# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2007-0028-IWD-E **TCEQ ID:** RN100214386 **CASE NO.:** 32132

**RESPONDENT NAME:** Valero Refining-Texas, L.P.

## ORDER TYPE:

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

## CASE TYPE:

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

**SITE WHERE VIOLATION(S) OCCURRED:** Valero Corpus Christi Refinery West Plant, located at 5900 Up River Road, at the intersection of Valero Way and Up River Road, Corpus Christi, Nueces County

**TYPE OF OPERATION:** Petroleum refinery

**SMALL BUSINESS:** ___ Yes __X__ No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on March 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Merrilee G. Hupp, Enforcement Division, Enforcement Section I, MC 169, (512) 239-4490; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**TCEQ Field Investigator:** Ms. Barbara E. Beynon, Corpus Christi Regional Office, MC R-14, (361) 825-3116

**Respondent:** Mr. Dennis Payne, Regional Vice-President, Valero Refining-Texas, L.P., P.O. Box 9370, Corpus Christi, Texas 78469
Mr. Joe Almaraz, Environmental Manager, Valero Refining-Texas, L.P., P.O. Box 9370, Corpus Christi, Texas 78469

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

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:** __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review<br><br>**Date of Complaint Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** June 13, 2006<br><br>**Date of NOE Relating to this Case:** August 14, 2006 (NOE)<br><br>**Background Facts:** This was a routine investigation. Three violations were documented.<br><br>**WATER**<br><br>1) Failed to prevent the unauthorized discharge of slop oil, untreated process wastewater, and process area storm water. Specifically, the investigator documented that on June 1, 2006, approximately 3,058 barrels (128,436 gallons) of slop oil, industrial wastewater and storm water spilled onto the ground in the secondary containment area of tank TK-22 [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0001909000 Permit Conditions No. 2.g., and TEX. WATER CODE § 26.121(a)].<br><br>2) Failed to submit written notification to the Corpus Christi Regional Office and TCEQ Enforcement Division within five working days after the June 1, 2006 discharge event. Specifically, the investigator documented that written notification was due on June 6, 2006 and was received by the Regional Office on June 19, 2006 [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No WQ0001909000 Monitoring and Reporting Requirements No. 7.a.].<br><br>3) Failed to promptly notify the Executive Director when becoming aware that incorrect information was included in a permit application. Specifically, the investigator documented that tank TK-162 was torn down prior to submittal of the permit renewal application, but was included in the flow process and on the wastewater flow schematic [30 TEX. ADMIN. CODE § 305.125(19) and TPDES Permit No. WQ0001909000 Permit Conditions No. 1.a.]. | **Total Assessed:** $37,370<br><br>**Total Deferred:** $7,474<br>_X_ Expedited Settlement<br><br>__ Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid to General Revenue:** $29,896<br><br>**Site Compliance History Classification:** __ High _X_ Avg. __ Poor<br><br>**Person Compliance History Classification:** __ High _X_ Avg. __ Poor<br><br>**Major Source:** _X_ Yes __ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>1) The Executive Director recognizes that Valero has implemented the following corrective measures at the Facility:<br><br>a. On June 19, 2006, submitted a noncompliance notification for the unauthorized discharge of slop oil, untreated process wastewater, and process area storm water to the TCEQ Corpus Christi Regional Office; and<br><br>b. On June 30, 2006, began implementing remediation of the soils involved from the spill occurring from tank TK-22.<br><br>**Ordering Provisions:**<br><br>2) The Order will require the Respondent to:<br><br>a. Within 30 days after the effective date of this Agreed Order, submit an updated facility description and wastewater flow diagram which excludes TK-162 and includes any modifications involving TK-22 to reflect how flow equalization and storm water capacity is being achieved at Facility A;<br><br>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance; and<br><br>c. Within 120 days after the effective date of this Agreed Order, submit either an Affected Property Assessment Report to the Executive Director for approval, or submit a written certification of compliance that the discharge or spill response action has been completed. |

