

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2005-1862-AIR-E TCEQ ID: RN100216977 CASE NO.: 27217
RESPONDENT NAME: BASF FINA PETROCHEMICALS LIMITED PARTNERSHIP**

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: 2700 Highway 366, Port Arthur, Jefferson County</p> <p>TYPE OF OPERATION: Petrochemical plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 3, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC 175, (713) 422-8914 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Ms. Kimberly Morales, Air Enforcement Section, MC R-12, (713) 422-8938 TCEQ Regional Contact: Ms. Heather Ross, Beaumont Regional Office, MC R-10, (409) 898-3838 Respondent: Mr. Chris Witte, General Manager, BASF Fina Limited Partnership, Highway 366, Gate 99, P.O. Box 2506 Port Arthur, TX 77643 Respondent's Attorney: David A. Savage, Baker Botts LLP, 1500 San Jacinto Center, Austin, Texas 78701-4039</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 15, 2004</p> <p>Date of NOE Relating to this Case: August 31, 2005</p> <p>Background Facts: After extensive settlement negotiations and exchange of discovery documents, settlement was achieved and a signed Agreed Order was received on June 25, 2008.</p> <p>Current Compliance Status: The Respondent has completed all the corrective actions.</p> <p>AIR:</p> <p>1. Failed to seal two open-ended valves or lines which resulted in Volatile Organic Compound emissions to the atmosphere [30 TEX. ADMIN. CODE §§ 101.20(1) and 115.352(4), 40 CODE OF FED. REG. (CFR) § 60.482-6(a)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2. Failed to follow 40 CFR § 60, Appendix A, Method 21 when conducting fugitive emission monitoring [30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 115.355(1), and 116.115(c), Air Permit No. 36644/PSD-TX-903, Special Condition (SC) 9F, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$59,800</p> <p>Total Deferred: \$29,900 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input checked="" type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$29,900</p> <p>The Respondent has paid \$29,900 of the administrative penalty. The remainder, for the amount of \$29,900, shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project (SEP).</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 1, 2002</p>	<p>Ordering Provisions: The Respondent shall implement and complete a SEP, as described in attachment A of the Agreed Order.</p> <p>Corrective Action(s) Taken: The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <ol style="list-style-type: none"> 1. Replaced the organic vapor analyzers formerly used for EPA Method 21 monitoring at the Plant with state of the art flame ionization detectors on January 2, 2008. 2. Replaced the manual system formerly used for recording ambient concentrations measured by the organic vapor analyzers with devices for electronically recording ambient concentrations no January 2, 2008. 3. Tightened the plugs on the open ended lines associated with Tag Numbers 1776 and 1995B on July 15, 2004, in the presence of TCEQ staff.

Attachment A
Docket Number: 2005-1862-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: **BASF FINA PETROCHEMICALS LIMITED PARTNERSHIP**

Penalty Amount: **Fifty-nine thousand eight hundred dollars (\$59,800)**

SEP Amount: **Twenty-nine thousand nine hundred dollars (\$29,900)**

Type of SEP: **Pre-approved**

Third-Party Recipient: ***Southeast Texas Regional Planning Commission West Port Arthur Home Energy Efficiency Project***

Location of SEP: **Jefferson County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient named above. The contribution will be to the **Southeast Texas Regional Planning Commission** for the *West Port Arthur Home Energy Efficiency Project* in Jefferson County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes' energy efficiency. SEP funds will be used to pay for the cost of caulking and insulating the homes and appliances as well as for replacing heating and cooling systems and major appliances with new energy efficient equipment.

The Respondent certifies that it has no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Implementation of this project will reduce residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter (PM), volatile organic compounds (VOC), and nitrogen oxides (NOx) associated with the combustion of fuel and generation of electricity.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

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

SETRPC
Bob Dickinson
Director, Transportation and Environmental Resources
South East Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703

3. Records and Reporting

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

BASF FINA PETROCHEMICALS LIMITED PARTNERSHIP

Docket No. 2005-1862-AIR-E

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned PCW	07-Sep-2005	13-Jun-2008	Screening	02-Nov-2005	EPA Due	28-May-2006
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RESPONDENT/FACILITY INFORMATION	
Respondent	BASF Fina Petrochemicals Limited Partnership
Reg. Ent. Ref. No.	RN100216977
Facility/Site Region	10-Beaumont < Major/Minor Source Major Source <

