

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0072-AIR-E **TCEQ ID:** RN100224815 **CASE NO.:** 32267

RESPONDENT NAME: KM Liquids Terminals, LP

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

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

SITE WHERE VIOLATION(S) OCCURRED: Pasadena Terminal, 530 Witter Street, Pasadena, Harris County

TYPE OF OPERATION: Petroleum products storage terminal

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: No complaints were received. There is one additional pending enforcement action regarding this facility location: 2007-0754-AIR-E.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 14, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8931 ; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. James L. Wilson, Manager of Environmental Health and Safety, KM Liquids Terminals, L.P., 405 Clinton Drive, Galena Park, Texas 77002

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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 18, 2006</p> <p>Date of NOE Relating to this Case: January 4, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Two violations were documented.</p> <p>AIR</p> <p>1) Failed to prevent unauthorized emissions during a September 30, 2006 emissions event [Air Permit No. 5171, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to submit an initial notification for the September 30, 2006 emissions event within twenty-four hours of discovery [30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$5,814</p> <p>Total Deferred: \$1,162 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,652</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that KM has implemented the following corrective measures at the plant:</p> <p>a. Revised safety tag procedures on November 29, 2006;</p> <p>b. Implemented a best management practice on November 30, 2006 to have pipes pressure tested prior to being put back in service; and</p> <p>c. Completed employee training on emissions event reporting on November 30, 2006.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	8-Jan-2007	Screening	18-Jan-2007	EPA Due	1-Oct-2007
	PCW	22-Jan-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	KM Liquids Terminals, L.P.
Reg. Ent. Ref. No.	RN100224815
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	32267	No. of Violations	2
Docket No.	2007-0072-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Rebecca Johnson
Multi-Media		EC's Team	EnforcementTeam 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

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 **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	(mark with x)

Notes

0% Enhancement* **Subtotal 6**

Total EB Amounts	\$25	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$3,000	

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 **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date: 18-Jan-2007

Docket No. 2007-0072-AIR-E

PCW

Respondent: KM Liquids Terminals, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32267

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100224815

Media [Statute]: Air Quality

Enf. Coordinator: Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	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) 39%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to four NOVs issued for same or similar violations and one agreed order containing a denial of liability. Penalty reduction due to one Notice of Audit submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date 18-Jan-2007

Docket No. 2007-0072-AIR-E

PCW

Respondent KM Liquids Terminals, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32267

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100224815

Media [Statute] Air Quality

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Air Permit No. 5171, Special Condition No. 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions during a September 30, 2006 emissions event. Specifically, during the September 30, 2006 emissions event the following unauthorized emissions were released from Tank 150-3 over a period of one hour: 1,792 pounds (lbs) of pentane, 1,190.5 lbs of hexane, 747 lbs of butane, 747 lbs of 1-pentene, 578 lbs of heptane, 224.5 lbs of cyclopentane, 212 lbs of octane, 192.5 lbs of toluene, 169.5 lbs of methylcyclopentane, 120 lbs of cyclohexane, 100 lbs of methylcyclohexane, 63 lbs of benzene, 47 lbs of xylene, 40 lbs of nonane, 22 lbs of decane, 15.5 lbs of ethylbenzene, and 2.5 lbs of 1,2,4-trimethylbenzene. Since the emissions event was avoidable and not properly reported, KM Liquids Terminals, L.P. was unable to meet the demonstration criteria for an affirmative defense under 30 Tex. Admin. § 101.222.

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 0%

Matrix Notes

Human health and the environment have been exposed to pollutants, including over 1,500 lbs of hazardous air pollutants, which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$5,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$5,700

This violation Final Assessed Penalty (adjusted for limits) \$5,700

Economic Benefit Worksheet

Respondent KM Liquids Terminals, L.P.
Case ID No. 32267
Reg. Ent. Reference No. RN100224815
Media Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	30-Sep-2006	30-Nov-2006	0.2	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost to revise safety tag procedures and implement best management practices to have pipes pressure tested prior to being returned to service. Date required based on the date of the emissions event. Final date based on the date corrective actions were completed.