# Penalty Calculation Worksheet (PCW)

TCEQ

*Policy Revision 2 (September 2002)* *PCW Revision May 19, 2005*

**DATES** **Assigned** 21-Aug-2006
**PCW** 09-Jan-2007 **Screening** 20-Sep-2006 **EPA Due**

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| **Respondent** | Valero Refining-Texas, L.P. (West Plant) | | |
| **Reg. Ent. Ref. No.** | RN100214386 | | |
| **Facility/Site Region** | 14-Corpus Christi | **Major/Minor Source** | Major Source |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| **Enf./Case ID No.** | 32132 | **No. of Violations** | 3 |
| **Docket No.** | 2007-0028-IWD-E | **Order Type** | 1660 |
| **Media Program(s)** | Water Quality | **Enf. Coordinator** | Merrilee Hupp |
| **Multi-Media** | | **EC's Team** | Enforcement Team 1 |
| **Admin. Penalty $ Limit Minimum** | $0 | **Maximum** | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** ***Subtotal 1*** **$20,200**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** **85%** Enhancement ***Subtotals 2, 3, & 7*** **$17,170**

Notes: The Respondent received two written NOVs for same or similar type violations, five written NOVs for other type violations, seven monthly self-reported effluent violations, and one Court Order with denial language.

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

Notes: The Respondent does not meet the culpability criteria.

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

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---|---|---|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | *(mark with a small x)* |

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

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

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $966 |
| Approx. Cost of Compliance | $20,700 |

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **$37,370**

**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** **$37,370**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **$37,370**

**DEFERRAL** **20%** Reduction **Adjustment** **-$7,474**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **$29,896**

**Screening Date** 20-Sep-2006 **Docket No.** 2007-0028-IWD-E **PCW**
**Respondent** Valero Refining-Texas, L.P. (Wember 2002)
**Case ID No.** 32132 *PCW Revision May 19, 2005*
**Reg. Ent. Reference No.** RN100214386
**Media [Statute]** Water Quality
**Enf. Coordinator** Merrilee Hupp

## 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)* | 9 | 45% |
| | Other written NOVs | 5 | 10% |
| Orders | Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)* | 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 *(number of judgements or consent decrees meeting criteria)* | 1 | 30% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government *(number of counts)* | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)* | 0 | 0% |
| | | *Please Enter Yes or No* | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

***Adjustment Percentage (Subtotal 2)*** **85%**

>> **Repeat Violator (Subtotal 3)**

No

***Adjustment Percentage (Subtotal 3)*** **0%**

>> **Compliance History *Person* Classification (Subtotal 7)**

Average Performer

***Adjustment Percentage (Subtotal 7)*** **0%**

>> **Compliance History Summary**

**Compliance History Notes**

The Respondent received two written NOVs for same or similar type violations, five written NOVs for other type violations, seven monthly self-reported effluent violations, and one Court Order with denial language.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** **85%**

**Screening Date** 20-Sep-2006 **Docket No.** 2007-0028-IWD-E **PCW**

**Respondent** Valero Refining-Texas, L.P. (Weember 2002)

**Case ID No.** 32132 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN100214386

**Media [Statute]** Water Quality

**Enf. Coordinator** Merrilee Hupp

**Violation Number** 1

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0001909000 Permit Conditions No. 2.g., and Tex. Water Code § 26.121(a)

**Secondary Rule Cite(s)**

**Violation Description** Failure to prevent the unauthorized discharge of slop oil, untreated process wastewater, and process area storm water, as documented during the investigation conducted June 13, 2006. Specifically, the investigator documented that on June 1, 2006, approximately 3,058 barrels (128,436 gallons) of slop oil, industrial wastewater and storm water spilled onto the ground in the secondary containment area of tank TK-22.

**Base Penalty** $10,000

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

OR

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

**Percent** 50%

>> **Programmatic Matrix**

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

**Percent**

Matrix Notes: Failure to prevent the discharge of slop oil, industrial wastewater and storm water has exposed human health and the environment to significant amounts of pollutants.

