

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-1096-AIR-E **TCEQ ID:** RN100210517 **CASE NO.:** 34152
RESPONDENT NAME: Diamond Shamrock Refining Company, 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: Diamond Shamrock McKee Plant, 6701 Farm-to-Market Road 119, Moore County</p> <p>TYPE OF OPERATION: Petroleum refining</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There are four additional pending enforcement actions regarding this facility location, Docket Nos. 2006-1774-AIR-E, 2007-0314-AIR-E, 2007-0676-AIR-E and 2007-1544-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 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. John Deemer, Environmental Manager, Diamond Shamrock Refining Company, L.P., 6701 Farm-to-Market Road 119, Sunray, Texas 79086-2013 Mr. Thomas A. Shetina, Vice President and General Manager, Diamond Shamrock Refining Company, L.P., 6701 Farm-to-Market Road 119, Sunray, Texas 79086-2013 Respondent's Attorney: Ms. Donna C. Taylor, Counsel, Environmental & Regulatory Affairs Department, The Valero Companies, One Valero Way, San Antonio, Texas 78249-1616</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 13, 2007</p> <p>Date of NOV/NOE Relating to this Case: June 18, 2007(NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>AIR/WATER/WASTE</p> <p>1) Failed to submit additional information regarding Incident No. 87720 within the established timeframe. Specifically, additional information was requested to be submitted by May 18, 2007 but no information has been submitted [30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to submit the final emissions event report for Incident No. 87720 within two weeks after the end of the event. Specifically, the final emissions event report was due March 5, 2007 but was not submitted until March 19, 2007 [30 TEX. ADMIN. CODE § 101.201(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to prevent unauthorized emissions. Specifically, unauthorized emissions of 67.4 pounds ("lbs") of hydrogen sulfide, 22,029.39 lbs of volatile organic compounds, 1734.16 lbs of nitrogen oxides, 18,243.57 lbs of carbon monoxide, 6,223.7 lbs of sulfur dioxide SO₂, and 5,332 lbs of chlorine were released from several emissions points in the Complex 1 through 5 Units during an emissions event (Incident No. 87720) that began on February 16, 2007 and lasted 58 hours. Since the emissions event was avoidable and improperly reported, Diamond Shamrock failed to meet the demonstration criteria for an affirmative</p>	<p>Total Assessed: \$13,884</p> <p>Total Deferred: \$2,776 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,554</p> <p>Total Paid to General Revenue: \$5,554</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>1) The Executive Director recognizes that:</p> <p>a. The unit where the emissions event occurred burned to the extent that it was inoperable, and was subsequently shutdown; and</p> <p>b. TCEQ Air Permits Division approved a permit alteration on August 27, 2007 authorizing Diamond Shamrock to rebuild the damaged unit in order to address Operations and Engineering Concerns, include Safety System Upgrades, include Improved Controls, include Increased Energy and Production Efficiency, and Simplify Process and Piping prior to starting the unit back up.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that emissions events are reported within the required timeframes; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.715(a) and 101.20(3), Flexible Permit No. 9708/PSD-TX-861M2, Application Representations, Table F-2 and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): MR0008T

Attachment A
Docket Number: 2007-1096-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Diamond Shamrock Refining Company, L.P.
Payable Penalty Amount:	Eleven Thousand One Hundred Eight Dollars (\$11,108)
SEP Amount:	Five Thousand Five Hundred Fifty-Four Dollars (\$5,554)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP:	Moore 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is 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

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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 the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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:

Enforcement Division
Attention: SEP Coordinator, MC 219
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.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

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 an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