CASE INFORMATION			
Enf./Case ID No.	27217	No. of Violations	2
Docket No.	2005-1862-AIR-E	Order Type	1660 <
Media Program(s)	Air Quality <	Enf. Coordinator	Kimberly Morales
Multi-Media		EC's Team	Enforcement Team 5 <
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

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

Notes

Economic Benefit Subtotal 6

Total EB Amounts	<input type="text" value="\$2,512"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$20,050"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 02-Nov-2005

Docket No. 2005-1862-AIR-E

PCW

Respondent BASF Fina Petrochemicals Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 27217

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100216977

Media [Statute] Air Quality

Enf. Coordinator Kimberly Morales

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 84%

>> Repeat Violator (Subtotal 3)

No <

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer <

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The respondent is an average performer with three orders with denial of liability, two same or similar NOVs, and seven non-same or similar NOVs, including four self reported ones.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 84%

Screening Date 02-Nov-2005

Docket No. 2005-1862-AIR-E

PCW

Respondent BASF Fina Petrochemicals Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 27217

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100216977

Media [Statute] Air Quality

Enf. Coordinator Kimberly Morales

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	<input type="text" value="25%"/>
Potential				

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent BASF Fina Petrochemicals Limited Partnership
 Case ID No. 27217
 Reg. Ent. Reference No. RN100216977
 Media [Statute] Air Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	15-Jul-2004	15-Jul-2004	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs for valve tightening; the required date is the investigation date; the final date is the compliance date.

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

TOTAL

Screening Date 02-Nov-2005

Docket No. 2005-1862-AIR-E

PCW

Respondent BASF Fina Petrochemicals Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 27217

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100216977

Media [Statute] Air Quality

Enf. Coordinator Kimberly Morales

Violation Number

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.355(1) and Air Permit No. 36644/PSD-TX-903, Special Condition (SC) 9F

Secondary Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1) and (3), and 116.115(c), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to follow 40 CFR § 60, Appendix A, Method 21 when conducting fugitive emission monitoring. Specifically, on July 15, 2004, the monitoring personnel utilized Cosmos Analyzers with tested response times of between 10 and 15 seconds (sec) to conduct the fugitive emission monitoring; based on these instruments' response times, no more than 5 components could be monitored per minute (min), if there were no elevated readings, and no more than 3 components could be monitored per min if there were elevated readings. However, review of fugitive monitoring records for calendar year 2003 through July 2004 (6 calendar quarters) showed that on numerous occasions 8 or more components were being monitored per min, indicating that the monitoring personnel could not have been monitoring properly. Additionally, on July 15, 2004, the Cosmos analyzers were unable to meet Method 21 calibration specifications.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		<input type="text" value="50%"/>
Potential				

>> Programmatic Matrix

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

Matrix Notes Estimated emissions of 1756 tons/yr (with controlled factors almost 87 tons/yr) of VOC were calculated utilizing BASF emission factors from the EPA "Protocol for Equipment Leak Emission Estimates" publication. See attached Table One. Human health or the environment has been exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Six quarterly events are recommended.

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 BASF Fina Petrochemicals Limited Partnership
 Case ID No. 27217
 Reg. Ent. Reference No. RN100216977
 Media [Statute] 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$20,000	15-Jul-2004	01-May-2006	1.8	\$120	\$2,393	\$2,512
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs of proper monitoring; the required date is the investigation date; the final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$20,000**