**Adjustment** -$5,000

**Base Penalty Subtotal** $5,000

**Violation Events**

Number of Violation Events 4

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

**Violation Base Penalty** $20,000

Four monthly events are recommended from the investigation date (June 13, 2006) through the date of screening (September 20, 2006).

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $942

**Statutory Limit Test**

**Violation Final Penalty Total** $37,000

**This violation Final Assessed Penalty (adjusted for limits)** $37,000

# Economic Benefit Worksheet

**Respondent** Valero Refining-Texas, L.P. (West Plant)
**Case ID No.** 32132
**Reg. Ent. Reference No.** RN100214386
**Media [Statute]** Water Quality
**Violation No.** 1

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | $10,000 | 13-Jun-2006 | 23-May-2007 | 0.9 | $471 | n/a | $471 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | $10,000 | 13-Jun-2006 | 23-May-2007 | 0.9 | $471 | n/a | $471 |

**Notes for DELAYED costs** The approximate cost to design and implement controls preventing unauthorized discharges and for remediation of the spill located at tank TK-22 from the date required through the date of expected compliance (May 23, 2007).

| 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** $20,000

**TOTAL** $942

**Screening Date** 20-Sep-2006 **Docket No.** 2007-0028-IWD-E **PCW**
**Respondent** Valero Refining-Texas, L.P. (Version 2002)
**Case ID No.** 32132 *PCW Revision May 19, 2005*
**Reg. Ent. Reference No.** RN100214386
**Media [Statute]** Water Quality
**Enf. Coordinator** Merrilee Hupp

**Violation Number** 2

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 305.125(9) and TPDES Permit No WQ0001909000 Monitoring and Reporting Requirements No. 7.a.

**Secondary Rule Cite(s)**

**Violation Description** Failure to submit written notification to the Corpus Christi Regional Office and TCEQ Enforcement Division within five working days after the June 1, 2006 discharge event, as documented during the investigation conducted on June 13, 2006. Specifically, the investigator documented that written notification was due on June 6, 2006 and was received by the Regional Office on June 19, 2006.

**Base Penalty** $10,000

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

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

OR

**Percent**

>> **Programmatic Matrix**

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

**Percent** 1%

Matrix Notes: 20% of the rule requirement was not met.

**Adjustment** -$9,900

**Base Penalty Subtotal** $100

**Violation Events**

Number of Violation Events 1

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

**Violation Base Penalty** $100

One single event is recommended.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $0

**Statutory Limit Test**

**Violation Final Penalty Total** $185

**This violation Final Assessed Penalty (adjusted for limits)** $185

# Economic Benefit Worksheet

**Respondent** Valero Refining-Texas, L.P. (West Plant)
**Case ID No.** 32132
**Reg. Ent. Reference No.** RN100214386
**Media [Statute]** Water Quality
**Violation No.** 2

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | $200 | 06-Jun-2006 | 19-Jun-2006 | 0.0 | $0 | n/a | $0 |

Notes for DELAYED costs: The approximate cost to prepare and submit written non-compliance notification from the date required through the date of compliance (June 19, 2006)

| 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: $200

TOTAL: $0

**Screening Date** 20-Sep-2006 **Docket No.** 2007-0028-IWD-E **PCW**
**Respondent** Valero Refining-Texas, L.P. (Vember 2002)
**Case ID No.** 32132 *PCW Revision May 19, 2005*
**Reg. Ent. Reference No.** RN100214386
**Media [Statute]** Water Quality
**Enf. Coordinator** Merrilee Hupp

**Violation Number** 3

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 305.125(19) and TPDES Permit No. WQ0001909000 Permit Conditions No. 1.a.