DATES	Assigned	25-Jun-2007	Screening	2-Jul-2007	EPA Due	15-Mar-2008
	PCW	10-Jul-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Diamond Shamrock Refining Company, L.P.
Reg. Ent. Ref. No.	RN100210517
Facility/Site Region	1-Amarillo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	34152	No. of Violations	3
Docket No.	2007-1096-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Trina Grieco
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	\$5,200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	167% Enhancement	Subtotals 2, 3, & 7	\$8,684
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Notes: Penalty enhancement due to 11 NOVs issued for same or similar violations, 1 NOV issued for non-similar violations, 4 agreed orders issued containing a denial of liability, and one court order issued containing a denial of liability.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Total EB Amounts	\$157	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$3,200	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,884
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$13,884
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,884
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DEFERRAL	20% Reduction	Adjustment	-\$2,776
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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	\$11,108
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Screening Date 2-Jul-2007	Docket No. 2007-1096-AIR-E	PCW
Respondent Diamond Shamrock Refining Company, L.P.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34152	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN100210517		
Media [Statute] Air		
Enf. Coordinator Trina Grieco		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	4	80%
	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>	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <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 submitted)</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) 167%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	Penalty enhancement due to 11 NOVs issued for same or similar violations, 1 NOV issued for non-similar violations, 4 agreed orders issued containing a denial of liability, and one court order issued containing a denial of liability.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 167%

Screening Date	2-Jul-2007	Docket No.	2007-1096-AIR-E	PCW
Respondent	Diamond Shamrock Refining Company, L.P.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	34152	<i>PCW Revision June 26, 2007</i>		
Reg. Ent. Reference No.	RN100210517			
Media [Statute]	Air			
Enf. Coordinator	Trina Grieco			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 101.201(f) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to submit additional information regarding Incident No. 87720 within the established timeframe. Specifically, additional information was requested to be submitted by May 18, 2007 but no information has been submitted.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
Potential				Percent 0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				x
				Percent 1%
Matrix Notes	At least 70% of the rule requirements were met.			
Adjustment				\$9,900
				\$100
Violation Events				
	Number of Violation Events	1	44	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty \$100
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
	One single event is recommended.			
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	\$7	Violation Final Penalty Total	\$267
This violation Final Assessed Penalty (adjusted for limits)				\$267

Economic Benefit Worksheet

Respondent Diamond Shamrock Refining Company, L.P.
Case ID No. 34152
Reg. Ent. Reference No. RN100210517
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

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	\$200	19-May-2007	15-Feb-2008	0.7	\$7	n/a	\$7
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement measures designed to ensure that emissions events are reported within required timeframes. Date required based on the day after the information was required to be submitted. Final date is the projected date new reporting procedures will be implemented.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$7

Screening Date 2-Jul-2007	Docket No. 2007-1096-AIR-E	PCW
Respondent Diamond Shamrock Refining Company, L.P.	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34152	<small>PCW Revision June 26, 2007</small>	
Reg. Ent. Reference No. RN100210517		
Media [Statute] Air		
Enf. Coordinator Trina Grieco		
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code § 101.201(c) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to submit the final emissions event report for Incident No. 87720 within two weeks after the end of the event. Specifically, the final emissions event report was due March 5, 2007 but was not submitted until March 19, 2007.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	
				Percent <input type="text" value="1%"/>

Matrix Notes At least 70% of the rule requirements were met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

One single event is 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 Diamond Shamrock Refining Company, L.P.

Case ID No. 34152

Reg. Ent. Reference No. RN100210517

Media Air

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
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See Violation #1.

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

\$0

TOTAL

\$0

Screening Date	2-Jul-2007	Docket No.	2007-1096-AIR-E	PCW
Respondent	Diamond Shamrock Refining Company, L.P.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	34152			<i>PCW Revision June 26, 2007</i>
Reg. Ent. Reference No.	RN100210517			
Media [Statute]	Air			
Enf. Coordinator	Trina Grieco			

Violation Number	3
Rule Cite(s)	30 Tex. Admin. Code §§ 116.715(a) and 101.20(3), Flexible Permit No. 9708/PSD-TX-861M2, Application Representations, Table F-2 and Tex. Health & Safety Code § 382.085(b)
Violation Description	Failed to prevent unauthorized emissions. Specifically, unauthorized emissions of 67.4 pounds ("lbs") of hydrogen sulfide, 22,029.39 lbs of volatile organic compounds, 1734.16 lbs of nitrogen oxides, 18,243.57 lbs of carbon monoxide, 6,223.7 lbs of sulfur dioxide, and 5,332 lbs of chlorine were released from several emission points in the Complex 1 through 5 Units during an emissions event (Incident No. 87720) that occurred on February 16, 2007 and lasted 58 hours. Since the emissions event was avoidable and improperly reported, Diamond Shamrock failed to meet the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222.
Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
		Major	Moderate	Minor	
	Release		X		
	Actual				50%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health and the environment were exposed to 26.82 tons of pollutants which did not exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="X"/>

