

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0844-AIR-E **TCEQ ID:** RN101042885 **CASE NO.:** 35924
RESPONDENT NAME: Oiltanking Beaumont Partners, L.P.

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
<p>SITE WHERE VIOLATION(S) OCCURRED: Oiltanking Beaumont Terminal, 6275 Highway 347, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Marine storage terminal</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-0688-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 24, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Daniel Siringi, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8799; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Andre Says, Terminal Manager, Oiltanking Beaumont Partners, L.P., 6275 Highway 347, Beaumont, Texas 77705 Mr. Jeff Sanford, HSSE Coordinator, Oiltanking Beaumont Partners, L.P., 6275 Highway 347, Beaumont, Texas 77705 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 14, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 12, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions. Specifically, 878 pounds ("lbs") of volatile organic compounds ("VOC") were released from Tank 555 without authorization on April 6 through 7, 2007 for approximately 16 hours. In addition, 888 lbs of VOC were released from Tank 556 without authorization on April 7, 2007, for approximately 8.5 hours. These emissions events are not eligible for an affirmative defense as stated by 30 TEX. ADMIN. CODE § 101.222(b), because the initial emissions reports were not submitted within 24 hours of discovery of the emissions events as required by 30 TEX. ADMIN. CODE § 101.222(a)(1)(B) [30 TEX. ADMIN. CODE §§ 116.715(a) and (c)(7) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit O-01804, General Terms and Conditions, and Flexible Permit 21356, General Condition 10].</p>	<p>Total Assessed: \$5,400</p> <p>Total Deferred: \$1,080 <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: \$4,320</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 the Respondent modified standard operating procedures in regards to tank landing events by May 23, 2008 to ensure that emissions events are correctly reported.</p>

Additional ID No(s): JE00100



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	19-May-2008
	PCW	19-Jun-2008
	Screening	20-May-2008
	EPA Due	13-Feb-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	Oiltanking Beaumont Partners, L.P.
Reg. Ent. Ref. No.	RN101042885
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35924	No. of Violations	1
Docket No.	2008-0844-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Aaron Houston
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	18.0% Enhancement	Subtotal 2, 3, & 7
Notes	Penalty enhancement due to one (1) NOV for an unrelated violation and one (1) Agreed Order containing a denial of liability. Penalty reduction due to two (2) letters of intended audits and one (1) audit in which violations were disclosed.	
Culpability	No	0.0% Enhancement
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$500
Economic Benefit	0.0% Enhancement*	Subtotal 6
Total EB Amounts	\$28	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$500	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,400
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	Final Penalty Amount	\$5,400
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,400
DEFERRAL	20.0% Reduction	Adjustment
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$4,320

PCW

Screening Date: 20-May-2008

Docket No.: 2008-0844-AIR-E

Respondent: Oiltanking Beaumont Partners, L.P.

Policy Revision 2 (September 2002)

Case ID No.: 35924

PCW Revision June 12, 2008

Reg. Ent. Reference No.: RN101042885

Media [Statute]: Air

Enf. Coordinator: Aaron Houston

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
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)	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) 18%

>> **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 (1) NOV for an unrelated violation and one (1) Agreed Order containing a denial of liability. Penalty reduction due to two (2) letters of intended audits and one (1) audit in which violations were disclosed.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 18%

Screening Date 20-May-2008 **Docket No.** 2008-0844-AIR-E **PCW**
Respondent Oiltanking Beaumont Partners, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 35924 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101042885
Media [Statute] Air
Enf. Coordinator Aaron Houston

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 116.715(a) and (c)(7), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit O-01804, General Terms and Conditions, and Flexible Permit 21356, General Condition 10
Violation Description Failed to prevent unauthorized emissions. Specifically, 878 pounds (lbs) of volatile organic compounds ("VOC") were released from Tank 555 without authorization on April 6 through 7, 2007 for approximately 16 hours. In addition, 888 lbs of VOC were released from Tank 556 without authorization on April 7, 2007, for approximately 8.5 hours. These emissions events are not eligible for an affirmative defense as stated by 30 Tex. Admin. Code § 101.222(b), because the initial emissions reports were not submitted within 24 hours of discovery of the emissions events as required by 30 Tex. Admin. Code § 101.222(a)(1)(B).
Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	Falsification	Falsification	Falsification	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days
 mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty
 Two quarterly events are recommended for two emissions events.