**Secondary Rule Cite(s)**

**Violation Description** Failure to promptly notify the Executive Director when becoming aware that incorrect information was included in a permit application, as documented during the investigation conducted on June 13, 2006. Specifically, the investigator documented that tank TK-162 was torn down prior to submittal of the permit renewal application, but was included in the flow process and on the wastewater flow schematic.

**Base Penalty** $10,000

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

OR

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

**Percent**

>> **Programmatic Matrix**

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

**Percent** 1%

Matrix Notes: Less than 20% of the rule requirement was not met.

**Adjustment** -$9,900

**Base Penalty Subtotal** $100

**Violation Events**

Number of Violation Events 1

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

**Violation Base Penalty** $100

One single event is recommended.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $24

**Statutory Limit Test**

**Violation Final Penalty Total** $185

**This violation Final Assessed Penalty (adjusted for limits)** $185

# Economic Benefit Worksheet

**Respondent** Valero Refining-Texas, L.P. (West Plant)
**Case ID No.** 32132
**Reg. Ent. Reference No.** RN100214386
**Media [Statute]** Water Quality
**Violation No.** 3

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | $500 | 13-Jun-2006 | 23-May-2007 | 0.9 | $24 | n/a | $24 |

Notes for DELAYED costs: The approximate cost to submit notification of corrected facts and information for TPDES Permit No. WQ0001909000 from the date required through the date of expected compliance (May 23, 2007).

| 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** $24

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600127468 | Valero Refining-Texas, L.P. | Classification: AVERAGE | Rating: 10.86 |
| Regulated Entity: | RN100214386 | VALERO CORPUS CHRISTI REFINERY WEST PLANT | Classification: AVERAGE | Rating: 4.03 |

ID Numbers(s):

| | | |
|---|---|---|
| AIR OPERATING PERMITS | ACCOUNT NUMBER | NE0112G |
| AIR OPERATING PERMITS | PERMIT | 1458 |
| USED OIL | REGISTRATION | C83139 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 30478 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD074604166 |
| WASTEWATER | PERMIT | WQ0001909000 |
| WASTEWATER | EPA ID | TPDES0063355 |
| WASTEWATER | PERMIT | TX0063355 |
| AIR NEW SOURCE PERMITS | PERMIT | 38754 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | NE0112G |
| AIR NEW SOURCE PERMITS | PERMIT | 1507A |
| AIR NEW SOURCE PERMITS | PERMIT | 10157 |
| AIR NEW SOURCE PERMITS | PERMIT | 10496 |
| AIR NEW SOURCE PERMITS | PERMIT | 10642 |
| AIR NEW SOURCE PERMITS | PERMIT | 10777 |
| AIR NEW SOURCE PERMITS | PERMIT | 12722 |
| AIR NEW SOURCE PERMITS | PERMIT | 12844 |
| AIR NEW SOURCE PERMITS | PERMIT | 16552 |
| AIR NEW SOURCE PERMITS | PERMIT | 20740 |
| AIR NEW SOURCE PERMITS | PERMIT | 20992 |
| AIR NEW SOURCE PERMITS | PERMIT | 23633 |
| AIR NEW SOURCE PERMITS | PERMIT | 29272 |
| AIR NEW SOURCE PERMITS | PERMIT | 33323 |
| AIR NEW SOURCE PERMITS | PERMIT | 36004 |
| AIR NEW SOURCE PERMITS | PERMIT | 37375 |
| AIR NEW SOURCE PERMITS | PERMIT | 39505 |
| AIR NEW SOURCE PERMITS | PERMIT | 46918 |
| AIR NEW SOURCE PERMITS | PERMIT | 49888 |
| AIR NEW SOURCE PERMITS | PERMIT | 55362 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX324M9 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX324M10 |
| AIR NEW SOURCE PERMITS | PERMIT | 55688 |
| AIR NEW SOURCE PERMITS | AFS NUM | 0050 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX324M11 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 71034 |
| AIR NEW SOURCE PERMITS | EPA ID | PSDTX324M8 |
| AIR NEW SOURCE PERMITS | PERMIT | 55294 |
| AIR NEW SOURCE PERMITS | PERMIT | PSDTX324M12 |

