

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1095-AIR-E **TCEQ ID:** RN100235266 **CASE NO.:** 34144

**RESPONDENT NAME:** Flint Hills Resources, LP

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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	
<b>CASE TYPE:</b>		
<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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Corpus Christi West Plant, 2825 Suntide Road, Corpus Christi, Nueces County</p> <p><b>TYPE OF OPERATION:</b> Petroleum refinery</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 17, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Johnson, Enforcement Division, Team 5, MC R-12, (713) 422-8931; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Ms. Janice Golden, Environmental Manager, Flint Hills Resources, LP, Post Office Box 2608, Corpus Christi, Texas 78403                      Mr. Phil Gaarder, Vice President/Manufacturing Manager, Flint Hills Resources, LP, Post Office Box 2608, Corpus Christi, Texas 78403  <b>Respondent's Attorney:</b> Ms. Molly Cagle, Partner, Vinson &amp; Elkins LLP, 2801 Via Fortuna, Suite 100, Austin, Texas 78746-7568</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 5, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 26, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. One violation was documented.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions during an emissions event that began on January 2, 2007. Specifically, a heat exchanger leak which began on January 2, 2007, resulted in the release of 35,800 pounds of unauthorized volatile organic compound ("VOC") emissions from the Hydrofluoric Alkylation Unit Rex Cooling Tower over a period of thirty hours and five minutes. The Respondent failed to meet the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [Air Permit No. 8803A, Special Condition Nos. 1 and 10, 30 TEX. ADMIN. CODE § 116.715(a) and (d), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$20,000</p> <p><b>Total Deferred:</b> \$0</p> <p><input checked="" type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$20,000</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b></p> <p>Human health and the environment have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Respondent repaired the heat exchanger leak and installed an air-stripping system to monitor the previously unmonitored return line of the Hydrofluoric Alkylation Unit Rex Cooling Tower for VOC leaks on January 3, 2007.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	2-Jul-2007	Screening	9-Jul-2007	EPA Due	21-Mar-2008
	PCW	10-Oct-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Flint Hills Resources, LP		
Reg. Ent. Ref. No.	RN100235266		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	34144	No. of Violations	1
Docket No.	2007-1095-AIR-E	Order Type	Findings
Media Program(s)	Air	Enf. Coordinator	Rebecca Johnson
Multi-Media		EC's Team	5
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$20,000**

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

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

**Compliance History** 62% Enhancement **Subtotals 2, 3, & 7 \$12,400**

Notes

Penalty enhancement due to one NOV issued for same or similar violations, four NOVs issued for unrelated violations, four self-reported effluent discharge violations, one agreed order with a denial of liability, and one agreed order without a denial of liability. Penalty reduction due to two Notices of Audits and one Disclosure of Violations submitted.

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

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 25% Reduction **Subtotal 5 \$5,000**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent completed all corrective actions on January 3, 2007.

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal \$27,400**

**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 \$27,400**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty \$20,000**

**DEFERRAL** **0% Reduction Adjustment \$0**

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

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$20,000**

**Screening Date** 9-Jul-2007

**Docket No.** 2007-1095-AIR-E

**PCW**

**Respondent** Flint Hills Resources, LP

Policy Revision 2 (September 2002)

**Case ID No.** 34144

PCW Revision June 26, 2007

**Reg. Ent. Reference No.** RN100235266

**Media [Statute]** Air

**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)	1	5%
	Other written NOVs	8	16%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<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)** 62%

>> **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 one NOV issued for same or similar violations, four NOVs issued for unrelated violations, four self-reported effluent discharge violations, one agreed order with a denial of liability, and one agreed order without a denial of liability. Penalty reduction due to two Notices of Audits and one Disclosure of Violations submitted.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 62%