TOTAL \$2,512

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: GC 8 PERMIT
SC 1 PERMIT
SC 18 PERMIT
Description: Failure to maintain NOX from the Supplemental Boiler Stack below the MAERT limit of 13.65 lb/hr and the limit for the Heat Specific Factor of .060 lb/MMBtu.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: GC 8 PERMIT
SC 1 PERMIT
SC 15 PERMIT
Description: Failure to maintain NOX from the Cogeneration Train 2 Stack below the MAERT limit of 26.96 lb/hr and the combined emissions from the gas turbine plus duct burner.
Effective Date: 11/2/02 ADMINORDER 2002-0029-AIR-E ✓
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.5
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to prevent the discharge of such quantities of uncombined water as to create a traffic hazard and interfere with normal road use.
Classification: Moderate
Citation: 5C THC Chapter 382, SubChapter A 382.085(a)
Description: Failure to prevent unauthorized emissions during an upset on 11/28/01. The emergency bypass vent at the 92 Pipe Rack adjacent to the Thermal Oxidizer which is not a permitted source, released 88 pounds of VOC (benzene) over a 1 hr period.
Effective Date: 4/10/05 ADMINORDER 2003-1317-AIR-E 3
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.7(b)(1)(B)
30 TAC Chapter 101, SubChapter A 101.7(c)(3)
30 TAC Chapter 101, SubChapter F 101.211(a)(1)(E)
30 TAC Chapter 101, SubChapter F 101.211(b)(6)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to include the expected and actual times of scheduled start-up activities at the Ethylene Unit on the initial and final notifications for startup period November 6, 2001 through January 8, 2002.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: 1 PERMIT
Description: Failure to maintain an emission rate below the allowable emission limits.
Classification: Moderate
Citation: 5C THC Chapter 382, SubChapter A 382.085(a)
Description: Failure to prevent unauthorized emissions.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(1)(B)
30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)
30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to notify the regional office no later than 24 hours after the discovery of a reportable upset; failure to determine if emissions events were reportable.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: 1 PERMIT
Description: Failure to maintain an emission rate below the allowable emission limits.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(2)(E)
30 TAC Chapter 101, SubChapter A 101.6(a)(2)(F)
30 TAC Chapter 101, SubChapter F 101.201(a)(2)(G)
30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to notify the regional office the compounds and estimated quantities for the compounds of a reportable upset at the Ethylene Unit.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Citation: 1 PERMIT
Description: Failure to maintain an emission rate below the allowable emission limits.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
30 TAC Chapter 101, SubChapter F 101.201(b)(4)
30 TAC Chapter 101, SubChapter F 101.201(b)(8)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to properly notify the regional office the requirements of 30 TAC 101.201(a) and (b) for the reportable upset at the Ethylene Unit.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
30 TAC Chapter 101, SubChapter F 101.201(b)(4)
30 TAC Chapter 101, SubChapter F 101.201(b)(8)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to properly notify the regional office the requirements of 30 TAC 101.201(a) and (b) for the reportable upset at the Ethylene Unit.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: 1 PERMIT
23 PERMIT
23A PERMIT
Description: Failure to maintain an emission rate below the allowable emission limits.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)[G]
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: 13C PERMIT
20 PERMIT
PSD-TX-903, SC 1 PERMIT
Description: Failure to maintain an emission rate below the allowable emission limits.
Classification: Major
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: 1 PERMIT
Description: Failure to maintain an emission rate below the allowable emission limit.
Classification: Major
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: 26 PERMIT
Description: Failure to maintain an emission rate below the allowable emission limit.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.6(b)(5)
30 TAC Chapter 101, SubChapter A 101.6(b)(6)
30 TAC Chapter 101, SubChapter F 101.201(b)(4)
30 TAC Chapter 101, SubChapter F 101.201(b)(7)
30 TAC Chapter 101, SubChapter F 101.201(b)(8)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to include types of compounds and estimated total quantities for NOx and CO on final report notifications.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)[G]
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Citation: 13C PERMIT
Description: Failure to maintain compliance with visible emission limitations for gas flares.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.6(b)[G]
30 TAC Chapter 101, SubChapter F 101.201(b)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to submit a final report to the TCEQ Beaumont Regional Office within 14 days of the end of the event.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)
30 TAC Chapter 101, SubChapter F 101.211(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to make a final maintenance notification within 14 days of the end of the event.

