. The certification shall include detailed supporting documentation including receipts, photographs, shipping papers, laboratory sample data; and/or other records as applicable to demonstrate compliance, 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 & Waste Section Managers
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Fwy.



Beaumont, Texas 77703-1830

4. The provisions of this Agreed Order shall apply to and be binding upon ExxonMobil. ExxonMobil is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If Exxon Mobil 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, ExxonMobil's failure to comply is not a violation of this Agreed Order. Exxon Mobil shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. ExxonMobil shall notify the Executive Director within seven days after Exxon Mobil becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 ExxonMobil shall be made in writing to the Executive Director. Extensions are not effective until ExxonMobil receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against ExxonMobil 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to ExxonMobil, or three days after the date on which the Commission mails notice of the Order to ExxonMobil, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



ExxonMobil Oil Corporation
DOCKET NO. 2006-0797-MLM-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



3/14/07

For the Executive Director

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

2/14/07

Date

LORI J. RYERKERK

Name (Printed or typed)
Authorized Representative of
ExxonMobil Oil Corporation

Agent and Attorney-In-Fact

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.

Attachment A
Docket Number: 2006-0797-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: ExxonMobil Oil Corporation
Amount of Payable Penalty: Ten Thousand Eight Hundred Dollars (\$10,800)
Amount of Offset for the SEP: Five Thousand Four Hundred Dollars (\$5,400)
Type of SEP: Pre-approved
Third-Party Recipient: Jefferson County: Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles
Location of SEP: Jefferson County

The Texas Commission on Environmental Quality ("TCEQ"), agrees to offset a portion of the administrative penalty assessed in this Agreed Order under the condition that the Respondent shall perform and comply with the following Supplemental Environmental Project ("SEP") provisions. The amount of the offset for the SEP is conditioned upon completion of the project in accordance with the terms set forth below.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Third-Party Recipient will contribute to Jefferson County for its Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles. Specifically, the contribution will be used to purchase alternative fueled equipment such as propane or electric powered lawn mowers, propane powered light duty and heavy equipment, and alternative fueled vehicles and retire diesel and gasoline powered equipment and vehicles. Jefferson County will also convert current equipment and vehicles to alternative fueled equipment in order to lower emissions.

All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing air emissions generated by gasoline and diesel powered equipment and vehicles in the Beaumont/Port Arthur ozone non-attainment area.

Article 1

1. The name of the institution shall be the 'University of ...'

2. The seat of the institution shall be at ...

Section 1

1. The institution shall be established as a body corporate with perpetual succession and the power to acquire, hold and dispose of immovable and movable property and to sue and be sued.

2. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

Section 2

1. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

Section 3

1. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

Section 4

1. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

2. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

3. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

4. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

5. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

6. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

Section 5

1. The institution shall have the right to make contracts, to borrow money and to grant mortgages and to do all such other things as may be necessary for the purposes of the institution.

ExxonMobil Oil Corporation
Agreed Order
Attachment A

C. Minimum Expenditure

The Amount of Offset for the SEP is based upon the Respondent's agreement to spend at least the amount of offset to complete the project described above and to comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall make the required contribution to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The Honorable Carl R. Griffith, Jr.
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

Concurrent with the payment of the SEP contribution, The Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the contribution to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of all required funds and the submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the Amount of Offset for the SEP.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