| | | | |
|---|---|---|---|
| | AIR NEW SOURCE PERMITS | EPA ID | PSDTX324M10 |
| | AIR NEW SOURCE PERMITS | EPA ID | PSDTX324M7 |
| | AIR NEW SOURCE PERMITS | EPA ID | PSDTX324M12 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 76892 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 77580 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 77944 |
| | WASTEWATER LICENSING | LICENSE | WQ0001909000 |
| | STORMWATER | PERMIT | TXR159774 |
| | STORMWATER | PERMIT | TXR05S045 |
| | IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 30478 |
| Location: | LOCATED AT 5900 UP RIVER RD AT THE INTERSECTION OF VALERO WAY AND UP RIVER RD IN THE CITY OF CORPUS CHRISTI NUECES COUNTY | Rating Date: 9/1/2006 | Repeat Violator: No |

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: October 9, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 9, 2001 to October 9, 2006

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

Name: Carolyn V. Lind Phone: (903) 535-5145

**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? Valero Refining-Texas, L.P.
4. If Yes, who was/were the prior owner(s)? Valero Refining Company<br>Valero Refining Company-Texas
5. When did the change(s) in ownership occur? 10/30/2001

**Components (Mulitmedia) for the Site:**

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

Effective Date: 11/23/2005 COURTORDER

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
Description: Failed to maintain sulfate emissions from the heavy oil cracker (HOC), emission point number (EPN) 121 at levels at or below 58.3 pounds per hour.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(1)[G]
Description: Failure to notify the TNRCC's regional office within 24 hours after the discovery of an upset.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
Description: Failure to meet exemption requirments for upset emissions, resulting in unauthorized emissions.

Classification: Major
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: Emission CAP Limit PERMIT
Special Condition No. 54 PERMIT
Description: Failure to comply with General and Special conditions of Permit Nos. 38754 and PSD-TX-324M10. Specifically, unauthorized emissions of hydrogen sulfide, sulfur dioxide, and ammonia released during four emissions events that occurred on September 1, 2004.

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The dates of investigations.