Good Faith Efforts to Comply Reduction

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

Notes The Respondent completed corrective actions by May 23, 2008.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total
 This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Oiltanking Beaumont Partners, L.P.
Case ID No.: 35924
Reg. Ent. Reference No.: RN101042885
Media: Air
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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	7-Apr-2007	23-May-2008	1.13	\$28	n/a	\$28
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of training personnel to properly report emissions events. Date required is the date the first emissions report was due; final date is the date the corrective actions were completed.

Avoided Costs

~~ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)~~

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$28

Compliance History

Customer/Respondent/Owner-Operator: CN600611123 Oiltanking Beaumont Partners, L.P. Classification: AVERAGE Rating: 4.61
 Regulated Entity: RN101042885 OILTANKING BEAUMONT TERMINAL Classification: AVERAGE Site Rating: 8.04

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD074189671
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	34170
	AIR NEW SOURCE PERMITS	PERMIT	21356
	AIR NEW SOURCE PERMITS	PERMIT	23345
	AIR NEW SOURCE PERMITS	PERMIT	43352
	AIR NEW SOURCE PERMITS	PERMIT	45280
	AIR NEW SOURCE PERMITS	PERMIT	48007
	AIR NEW SOURCE PERMITS	PERMIT	48006
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE00100
	AIR NEW SOURCE PERMITS	REGISTRATION	75814
	AIR NEW SOURCE PERMITS	REGISTRATION	56132
	AIR NEW SOURCE PERMITS	AFS NUM	4824500070
	AIR NEW SOURCE PERMITS	REGISTRATION	51105
	AIR NEW SOURCE PERMITS	REGISTRATION	76912
	AIR NEW SOURCE PERMITS	REGISTRATION	78551
	AIR NEW SOURCE PERMITS	REGISTRATION	78552
	AIR NEW SOURCE PERMITS	REGISTRATION	78927
	AIR NEW SOURCE PERMITS	REGISTRATION	79734
	AIR NEW SOURCE PERMITS	REGISTRATION	79617
	AIR NEW SOURCE PERMITS	REGISTRATION	83482
	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE00100
	AIR OPERATING PERMITS	PERMIT	1804
	STORMWATER	PERMIT	TXR05U604
	WASTE WATER GENERAL PERMIT	PERMIT	TXG670041
	WASTE WATER GENERAL PERMIT	PERMIT	TXG341611
	WATER RIGHTS	PERMIT	WRPERM 5829
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	34170

Location: 6275 HIGHWAY 347, BEAUMONT, TX, 77705 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: June 18, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 20, 2003 to May 20, 2008

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

Name: Aaron T. Houston Phone: (409) 899-8784

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? | <u>N/A</u> |
| 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: 07/22/2006 ADMINORDER 2005-1865-AIR-E
 Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: 21356 PERMIT

O-01804 OP

Description: Failure to equip 2 open-ended valves or lines with a cap, blind flange, plug, or a second valve.
B18

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: 21356 PERMIT
O-01804 PERMIT

Description: Failure to repair 13 leaking valves and 8 leaking flanges within 15 days. B18

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: 21356 PERMIT
O-01804 PERMIT

Description: Failure to implement 28 MID Fugitive Monitoring Program with Intensive Directed Maintenance.
A11i6

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: 21356 PERMIT
O-01084 PERMIT

Description: Failure to maintain fugitive monitoring records. A11i6

Classification: Minor

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

30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: General Condition OP

Description: Failure for a deviation report to be submitted no later than 30 days after the end of each reporting period.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)(i)

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

Rqmt Prov: Special Condition 11 OP

Description: Failure for an annual compliance certification to include or reference any emission unit addressed in the permit for which one or more deviations occurred over the certification period.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.10(b)(2)(A)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to report accurate emissions data for fugitive monitoring on the 2002 and 2003 Emissions Inventory.