Violation Base Penalty \$5,000

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$150"/>	Violation Final Penalty Total <input type="text" value="\$13,350"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$13,350"/>	

Economic Benefit Worksheet

Respondent Diamond Shamrock Refining Company, L.P.
Case ID No. 34152
Reg. Ent. Reference No. RN100210517
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				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)	\$3,000	16-Feb-2007	15-Feb-2008	1.0	\$150	n/a	\$150

Notes for DELAYED costs

Estimated cost to complete investigation of the incident and to implement measures designed to prevent recurrence of the event due to the same cause. Date required is the date the release began. Final date is the date corrective actions are projected to be 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

\$3,000

TOTAL

\$150

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: 03/31/2003

ADMINORDER 2002-0181-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(2)[G]
30 TAC Chapter 101, SubChapter A 101.6(c)

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

Description: Failure to comply with upset reporting regulations for eight (8) upset events.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 116, SubChapter B 116.160[G]

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(c)(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(1)

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

Rqmt Prov: SC No. 1 PERMIT
SC No. 17 PERMIT

Description: Failure to repair nine (9) leaking components within fifteen calendar days after leaks were detected.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter B 116.160[G]

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

Rqmt Prov: SC 1 PERMIT

Description: Failure to maintain opacity of emissions within the permitted limits on nine (9) occasions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 116, SubChapter B 116.160[G]

40 CFR Part 60, Subpart A 60.18(c)(1)

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

Rqmt Prov: SC No. 11 PERMIT
SC No. 4 PERMIT

Description: Failure to operate the affected flares with no visible emissions except for periods not to exceed a total of five minutes during any two consecutive hours on ten (10) occasions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter B 116.160[G]

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

Rqmt Prov: SC No. 14 PERMIT

Description: Failure to maintain the No. 2 incinerator firebox exit temperature above 1200F.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter B 116.160[G]

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

Rqmt Prov: SC No. 5 PERMIT

Description: Failure to conduct monthly monitoring of volatile organic compounds (VOCs) associated with cooling tower water with an approved method.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)(iii)
30 TAC Chapter 116, SubChapter B 116.160[G]

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

Description: Failure to make available, at the request of the TNRCC, monthly emissions records required by NSR Permit No. 9914, Special Conditions, Storage of VOC, No. 7G.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.230

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Part 63, Subpart R 63.425(b)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC No. 2 PERMIT

Description: Failure to determine a monitored operating parameter value for the performance test of the vapor system.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.230

30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 63, Subpart R 63.427(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC No. 2 PERMIT

Description: Failed to install, calibrate, certify, operate, and maintain a continuous monitoring system capable of measuring temperature in the firebox or in the ductwork.

Classification: Moderate

Citation: 30 TAC Chapter 112, SubChapter A 112.3(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain a net ground level concentration of 0.4 parts per million by volume of SO₂ averaged over a 30 minute period.

Classification: Minor

Citation: 30 TAC Chapter 21 21.4(e)
30 TAC Chapter 290, SubChapter E 290.51(a)(3)

30 TAC Chapter 305, SubChapter M 305.503[G]

Description: Failure to pay outstanding Public Health Service fees WQA fees and WWI fees.

Effective Date: 08/07/2005

ADMINORDER 2004-1645-MLM-E

Classification: Major

Citation: 2D TWC Chapter 27, SubChapter A 27.011
30 TAC Chapter 331, SubChapter A 331.7(a)

30 TAC Chapter 335, SubChapter A 335.2(g)
30 TAC Chapter 335, SubChapter B 335.43[G]
40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1[G]

Rqmt Prov: VI A-Waste Streams Prohibited from Inj. OP

Description: Failed to prevent the unauthorized injection of characteristically hazardous waste containing benzene into non-hazardous storage tanks and then into non-hazardous waste disposal wells in violation of permit provision VI A for permits numbered WDW-020, WDW-225, and WDW-226.