| | | |
|---|---|---|
| 1 | 08/16/2002 | (192318) |
| 2 | 08/11/2003 | (192315) |
| 3 | 07/19/2002 | (192314) |
| 4 | 06/17/2003 | (192311) |
| 5 | 06/24/2002 | (192310) |
| 6 | 08/13/2005 | (404858) |
| 7 | 03/01/2006 | (450492) |
| 8 | 09/03/2003 | (24949) |
| 9 | 08/17/2004 | (289440) |
| 10 | 05/18/2005 | (380544) |
| 11 | 01/24/2005 | (347892) |
| 12 | 05/20/2002 | (192307) |
| 13 | 08/14/2006 | (482853) |
| 14 | 08/26/2005 | (406126) |
| 15 | 04/01/2005 | (376012) |
| 16 | 04/18/2003 | (192304) |
| 17 | 01/15/2003 | (21238) |
| 18 | 04/24/2002 | (192303) |
| 19 | 07/12/2006 | (485630) |
| 20 | 08/23/2006 | (483649) |
| 21 | 06/16/2005 | (395612) |
| 22 | 03/20/2003 | (192299) |
| 23 | 03/21/2002 | (192298) |
| 24 | 08/19/2005 | (405534) |
| 25 | 02/18/2003 | (192296) |
| 26 | 08/08/2003 | (148546) |
| 27 | 10/22/2004 | (335486) |
| 28 | 08/16/2006 | (497523) |
| 29 | 07/01/2004 | (277794) |
| 30 | 02/26/2002 | (192295) |
| 31 | 09/21/2005 | (431540) |
| 32 | 07/01/2004 | (270362) |
| 33 | 06/29/2005 | (397403) |
| 34 | 02/26/2002 | (192292) |
| 35 | 07/28/2005 | (402169) |
| 36 | 03/27/2006 | (459945) |
| 37 | 03/07/2005 | (373370) |
| 38 | 08/11/2003 | (140419) |
| 39 | 11/23/2004 | (341603) |
| 40 | 08/13/2005 | (404652) |
| 41 | 12/04/2003 | (255428) |
| 42 | 08/16/2006 | (497159) |
| 43 | 05/12/2005 | (380791) |
| 44 | 05/25/2005 | (393344) |
| 45 | 12/06/2004 | (342954) |
| 46 | 06/29/2005 | (397984) |
| 47 | 06/30/2005 | (395371) |
| 48 | 08/30/2001 | (138552) |
| 49 | 08/24/2004 | (357962) |
| 50 | 09/16/2004 | (357963) |
| 51 | 08/31/2005 | (400938) |
| 52 | 10/20/2004 | (357964) |
| 53 | 11/18/2004 | (357965) |
| 54 | 12/20/2004 | (357966) |
| 55 | 12/19/2005 | (439303) |
| 56 | 01/20/2006 | (451440) |
| 57 | 10/20/2004 | (357967) |
| 58 | 12/07/2001 | (138553) |
| 59 | 09/16/2004 | (286828) |
| 60 | 07/22/2005 | (400525) |
| 61 | 01/23/2002 | (138554) |
| 62 | 01/24/2002 | (138555) |
| 63 | 01/25/2002 | (138556) |
| 64 | 03/01/2002 | (138557) |
| 65 | 05/13/2002 | (138558) |
| 66 | 07/14/2003 | (134069) |
| 67 | 05/13/2002 | (138559) |
| 68 | 05/13/2002 | (138560) |
| 69 | 05/31/2002 | (138561) |
| 70 | 02/16/2005 | (350569) |
| 71 | 06/13/2002 | (138562) |
| 72 | 09/03/2003 | (151879) |
| 73 | 02/17/2004 | (309914) |
| 74 | 07/30/2003 | (147288) |
| 75 | 03/18/2004 | (309916) |
| 76 | 06/27/2003 | (112784) |
| 77 | 04/26/2004 | (309917) |
| 78 | 04/23/2004 | (309918) |
| 79 | 01/23/2003 | (192336) |
| 80 | 08/25/2003 | (309920) |
| 81 | 01/24/2002 | (192335) |
| 82 | 05/18/2004 | (309921) |

| | | |
|---|---|---|
| 83 | 05/18/2004 | (309921) |
| 84 | 08/31/2005 | (406090) |
| 85 | 08/26/2003 | (152205) |
| 86 | 12/16/2002 | (192332) |
| 87 | 06/12/2004 | (309923) |
| 88 | 12/27/2001 | (192331) |
| 89 | 07/01/2005 | (395376) |
| 90 | 08/07/2006 | (481848) |
| 91 | 04/26/2004 | (309925) |
| 92 | 08/15/2003 | (309927) |
| 93 | 11/27/2002 | (192328) |
| 94 | 02/01/2006 | (435482) |
| 95 | 03/15/2005 | (373594) |
| 96 | 11/19/2001 | (192327) |
| 97 | 08/29/2003 | (148055) |
| 98 | 02/18/2005 | (385070) |
| 99 | 09/18/2003 | (309929) |
| 100 | 03/17/2005 | (385071) |
| 101 | 10/21/2003 | (309931) |
| 102 | 12/18/2002 | (19307) |
| 103 | 11/20/2003 | (309932) |
| 104 | 12/22/2003 | (309933) |
| 105 | 10/18/2002 | (192324) |
| 106 | 01/23/2004 | (309934) |
| 107 | 10/23/2001 | (192323) |
| 108 | 08/19/2005 | (404027) |
| 109 | 09/17/2002 | (192321) |
| 110 | 07/07/2006 | (485450) |
| 112 | 09/21/2005 | (432140) |
| 113 | 08/29/2005 | (406253) |

E. Written notices of violations (NOV).

Date: 07/02/2004 (270362)
Self Report? NO — Classification: Moderate
Citation: TWC Chapter 26 26.121
Rqmt Prov: PERMIT IA
Description: Failure to prevent a discharge of wastewater and process area storm water from entering the Corpus Christi Inner Harbor.