<b>Screening Date</b> 9-Jul-2007	<b>Docket No.</b> 2007-1095-AIR-E	<b>PCW</b>	
<b>Respondent</b> Flint Hills Resources, LP	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 34144	<i>PCW Revision June 26, 2007</i>		
<b>Reg. Ent. Reference No.</b> RN100235266			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Rebecca Johnson			
<b>Violation Number</b> <input type="text" value="1"/>			
<b>Rule Cite(s)</b>	Air Permit No. 8803A, Special Condition Nos. 1 and 10, 30 Tex. Admin. Code § 116.715(a) and (d), and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to prevent unauthorized emissions during an emissions event that began on January 2, 2007. Specifically, a heat exchanger leak which began on January 2, 2007, resulted in the release of 35,800 pounds of unauthorized volatile organic compound ("VOC") emissions from the Hydrofluoric Alkylation Unit Rex Cooling Tower over a period of thirty hours and five minutes. Flint Hills Resources, LP failed to meet the demonstration criteria for an affirmative defense under 30 Tex. Admin. Code § 101.222.		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Release</b>	<b>Harm</b>	
		Major    Moderate    Minor	
	Actual	<input type="text" value="x"/>	
	Potential		
			<b>Percent</b> <input type="text" value="100%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	<b>Falsification</b>	Major    Moderate    Minor	
			<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health and the environment in the Corpus Christi Ozone Near Nonattainment Area have been exposed to over 17 tons of pollutants as a result of the violation.		
<b>Adjustment</b>		<input type="text" value="\$0"/>	
			<input type="text" value="\$10,000"/>
<b>Violation Events</b>			
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="2"/> Number of violation days
<i>mark only one with an x</i>	daily	<input type="text" value="x"/>	
	monthly		
	quarterly		
	semiannual		
	annual		
	single event		
<b>Violation Base Penalty</b>		<input type="text" value="\$20,000"/>	
Two daily events are recommended.			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$27,400"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$20,000"/>

### Economic Benefit Worksheet

**Respondent** Flint Hills Resources, LP  
**Case ID No.** 34144  
**Reg. Ent. Reference No.** RN100235266  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

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)	\$6,000	2-Jan-2007	3-Jan-2007	0.0	\$1	n/a	\$1

**Notes for DELAYED costs**

Estimated cost to ensure that the cooling tower water is monitored for leaks with an approved air-stripping system. Date required based on the date of the emissions event. Final date based on the date all 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**

	\$6,000				TOTAL		\$1
--	---------	--	--	--	-------	--	-----

## Compliance History

Customer/Respondent/Owner-Operator:	CN600879712	Flint Hills Resources, LP	Classification: AVERAGE	Rating: 3.37
Regulated Entity:	RN100235266	FLINT HILLS RESOURCES CORPUS CHRISTI WEST PLANT	Classification: AVERAGE	Site Rating: 1.77
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXD088474663
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)		30529
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT		50097
	WASTEWATER	PERMIT		WQ0000531000
	WASTEWATER	PERMIT		TPDES0006289
	WASTEWATER	PERMIT		TX0006289
	AIR NEW SOURCE PERMITS	PERMIT		8803A
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		NE0122D
	AIR NEW SOURCE PERMITS	PERMIT		1533
	AIR NEW SOURCE PERMITS	PERMIT		1914
	AIR NEW SOURCE PERMITS	PERMIT		6628
	AIR NEW SOURCE PERMITS	PERMIT		6918A
	AIR NEW SOURCE PERMITS	PERMIT		11278
	AIR NEW SOURCE PERMITS	PERMIT		11813
	AIR NEW SOURCE PERMITS	PERMIT		15914
	AIR NEW SOURCE PERMITS	PERMIT		16173
	AIR NEW SOURCE PERMITS	PERMIT		19265
	AIR NEW SOURCE PERMITS	PERMIT		19331
	AIR NEW SOURCE PERMITS	PERMIT		22451
	AIR NEW SOURCE PERMITS	PERMIT		23385
	AIR NEW SOURCE PERMITS	PERMIT		23386
	AIR NEW SOURCE PERMITS	PERMIT		24297
	AIR NEW SOURCE PERMITS	PERMIT		24937
	AIR NEW SOURCE PERMITS	PERMIT		25838
	AIR NEW SOURCE PERMITS	PERMIT		25097
	AIR NEW SOURCE PERMITS	PERMIT		25312
	AIR NEW SOURCE PERMITS	PERMIT		27090
	AIR NEW SOURCE PERMITS	PERMIT		25873
	AIR NEW SOURCE PERMITS	PERMIT		28368
	AIR NEW SOURCE PERMITS	PERMIT		28775
	AIR NEW SOURCE PERMITS	PERMIT		28956
	AIR NEW SOURCE PERMITS	PERMIT		29651
	AIR NEW SOURCE PERMITS	PERMIT		29973
	AIR NEW SOURCE PERMITS	PERMIT		29650
	AIR NEW SOURCE PERMITS	PERMIT		31518
	AIR NEW SOURCE PERMITS	PERMIT		32707
	AIR NEW SOURCE PERMITS	PERMIT		33508
	AIR NEW SOURCE PERMITS	PERMIT		33352
	AIR NEW SOURCE PERMITS	PERMIT		35045
	AIR NEW SOURCE PERMITS	PERMIT		35395
	AIR NEW SOURCE PERMITS	PERMIT		35776
	AIR NEW SOURCE PERMITS	PERMIT		36182
	AIR NEW SOURCE PERMITS	PERMIT		36331
	AIR NEW SOURCE PERMITS	PERMIT		36186
	AIR NEW SOURCE PERMITS	PERMIT		36505
	AIR NEW SOURCE PERMITS	PERMIT		36878
	AIR NEW SOURCE PERMITS	PERMIT		36987
	AIR NEW SOURCE PERMITS	PERMIT		37113
	AIR NEW SOURCE PERMITS	PERMIT		38537
	AIR NEW SOURCE PERMITS	PERMIT		39412
	AIR NEW SOURCE PERMITS	PERMIT		40133
	AIR NEW SOURCE PERMITS	PERMIT		41387
	AIR NEW SOURCE PERMITS	PERMIT		41299
	AIR NEW SOURCE PERMITS	PERMIT		42222
	AIR NEW SOURCE PERMITS	PERMIT		42274
	AIR NEW SOURCE PERMITS	PERMIT		43110
	AIR NEW SOURCE PERMITS	PERMIT		44048
	AIR NEW SOURCE PERMITS	PERMIT		45798
	AIR NEW SOURCE PERMITS	PERMIT		47975
	AIR NEW SOURCE PERMITS	PERMIT		49631