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 0011/2003 (201104)

1 09/11/2003 (291134)
2 12/10/2003 (291200)
3 01/09/2004 (257087)
4 06/16/2004 (332459)
5 09/20/2004 (496462)
6 12/03/2004 (429771)
7 03/21/2005 (429769)
8 06/13/2005 (429770)
9 08/30/2005 (281910)
10 08/30/2005 (402969)
11 08/31/2005 (346327)
12 09/09/2005 (449147)

13 12/02/2005 (496463)
14 03/07/2006 (456419)
15 03/22/2006 (496461)
16 04/11/2006 (456124)
17 06/05/2006 (508344)
18 09/06/2006 (530684)
19 09/06/2006 (510824)
20 11/30/2006 (553387)
21 02/15/2007 (592537)
22 05/06/2007 (536023)
23 05/17/2007 (554318)
24 06/05/2007 (592538)
25 06/23/2007 (557644)
26 08/08/2007 (560247)
27 09/07/2007 (607151)
28 11/20/2007 (595888)
29 11/27/2007 (596948)
30 12/06/2007 (635515)
31 02/08/2008 (679189)
32 04/17/2008 (646666)
33 04/17/2008 (639625)
34 05/12/2008 (639249)

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

Date: 05/12/2008 (639370)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: PERMIT 21356, General Condition 10

OP O-01804, General Terms and Conditions

Description: Failure to submit initial notifications for two reportable emissions events no later than 24 hours after the discovery of the event.

F. Environmental audits.

Notice of Intent Date: 11/22/2004 (348368)

Disclosure Date: 08/19/2005

Viol. Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)

Rqmt Prov: PERMIT Title V Permit O-01804 SP 3.A(iii)

Description: Failure to conduct visible emission observations on the Hot Oil Heater.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter C 122.222(k)(2)

Description: The required "off permit" notification to add tank 100-2 and 100-3 to the Title V permit was not made.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter C 122.222(k)(2)

Description: The required "off permit" notifications to add Pipeline Manifold Expansion of No 6 Oil Station (FUG 50-1) to the Title V permit was not made.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter C 122.222(k)(2)

Description: The required "off permit" notification to remove several demolished tanks to the Title V permit was not made.

Viol. Classification: Minor

Citation: 1 THC Chapter 1 1.001(a)

Rqmt Prov: PERMIT MSGP TXR05P200 Part III

Description: SWP3 plan was not updated

Notice of Intent Date: 02/08/2006 (457094)

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
OILTANKING BEAUMONT
PARTNERS, L.P.
RN101042885

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0844-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 Oiltanking Beaumont Partners, L.P. ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a marine storage terminal at 6275 Highway 347, Beaumont, Jefferson 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 17, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Four Hundred Dollars (\$5,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Three Hundred Twenty Dollars (\$4,320) of the administrative penalty and One Thousand Eighty Dollars (\$1,080) is deferred contingent upon the Respondent'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 the

Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent modified standard operating procedures in regards to tank landing events by May 23, 2008 to ensure that emissions events are correctly reported.
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 the Respondent 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, the Respondent is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.715(a) and (c)(7), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit O-01804, General Terms and Conditions, and Flexible Permit 21356, General Condition 10, as documented during an investigation conducted on March 14, 2008. Specifically, 878 pounds ("lbs") of volatile organic compounds ("VOC") were released from Tank 555 without authorization on April 6 through 7, 2007 for approximately 16 hours. In addition, 888 lbs of VOC were released from Tank 556 without authorization on April 7, 2007, for approximately 8.5 hours. These emissions events are not eligible for an affirmative defense as stated by 30 TEX. ADMIN. CODE § 101.222(b), because the initial emissions reports were not submitted within 24 hours of discovery of the emissions events as required by 30 TEX. ADMIN. CODE § 101.222(a)(1)(B).

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Oiltanking Beaumont Partners, L.P., Docket No. 2008-0844-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 the Respondent. The Respondent 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 the Respondent 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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. Miller

For the Executive Director

10/30/2008

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 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 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.

Jeff Sanford

Signature

8-29-08

Date

JEFF SANFORD

Name (Printed or typed)
Authorized Representative of
Oiltanking Beaumont Partners, L.P.

HSSE COORDINATOR

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.