Self Report? NO — Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)[G]
Rqmt Prov: PERMIT IA
Description: Failure to submit a written notification of a noncompliance within five working days of becoming aware of the noncompliance. On April 25, 2004, the facility received approximately 6 inches of rainfall in a two hour period which resulted in the discharge of wastewater and process area stormwater.

Self Report? NO — Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to maintain the chlorine residual within the permitted limit of at least 1.0 mg/l. On the morning of May 3, 2004, a grab sample taken from outfall 005 measured 0.001 mg/l.

Self Report? NO — Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to maintain the flow of effluent within the permitted limit at outfall 003. A 2.89 MGD flow was reported for April 25, 2004 due to heavy rainfall in the area. The 24-hour flow limit is 2.79 million gallons (MGD).

Self Report? NO — Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to meet the effluent limit of 200 mg/l for chemical oxygen demand (COD) at storm water outfall 011. On December 12, 2003, a grab sample taken from outfall 011 measured 404 mg/l of COD.

Date: 06/27/2003 (112784)
Self Report? NO — Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
Rqmt Prov: PA IA
Description: Failure to obtain authorization for air contaminants released during this event.

Date: 12/07/2001 (138553)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.6[G]
Description: FAIL TO NOTIFY UPSET

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(1)
Rqmt Prov: OP IA
Description: FAIL TO OBTAIN AUTHORIZATION

Date: 08/16/2004 (289440)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT IA
Description: Failure to prevent visible emissions from two flares (EPNs 127 and 158) as reported on January 23, 2004 in incident 33729 and on March 30, 2004 in incident 37226 respectively.

Date: 12/31/2001 (192335)
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: 08/14/2003 (148546) Classification:
Self Report? NO Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to comply with the effluent limitations as specified in the permit. There shall be no discharge of floating solids or visible foam in other than trace amounts.

Classification:
Self Report? NO Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to comply with the effluent flow limitations as specified in the permit.

Classification:
Self Report? NO Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to comply with the effluent limitations as specified in the permit.

Date: 04/30/2004 (309921)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2001 (192331)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2002 (192328)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2001 (192327)
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: 08/12/2003 (140419)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
Rqmt Prov: PERMIT IA
Description: Failure to maintain sulfuric acid emissions from the Heavy Oil Cracker Scrubber exhaust at or below the permitted emission limit.

Date: 09/30/2002 (192324)
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: 12/31/2003 (309934)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006 (450609)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(D)
Description: Failure to submit an accurate and complete Permit Compliance Certification including or referencing the identification of all terms and conditions of the permit for which compliance was not achieved.

Self Report? NO Classification: Mino
Citation: 30 TAC Chapter 113, SubChapter C 113.130
40 CFR Part 63, Subpart H 63.163[G]
Description: Failure to comply with the recordkeeping requirements for each pump.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
Rqmt Prov: PERMIT IA
Description: Failure to monitor valves by leak-checking for fugitive emissions at least quarterly, using an approved gas analyzer.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
Rqmt Prov: PERMIT IA
Description: Failure to monitor connectors during the second quarter.

F: Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | **TEXAS COMMISSION ON** |
| **VALERO REFINING-TEXAS, L.P.** | § | |
| **RN100214386** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2007-0028-IWD-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 Valero Refining-Texas, L.P. ("Valero") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Valero appear before the Commission and together stipulate that:

1. Valero owns and operates a petroleum refinery at located at 5900 Up River Road, at the intersection of Valero Way and Up River Road in Corpus Christi, Nueces County, Texas ("the Facility").