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

2 12/19/2001 (234943)
4 11/19/2002 (234942)
6 07/10/2002 (106919)
8 11/26/2001 (234941)
10 06/26/2002 (106918)
12 10/22/2002 (234940)
14 06/24/2002 (106917)
16 06/24/2002 (106916)
18 11/01/2001 (234939)
20 09/16/2002 (234938)
22 09/25/2001 (234937)
24 08/19/2002 (234936)
26 07/16/2003 (112861)
28 08/22/2001 (234935)
30 07/18/2002 (234934)
32 11/18/2002 (15762)
34 06/01/2004 (267732)
36 07/24/2001 (234933)
38 11/06/2003 (254209)
40 06/24/2002 (106915)
42 06/27/2002 (234932)
44 08/10/2004 (278952)
46 07/23/2002 (3001)
48 03/07/2005 (338015)
50 05/30/2002 (234931)
52 12/29/2003 (257254)
54 05/24/2001 (234930)
56 04/23/2002 (234929)
58 08/12/2005 (402436)
60 11/22/2004 (278953)
62 04/24/2001 (234928)
64 06/24/2002 (106914)
66 02/27/2004 (261562)
68 03/24/2003 (234927)
70 06/13/2002 (106913)
72 05/31/2002 (106912)
74 05/31/2002 (106911)
76 08/29/2002 (3249)
78 04/05/2002 (234926)
80 05/17/2002 (106910)
82 02/23/2004 (327651)
84 05/02/2002 (106909)
86 02/20/2003 (234925)
88 08/12/2005 (379097)
90 03/22/2004 (327652)
92 02/18/2004 (260861)
94 05/02/2002 (106908)
96 02/10/2005 (344242)
98 04/22/2003 (327653)
100 05/02/2002 (106907)
102 07/27/2005 (393566)
104 03/04/2002 (234924)
106 04/16/2002 (106906)
108 02/11/2005 (278954)
110 05/22/2003 (327654)
112 04/16/2002 (106905)
114 07/06/2001 (327655)
116 04/03/2002 (106904)
118 03/27/2002 (106903)
120 06/20/2003 (327656)
122 02/18/2005 (348961)

124 04/03/2003 (16244)
126 07/07/2005 (338249)
128 06/17/2004 (327657)
130 06/10/2003 (35909)
132 04/17/2003 (29115)
134 03/01/2002 (106902)
136 07/22/2003 (327658)
138 02/22/2002 (106901)
140 08/22/2003 (327659)
142 02/22/2002 (106900)
144 09/23/2003 (327660)
146 02/14/2002 (106899)
148 02/18/2005 (348919)
150 02/14/2002 (106898)
152 10/17/2003 (327661)
154 05/10/2005 (278956)
156 02/08/2002 (106897)
158 10/28/2002 (14750)
160 08/10/2004 (278542)
162 11/20/2003 (327662)
164 01/26/2002 (106896)
166 11/08/2002 (15640)
168 01/26/2002 (106895)
170 12/19/2002 (327663)
172 02/27/2004 (264339)
174 02/26/2004 (261623)
176 12/29/2003 (327664)
178 02/08/2005 (348963)
180 01/10/2002 (106894)
182 01/16/2004 (327665)
184 01/09/2002 (106893)
186 02/10/2005 (343973)
188 08/23/2002 (8418)
190 12/11/2003 (144479)
192 01/09/2002 (106892)
194 03/30/2005 (344244)
196 02/11/2005 (278958)
198 01/09/2002 (106891)
200 01/09/2002 (106890)
202 01/03/2002 (106889)
204 12/11/2001 (106888)
206 12/05/2001 (106887)
208 11/29/2001 (106886)
210 11/29/2001 (106885)
212 11/21/2001 (106884)
214 12/17/2003 (248013)
216 10/26/2001 (106883)
218 07/06/2005 (398263)
220 01/28/2003 (21739)
222 04/22/2004 (367172)
224 05/18/2004 (367173)
226 07/19/2004 (367174)
228 07/03/2003 (43208)
230 08/24/2004 (367175)
232 10/19/2001 (106882)
234 09/21/2004 (367176)
236 02/23/2005 (427633)
238 10/11/2001 (106881)
240 10/22/2004 (367177)
242 04/18/2005 (427634)
244 08/10/2005 (399867)
246 09/20/2001 (106880)
248 09/21/2004 (367178)
250 06/28/2001 (106879)
252 05/10/2005 (427635)
254 06/20/2001 (106878)
256 06/20/2005 (427636)
258 05/17/2001 (106877)
260 01/05/2001 (106876)
262 03/22/2005 (390149)
264 11/08/2002 (15628)
266 12/22/2004 (390150)
268 08/31/2005 (285271)
270 01/21/2005 (390151)
272 01/14/2004 (259423)
274 05/21/2004 (267205)