AIR NEW SOURCE PERMITS	PERMIT	6819A
AIR NEW SOURCE PERMITS	PERMIT	24346
AIR NEW SOURCE PERMITS	AFS NUM	4835500017
AIR NEW SOURCE PERMITS	REGISTRATION	76274
AIR NEW SOURCE PERMITS	REGISTRATION	75765
AIR NEW SOURCE PERMITS	PERMIT	75717
AIR NEW SOURCE PERMITS	REGISTRATION	76194
AIR NEW SOURCE PERMITS	PERMIT	56399
AIR NEW SOURCE PERMITS	REGISTRATION	70303
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M7
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M5
AIR NEW SOURCE PERMITS	EPA ID	PSDTX772M2
AIR NEW SOURCE PERMITS	PERMIT	50925
AIR NEW SOURCE PERMITS	REGISTRATION	725
AIR NEW SOURCE PERMITS	REGISTRATION	72670
AIR NEW SOURCE PERMITS	REGISTRATION	73711
AIR NEW SOURCE PERMITS	PERMIT	72572
AIR NEW SOURCE PERMITS	PERMIT	74076
AIR NEW SOURCE PERMITS	REGISTRATION	75266
AIR NEW SOURCE PERMITS	REGISTRATION	76446
AIR NEW SOURCE PERMITS	EPA ID	PSDTX777M1
AIR NEW SOURCE PERMITS	EPA ID	PSDTX777M2
AIR NEW SOURCE PERMITS	REGISTRATION	76539
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M6
AIR NEW SOURCE PERMITS	REGISTRATION	77177
AIR NEW SOURCE PERMITS	REGISTRATION	77459
AIR NEW SOURCE PERMITS	REGISTRATION	77530
AIR NEW SOURCE PERMITS	REGISTRATION	77652
AIR NEW SOURCE PERMITS	REGISTRATION	77655
AIR NEW SOURCE PERMITS	REGISTRATION	79195
AIR NEW SOURCE PERMITS	REGISTRATION	79214
AIR NEW SOURCE PERMITS	REGISTRATION	79770
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M8
AIR OPERATING PERMITS	PERMIT	1272
AIR OPERATING PERMITS	ACCOUNT NUMBER	NE0122D
WASTEWATER LICENSING	LICENSE	WQ0000531000
WASTE WATER GENERAL PERMIT	PERMIT	2E0000048
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30529
INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50097
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50097

Location: 2825 SUNTIDE RD, CORPUS CHRISTI, TX, 78409 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: July 02, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 02, 2002 to July 02, 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? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

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

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

**Effective Date: 05/12/2006**

**ADMINORDER 2005-1659-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to satisfy all demonstration criteria as described in 30 Tex. Admin. Code § 101.222 and gain an affirmative defense for contaminants released from this emissions event, Incident No. 58502. The regulated entity failed to satisfy the demonstration criteria of 30 TAC § 101.222(b)(1), (2), and (3).

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit to the Region 14 office a final report which included all individually listed compounds which were known to have been released during the emissions event.

**Effective Date: 08/20/2006**

**ADMINORDER 2005-0018-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent the unauthorized release of benzene on October 26, 2004 at the No. 1 Cumene Reactor (Equipment No. 04DA420).