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

\$2,000

TOTAL

\$17

Screening Date 18-Jan-2007

Docket No. 2007-0072-AIR-E

PCW

Respondent KM Liquids Terminals, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32267

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100224815

Media [Statute] Air Quality

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(1)(B) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit an initial notification for the September 30, 2006 emissions event within twenty-four hours of discovery. Specifically, the emissions event was discovered on September 30, 2006, however the initial notification was not submitted until October 6, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes

Less than 30% of the reporting requirements were not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 5

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$114

This violation Final Assessed Penalty (adjusted for limits) \$114

Economic Benefit Worksheet

Respondent: KM Liquids Terminals, L.P.
Case ID No.: 32267
Reg. Ent. Reference No.: RN100224815
Media: Air Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000	1-Oct-2006	30-Nov-2006	0.2	\$8	n/a	\$8
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to conduct employee training to ensure that emissions events are properly reported. Date required based on the date the emissions event should have been reported and was not. Final date based on the date corrective actions were completed.

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

\$8

Compliance History

Customer/Respondent/Owner-Operator: CN602717092 KM Liquids Terminals, L. P. Classification: AVERAGE Rating: 2.09
 Regulated Entity: RN100224815 PASADENA TERMINAL Classification: AVERAGE Site Rating: 3.59

ID Number(s):	AIR OPERATING PERMITS AIR OPERATING PERMITS	ACCOUNT NUMBER PERMIT	HG0261J 984
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	27315
	AIR NEW SOURCE PERMITS	PERMIT	2366
	AIR NEW SOURCE PERMITS	PERMIT	4992
	AIR NEW SOURCE PERMITS	PERMIT	5018
	AIR NEW SOURCE PERMITS	PERMIT	5171
	AIR NEW SOURCE PERMITS	PERMIT	8477
	AIR NEW SOURCE PERMITS	PERMIT	15582
	AIR NEW SOURCE PERMITS	PERMIT	19712
	AIR NEW SOURCE PERMITS	PERMIT	19912
	AIR NEW SOURCE PERMITS	PERMIT	25272
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0261J
	AIR NEW SOURCE PERMITS	REGISTRATION	75933
	AIR NEW SOURCE PERMITS	REGISTRATION	75567
	AIR NEW SOURCE PERMITS	REGISTRATION	74333
	AIR NEW SOURCE PERMITS	REGISTRATION	75160
	AIR NEW SOURCE PERMITS	REGISTRATION	76487
	AIR NEW SOURCE PERMITS	REGISTRATION	76519
	AIR NEW SOURCE PERMITS	AFS NUM	0092
	AIR NEW SOURCE PERMITS	REGISTRATION	79282
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD070137161
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30772
	STORMWATER	PERMIT	TXR05N324
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30772

Location: 530 WITTER ST, PASADENA, TX, 77506 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: January 18, 2007
 Agency Decision Requiring Compliance Enforcement
 Compliance Period: January 08, 2002 to January 08, 2007

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

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

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? KM Liquids Terminals, L. P.
4. If Yes, who was/were the prior owner(s)? Kinder Morgan Liquids Terminals LLC
5. When did the change(s) in ownership occur? 12/8/2004

Components (Multimedia) for the Site :

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

Effective Date: 08/29/2003 ADMINORDER 2003-0343-AIR-E
 Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 Description: Failure to submit Title V Deviation report in a timely manner.

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	07/31/2006	(489238)
2	08/29/2005	(405934)
3	05/17/2006	(463933)
4	01/04/2007	(534584)
5	05/23/2006	(465782)
6	06/02/2006	(481256)
7	07/28/2006	(486975)
8	03/08/2006	(450115)
9	08/14/2006	(457292)
10	08/11/2004	(251128)
11	07/27/2004	(280957)
12	08/23/2004	(261947)
13	05/17/2006	(465626)
14	07/23/2002	(2770)
15	02/21/2003	(11665)
16	01/13/2003	(IE001910100100)
17	02/26/2002	(78945)
18	07/22/2002	(78946)
19	06/30/2006	(484076)
20	10/27/2006	(515175)

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

Date: 08/30/2005 (405934)

Self Report? NO

Classification: Moderate

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

Rqmt Prov: OP IA
PERMIT IA

Description: Failure to operate without permit by rule authorization

Self Report? NO

Classification: Minor

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

Rqmt Prov: OP IA
PERMIT IA

Description: Failure to implement the fugitive monitoring program

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(1)(ii)

Rqmt Prov: OP IA
PERMIT IA

Description: Failure to perform a yearly seal gap inspection for T130-8

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Rqmt Prov: OP IA

Description: Failure to include in the deviation report two spill incidents of unauthorized emissions which occurred on 8/5/04 and 1/5/05.