276 11/08/2002 (15658)
 278 03/30/2005 (343817)
 280 03/03/2005 (343703)
 282 02/10/2005 (344219)
 284 05/21/2004 (266870)
 286 02/11/2005 (341798)
 288 03/03/2005 (262072)
 290 09/05/2003 (119152)
 292 08/24/2005 (287879)
 294 05/21/2004 (266755)
 296 04/25/2003 (27482)
 298 05/12/2004 (270524)
 300 10/10/2002 (10864)
 302 11/15/2002 (16299)
 304 01/16/2004 (259390)
 306 06/03/2005 (378687)
 308 08/10/2004 (278948)
 310 03/30/2005 (344248)
 312 06/30/2005 (392984)
 314 04/01/2005 (344250)
 316 03/07/2005 (344251)
 318 10/11/2002 (10736)
 320 02/11/2005 (344252)
 322 08/10/2004 (278949)
 324 02/10/2005 (343769)
 326 12/17/2003 (254861)
 328 03/30/2005 (344253)
 330 07/05/2005 (380492)
 332 05/13/2004 (267724)
 334 03/24/2004 (262485)
 336 12/06/2002 (15624)
 338 10/30/2003 (253638)
 340 08/22/2002 (5767)
 342 01/15/2003 (19957)
 344 08/10/2004 (278950)
 346 02/10/2005 (343578)
 348 01/21/2003 (234945)
 350 01/23/2002 (234944)
 352 07/05/2005 (398319)

N/A

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

Date: 04/30/2002 (234931) 1
 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: 03/31/2002 (234929) 2
 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: 02/26/2004 (261623) 3
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT IA
 Description: On January 5, 2004, during the decoking process of Heater H-0800, an excess opacity event of greater than 5 percent occurred at EPN N-18.

Date: 02/28/2002 (234926) 4
 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: 01/31/2002 (234924) 5
 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: 02/25/2002 (106902) 6
 Self Report? NO Classification: Moderate
 Citation: 5C THC Chapter 382, SubChapter A 382.085(a)
 Description: UNAUTHORIZED EMISSIONS

Date: 01/03/2002 (106894) 7

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 101, SubChapter A 101.5
Description: TRAFFIC HAZARD
Date: 10/18/2001 (106882) 63

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
Description: FAILURE TO COMPLY

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
Rqmt Prov: OP IA
Description: FAILURE TO COMPLY

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: OP IA
Description: PERMIT PROVISIONS
Date: 05/07/2004 (267732) 62

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(5)
Description: Failure to properly complete uniform hazardous waste manifests.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)[G]
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(4)
Description: Failure to include an inventory of emergency equipment in the facility's contingency plan.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)[G]
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(4)
Description: Failure to include the addresses of the emergency coordinators in the facility's contingency plan.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BASF FINA PETROCHEMICALS
LIMITED PARTNERSHIP
RN100216977

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1862-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BASF FINA Petrochemicals LP ("BFLP") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and BFLP presented this agreement to the Commission.

1. BFLP owns and operates a petrochemical plant at 2700 Highway 366 in Port Arthur, Jefferson County, Texas (the "Plant").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and BFLP agree that the Commission has jurisdiction to enter this Agreed Order, and that BFLP is subject to the Commission's jurisdiction.
4. BFLP received notice of the violations alleged in Section II ("Allegations") on or about September 5, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by BFLP of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of fifty nine thousand eight hundred dollars (\$59,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). BFLP has paid twenty nine thousand nine hundred dollars (\$29,900) of the

administrative penalty. Twenty nine thousand nine hundred dollars (\$29,900) shall be conditionally offset by BFLP's completion of a Supplemental Environmental Project ("SEP").