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	07/23/2002	(159016)
2	08/23/2002	(159020)
3	09/23/2002	(159023)
4	10/22/2002	(159026)
5	11/25/2002	(159030)
6	12/30/2002	(159034)
7	01/24/2003	(159038)
8	02/24/2003	(158997)
9	03/24/2003	(159000)
10	03/25/2003	(295761)
11	04/02/2003	(28427)
12	04/22/2003	(159005)
13	05/23/2003	(159009)
14	06/24/2003	(159013)
15	06/27/2003	(34080)
16	07/24/2003	(159017)
17	08/25/2003	(149639)
18	08/25/2003	(295770)
19	08/25/2003	(295774)
20	09/23/2003	(295772)
21	11/24/2003	(295775)
22	12/17/2003	(258097)
23	12/29/2003	(295776)
24	01/07/2004	(259334)
25	01/13/2004	(256717)
26	01/26/2004	(295777)
27	02/23/2004	(295759)
28	02/23/2004	(295762)
29	03/30/2004	(332776)

30 04/15/2004 (264615)  
31 05/24/2004 (295764)  
32 05/24/2004 (295768)  
33 06/22/2004 (295766)  
34 07/01/2004 (274375)  
35 07/27/2004 (284451)  
36 08/24/2004 (352257)  
37 08/24/2004 (352259)  
38 08/31/2004 (292881)  
39 09/23/2004 (352258)  
40 09/24/2004 (288927)  
41 11/19/2004 (341703)  
42 11/23/2004 (352260)  
43 11/23/2004 (352261)  
44 12/06/2004 (342992)  
45 12/17/2004 (381915)  
46 01/11/2005 (342595)  
47 01/14/2005 (343443)  
48 02/17/2005 (337774)  
49 02/17/2005 (347028)  
50 02/22/2005 (381911)  
51 02/22/2005 (381913)  
52 02/22/2005 (381914)  
53 02/22/2005 (381916)  
54 02/28/2005 (350991)  
55 02/28/2005 (342613)  
56 03/04/2005 (337092)  
57 03/04/2005 (337581)  
58 03/21/2005 (373751)  
59 03/21/2005 (350992)  
60 03/22/2005 (381912)  
61 03/22/2005 (373190)  
62 05/23/2005 (419753)  
63 05/25/2005 (337418)  
64 06/16/2005 (395317)  
65 06/23/2005 (419754)  
66 06/29/2005 (397679)  
67 07/01/2005 (348124)  
68 08/04/2005 (403348)  
69 08/13/2005 (404585)  
70 08/19/2005 (440889)  
71 08/19/2005 (440891)  
72 08/24/2005 (401812)  
73 08/26/2005 (406021)  
74 08/30/2005 (406208)  
75 08/31/2005 (405868)  
76 08/31/2005 (405667)  
77 08/31/2005 (418713)  
78 09/23/2005 (440890)  
79 11/09/2005 (418704)  
80 11/22/2005 (468539)  
81 11/30/2005 (433973)  
82 11/30/2005 (433974)  
83 12/13/2005 (439149)  
84 12/14/2005 (437435)  
85 12/14/2005 (437441)  
86 12/21/2005 (468540)  
87 02/12/2006 (453536)  
88 02/21/2006 (468536)  
89 02/21/2006 (468538)  
90 02/28/2006 (451808)  
91 03/23/2006 (468537)  
92 04/24/2006 (498271)  
93 05/18/2006 (461571)  
94 05/22/2006 (418953)  
95 05/22/2006 (498272)  
96 06/23/2006 (498273)

97 07/21/2006 (486580)  
 98 08/21/2006 (520285)  
 99 08/21/2006 (508941)  
 100 08/22/2006 (489391)  
 101 08/23/2006 (509435)  
 102 08/30/2006 (490319)  
 103 08/30/2006 (510851)  
 104 09/15/2006 (489520)  
 105 09/25/2006 (520286)  
 106 09/29/2006 (514148)  
 107 10/16/2006 (515334)  
 108 10/24/2006 (544608)  
 109 10/25/2006 (516898)  
 110 10/26/2006 (516897)  
 111 11/27/2006 (544609)  
 112 12/06/2006 (532315)  
 113 12/27/2006 (544610)  
 114 01/04/2007 (534091)  
 115 01/22/2007 (544611)  
 116 01/24/2007 (535454)  
 117 01/29/2007 (519260)  
 118 01/31/2007 (513496)  
 119 02/16/2007 (538999)  
 120 03/15/2007 (543230)  
 121 04/05/2007 (556107)  
 122 04/10/2007 (556407)  
 123 04/13/2007 (518319)  
 124 05/09/2007 (557774)  
 125 05/18/2007 (560248)  
 126 05/18/2007 (560035)  
 127 05/18/2007 (542502)  
 128 05/29/2007 (560778)  
 129 06/04/2007 (561366)  
 130 06/25/2007 (558967)

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

**Date:** 06/27/2003 (34080)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 307 307.4(b)(7)  
 Rqmt Prov: PERMIT WQ0000531-000  
 Description: Failure to prevent unpermitted wastewaters from discharging through permitted Outfall 004.