Date: 05/19/2006 (463933)

Self Report? NO

Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to prevent unauthorized emissions.

Self Report? NO

Classification: Minor

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

Description: Failure to include in the final report, the preconstruction authorization number governing the facility involved in an emissions event.

Date: 03/09/2006 (450115)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(11)

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

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

Description: Failure to maintain complete records of emission events.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)(9)

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

Description: Failure to maintain complete records of Scheduled Maintenance, Startup and Shutdown activities.

Date: 07/26/2002 (2770)

Self Report? NO

Classification: Moderate

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

TEXAS HEALTH AND SAFETY CODE 382.085

Description: Failure to minimize emissions.

F. Environmental audits.

Notice of Intent Date: 12/17/2002 (33128)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KM LIQUIDS TERMINALS, L.P.
RN100224815

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0072-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KM Liquids Terminals, L.P. ("KM") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and KM appear before the Commission and together stipulate that:

1. KM owns and operates a petroleum products storage terminal at 530 Witter Street in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and KM agree that the Commission has jurisdiction to enter this Agreed Order, and that KM is subject to the Commission's jurisdiction.
4. KM received notice of the violations alleged in Section II ("Allegations") on or about January 9, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by KM of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Eight Hundred Fourteen Dollars (\$5,814) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). KM has paid Four Thousand Six Hundred Fifty-Two Dollars (\$4,652) of the

administrative penalty and One Thousand One Hundred Sixty-Two Dollars (\$1,162) is deferred contingent upon KM'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 KM fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require KM 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 KM 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 KM has implemented the following corrective measures at the Plant:
 - a. Revised safety tag procedures on November 29, 2006;
 - b. Implemented a best management practice on November 30, 2006 to have pipes pressure tested prior to being put back in service; and
 - b. Completed employee training on emissions event reporting on November 30, 2006.
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 KM 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 Plant, KM is alleged to have:

1. Failed to prevent unauthorized emissions during a September 30, 2006 emissions event, in violation of Air Permit No. 5171, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 18, 2006. Specifically, during the September 30, 2006 emissions event the following unauthorized emissions were released from Tank 150-3 over a period of one hour: 1,792 pounds (lbs) of pentane, 1,190.5 lbs of hexane, 747 lbs of butane, 747 lbs of 1-pentene, 578 lbs of heptane, 224.5 lbs of cyclopentane, 212 lbs of octane, 192.5 lbs of toluene, 169.5 lbs of methylcyclopentane, 120 lbs of cyclohexane, 100 lbs of methylcyclohexane, 63 lbs of benzene, 47 lbs of xylene, 40 lbs of nonane, 22 lbs of decane, 15.5 lbs of ethylbenzene, and 2.5 lbs of 1,2,4-trimethylbenzene. Since the emissions event was avoidable and not properly reported, KM was

unable to meet the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

2. Failed to submit an initial notification for the September 30, 2006 emissions event within twenty-four hours of discovery, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 18, 2006. Specifically, the emissions event was discovered on September 30, 2006, however the initial notification was not submitted until October 6, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that KM pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and KM'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: KM Liquids Terminals, L.P., Docket No. 2007-0072-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon KM. KM is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against KM 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to KM, or three days after the date on which the Commission mails notice of the Order to KM, 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

John S. Sullivan

For the Executive Director

7/12/07

Date

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

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

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

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

J. S. Wilson

Signature

3/12/07

Date

James L. Wilson

Name (Printed or typed)
Authorized Representative of
KM Liquids Terminals, L.P.

Manager - Environmental Health & Safety

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.