2. Valero has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

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

4. Valero received notice of the violations alleged in Section II ("Allegations") on or about August 19, 2006.

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

6. An administrative penalty in the amount of Thirty-Seven Thousand Three Hundred Seventy Dollars ($37,370) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Valero has paid Twenty-Nine Thousand Eight Hundred Ninety-Six Dollars ($29,896) of the administrative penalty and Seven Thousand Four Hundred Seventy-Four Dollars ($7,474) is deferred contingent upon Valero'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 Valero fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Valero to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Valero 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 Valero has implemented the following corrective measures at the Facility:

   a. On June 19, 2006, submitted a noncompliance notification for the unauthorized discharge of slop oil, untreated process wastewater, and process area storm water to the TCEQ Corpus Christi Regional Office; and

   b. On June 30, 2006, began implementing remediation of the soils involved from the spill occurring from tank TK-22.

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 Valero 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 Facility, Valero is alleged to have:

1. Failed to prevent the unauthorized discharge of slop oil, untreated process wastewater, and process area storm water, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0001909000 Permit Conditions No. 2.g., and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on June 13, 2006. Specifically, the investigator documented that on June 1, 2006, approximately 3,058 barrels (128,436 gallons) of slop oil, industrial wastewater and storm water spilled onto the ground in the secondary containment area of tank TK-22.

2. Failed to submit written notification to the Corpus Christi Regional Office and TCEQ Enforcement Division within five working days after the June 1, 2006 discharge event, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No WQ0001909000 Monitoring and Reporting Requirements No. 7.a., as documented during an investigation conducted on June 13, 2006. Specifically, the investigator documented that written notification was due on June 6, 2006 and was received by the Regional Office on June 19, 2006.

3. Failed to promptly notify the Executive Director when becoming aware that incorrect information was included in a permit application, in violation of 30 TEX. ADMIN. CODE § 305.125(19) and TPDES Permit No. WQ0001909000 Permit Conditions No. 1.a., as documented during an investigation conducted on June 13, 2006. Specifically, the investigator documented that tank TK-162 was torn down prior to submittal of the permit renewal application, but was included in the flow process and on the wastewater flow schematic.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Valero pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Valero'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: Valero Refining-Texas, L.P., Docket No. 2007-0028-IWD-E" to:

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

2. It is further ordered that Valero shall undertake the following technical requirements for the Facility:

   a. Within 30 days after the effective date of this Agreed Order, submit an updated facility description and wastewater flow diagram which excludes TK-162 and includes any modifications involving TK-22 to reflect how flow equalization and storm water capacity is being achieved at Facility A. Submit this information to the address below:

Water Quality Applications Team
Permits Administrative Review Section
Registration, Review and Reporting Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Corpus Christi Regional Office
Texas Commission on Environmental Quality
NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify 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:

Manager, Water Section
Corpus Christi Regional Office
Texas Commission on Environmental Quality
NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

c. Within 120 days after the effective date of this Agreed Order, submit either an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval to the address in 2.b. or submit a written certification of compliance

that the discharge or spill response action has been completed in accordance with 30 TEX. ADMIN. CODE § 327.5 as determined by the TCEQ.

If response actions are necessary as determined by the TCEQ, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and Institutional Controls under Subchapter F.

3. The provisions of this Agreed Order shall apply to and be binding upon Valero. Valero is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Valero 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, Valero's failure to comply is not a violation of this Agreed Order. Valero shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Valero shall notify the Executive Director within seven days after Valero becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Valero shall be made in writing to the Executive Director. Extensions are not effective until Valero receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Valero in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

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

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

4/27/07
Date

I, the undersigned, have read and understand the attached Agreed Orde . I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below n y signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the T EQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provision , 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 conter pt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency
- Increased penalties in any future enforcement actions against m ;
- Automatic referral to the Attorney General's Office of any futu e enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Signature

1/11/07
Date

Dennis Payne
Name (Printed or typed)
Authorized Representative of
Valero Refining-Texas, L.P.

Regional Vice President
Title

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