**Date:** 02/29/2004 (295761)  
 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:** 03/30/2004 (332776)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

**Date:** 09/30/2004 (352259)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

**Date:** 01/11/2005 (342595)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(G)

Rqmt Prov: 30 TAC Chapter 116, SubChapter B 116.115(c)(1)  
PA Special Condition 1  
Description: Failure to comply with the visible emission requirements for stationary vents, and to meet the demonstration requirements of 30 TAC § 101.222(b) or obtain regulatory authority for contaminants released from the WFCCU Bypass Stack.

Date: 01/31/2005 (381911)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 02/10/2005 (347028)

Self Report? NO

Classification: Moderate

Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)  
Rqmt Prov: IHWPERMTCP CP-50097 §III.E. & Attach. B No. 11  
OP HW-50097-000 P.P.VI. B. & Attach. F

Description: OP HW-50097-000 Permit Provision II.A.  
FHR West failed to follow the Field Plan as required by the permit

Date: 08/22/2006 (489391)

Self Report? NO

Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121[G]  
Rqmt Prov: PERMIT Permit Conditions No. 2(g), Pg. 7

Description: Failure to prevent the discharge of wastewater or any other waste.

Date: 09/30/2006 (544608)

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

F. Environmental audits.

Notice of Intent Date: 10/03/2002 (60379)

Disclosure Date: 12/16/2002

Viol. Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A

Description: Failed to properly report start-up and shut-down events.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D

Rqmt Prov: PERMIT 8803A and 6308

PERMIT PSD-TX-413M6 and PSD-TX-137MI

Description: Failed to monitor petroleum refinery fugitive emissions with the required frequency.

Notice of Intent Date: 07/10/2006 (488046)

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  
FLINT HILLS RESOURCES, LP  
RN100235266

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER  
DOCKET NO. 2007-1095-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Flint Hills Resources, LP (“Flint Hills”) 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 Flint Hills presented this agreement to the Commission.

Flint Hills understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Flint Hills agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Flint Hills.

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

**I. FINDINGS OF FACT**

1. Flint Hills owns and operates a petroleum refinery at 2825 Suntide Road in Corpus Christi, Nueces County, Texas (the “Plant”).



2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review on April 5, 2007, TCEQ staff documented unauthorized emissions during an emissions event that began on January 2, 2007. Specifically, during the record review it was documented that a heat exchanger leak that began on January 2, 2007, resulted in the release of 35,800 pounds of unauthorized volatile organic compound ("VOC") emissions from the Hydrofluoric Alkylation Unit Rex Cooling Tower over a period of thirty hours and five minutes.
4. Flint Hills received notice of the violations on May 31, 2007.
5. The Executive Director recognizes that on January 3, 2007 Flint Hills repaired the heat exchanger leak and installed an air-stripping system to monitor the previously unmonitored return line of the Hydrofluoric Alkylation Unit Rex Cooling Tower for VOC leaks.

## **II. CONCLUSIONS OF LAW**

1. Flint Hills is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Flint Hills failed to prevent unauthorized emissions during a January 2, 2007 emissions event, in violation of Air Permit No. 8803A, Special Condition Nos. 1 and 10, 30 TEX. ADMIN. CODE § 116.715(a) and (d), and TEX. HEALTH & SAFETY CODE § 382.085(b). Flint Hills failed to meet the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Flint Hills for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twenty Thousand Dollars (\$20,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Flint Hills has paid the Twenty Thousand Dollar (\$20,000) administrative penalty.



### III. ORDERING PROVISIONS

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

1. Flint Hills is assessed an administrative penalty in the amount of Twenty Thousand Dollars (\$20,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Flint Hills' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Flint Hills Resources, LP, Docket No. 2007-1095-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 Flint Hills. Flint Hills 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Flint Hills if the Executive Director determines that Flint Hills has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against Flint Hills in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

The following information is provided for your information:

The information is provided for your information.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdelic  
For the Executive Director

12/7/07  
Date

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

I understand that by entering into this Agreed Order, Flint Hills Resources, LP waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Bob Seal  
Signature

10/12/07  
Date

Phil Guarder  
Name (Printed or typed)  
Authorized Representative of  
Flint Hills Resources, LP

VP/Manufacturing Mgr  
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.