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 BFLP 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 BFLP has implemented the following corrective measures at the Plant in response to this enforcement action:
 - a. Replaced the organic vapor analyzers formerly used for EPA Method 21 monitoring at the Plant with state-of-the-art flame ionization detectors on January 2, 2008;
 - b. Replaced the manual system formerly used for recording ambient concentrations measured by the organic vapor analyzers with devices for electronically recording ambient concentrations on January 2, 2008; and
 - c. Tightened the plugs on the open-ended lines associated with Tag Numbers 1776 and 1995B on July 15, 2004 in the presence of TCEQ staff.
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 BFLP 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

BFLP is alleged to have:

1. Failed to seal two open-ended valves or lines which resulted in Volatile Organic Compound emissions to the atmosphere, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and

115.352(4), 40 CODE OF FED. REG. (CFR) § 60.482-6(a)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 15, 2004 by TCEQ Beaumont Regional Office investigators. Specifically, investigators documented two open-ended lines associated with Tag Numbers 1776 and 1995B having plugs that did not seal the lines.

2. Failed to follow 40 CFR § 60, Appendix A, Method 21 when conducting fugitive emission monitoring, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 115.355(1), and 116.115(c), Air Permit No. 36644/PSD-TX-903, Special Condition (SC) 9F, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 15, 2004 by a TCEQ Beaumont Regional Office investigator. Specifically, the monitoring personnel utilized Cosmos Analyzers with tested response times of between 10 and 15 seconds (sec) to conduct the fugitive emission monitoring; based on these instruments' response times, no more than 5 components could be monitored per minute (min), if there were no elevated readings, and no more than 3 components could be monitored per min if there were elevated readings. However, review of fugitive monitoring records for calendar year 2003 through July 2004 (6 calendar quarters) showed that on numerous occasions 8 or more components were being monitored per min, indicating that the monitoring personnel could not have been monitoring properly. Additionally on July 15, 2004, the Cosmos analyzers were unable to meet Method 21 calibration specifications.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that BFLP pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and BFLP'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: BASF Fina Petrochemicals Limited Partnership; Docket No. 2005-1862-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. BFLP shall implement and complete a SEP in accordance with TEX. WATER CODE §7.067. As set forth in Section II, Paragraph 6 above, twenty nine thousand nine hundred dollars (\$29,900) of the assessed administrative penalty shall be conditionally offset with the condition that BFLP implement the SEP defined in Attachment A, incorporated herein by reference. BFLP's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon BFLP. BFLP 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.
4. If BFLP fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, BFLP's failure to comply is not a violation of this Agreed Order. BFLP shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. BFLP shall notify the Executive Director within seven days after BFLP becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by BFLP shall be made in writing to the Executive Director. Extensions are not effective until BFLP receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against BFLP in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

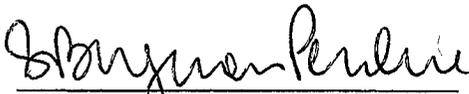
transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to BFLP, or three days after the date on which the Commission mails notice of the Order to BFLP, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

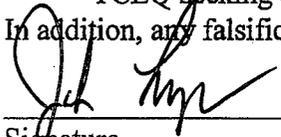
10/16/08
Date

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

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

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

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



Signature

6/25/08
Date

John Lycan
Name (Printed or typed)
Authorized representative of
BASF Fina Petrochemicals Limited Partnership

Operations Director
Title

Attachment A
Docket Number: 2005-1862-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: **BASF FINA PETROCHEMICALS LIMITED PARTNERSHIP**

Penalty Amount: **Fifty-nine thousand eight hundred dollars (\$59,800)**

SEP Amount: **Twenty-nine thousand nine hundred dollars (\$29,900)**

Type of SEP: **Pre-approved**

Third-Party Recipient: **Southeast Texas Regional Planning Commission *West Port Arthur Home Energy Efficiency Project***

Location of SEP: **Jefferson County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient named above. The contribution will be to the **Southeast Texas Regional Planning Commission** for the *West Port Arthur Home Energy Efficiency Project* in Jefferson County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes' energy efficiency. SEP funds will be used to pay for the cost of caulking and insulating the homes and appliances as well as for replacing heating and cooling systems and major appliances with new energy efficient equipment.

The Respondent certifies that it has no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Implementation of this project will reduce residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter (PM), volatile organic compounds (VOC), and nitrogen oxides (NOx) associated with the combustion of fuel and generation of electricity.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

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

SETRPC
Bob Dickinson
Director, Transportation and Environmental Resources
South East Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703

3. Records and Reporting

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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