Effective Date: 11/23/2005

COURTORDER

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

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

Rqmt Prov: MAERT OP

Description: Failed to maintain emission rate below the allowable limit and failed to obtain authorization for emission events that occurred October 13 and 24, and December 11, 2003, and March 19, July 29, and August 29, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)[G]
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to provide written initial notification to the TCEQ within 24 hours of emission events that occurred on October 13 and 24, 2003, and August 29, 2004.

Classification: Minor

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

Description: Failed to submit a final report within 2 weeks of the end date for emission events which occurred October 13 and 24, 2003.

Classification: Minor

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

Description: Failed to include all required information on the final reports for emission events which occurred October 24, 2003 and August 29, 2004.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)

Description: Failure to include estimated quantities on the initial notification for an emissions event

Classification: Minor

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

Description: Failure to submit final report for an emissions event within 2 weeks

Classification: Moderate

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

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

Description: Failure to meet the maximum allowable emission rates for Permit No. 9914

Classification: Minor

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

Description: Failure to submit initial notification within 24 hours for an emissions event

Classification: Minor

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

Description: Failure to submit final report for an emissions event within 2 weeks

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)

Description: Failure to include in the final report all individually listed compounds which were released during an emissions event

Classification: Moderate

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

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

Description: Failure to comply with the maximum allowable emission rates for Permit No. 9914

Classification: Minor

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

Description: Failure to submit initial notification within 24 hours of discovery of an emissions event

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)

Description: Failure to include all individually listed air contaminants in the final report for an emissions event

Classification: Moderate

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

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

Description: Failure to meet the maximum allowable emission rates of Permit No. 9914

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]

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

Description: Failure to obtain authorization for emissions from a 4" transfer line on Tank 503

Effective Date: 03/23/2006

ADMINORDER 2005-1111-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)

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

Description: Failure to include all of the required information in the final reports submitted for the emission event reporting.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.117(a)[G]

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

Rqmt Prov: Permit No. 9708/PSD-TX-861M2 OP

Description: Failure to control emissions to the atmosphere by emitting unauthorized air contamination during an emission event (Incident No. 54540) on February 26, 2005.

Effective Date: 06/26/2006

ADMINORDER 2006-0131-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: Permit 9708 & PSD-TX-861M2, GC No. 1 PERMIT
Description: Failed to prevent unauthorized emissions of 1030.65 lbs of sulfur dioxide and 11.15 pounds of hydrogen sulfide from the Main Refinery Flare (EPN FL-1) during an avoidable emissions event at Complex 3, which began on October 11, 2005 and lasted for eighteen hours and forty seven minutes.

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	07/19/2002	(229663)
2	07/22/2002	(5685)
3	07/25/2002	(6233)
4	08/08/2002	(229665)
5	09/10/2002	(229667)
6	10/08/2002	(229669)
7	11/08/2002	(229671)
8	12/10/2002	(229672)
9	01/08/2003	(229674)
10	01/23/2003	(22639)
11	01/23/2003	(22621)
12	01/23/2003	(22391)
13	01/23/2003	(22420)
14	01/23/2003	(22629)
15	01/23/2003	(22416)
16	02/10/2003	(229651)
17	03/04/2003	(26741)
18	03/06/2003	(229653)
19	03/28/2003	(28061)
20	03/28/2003	(28057)
21	03/28/2003	(28050)
22	03/28/2003	(28056)
23	03/28/2003	(28053)
24	04/04/2003	(31294)
25	04/11/2003	(229657)
26	04/13/2003	(31707)
27	04/13/2003	(31712)
28	05/12/2003	(325386)
29	06/11/2003	(325387)
30	07/15/2003	(325388)
31	08/07/2003	(36149)
32	08/11/2003	(325389)
33	08/14/2003	(150090)
34	08/15/2003	(150108)
35	08/15/2003	(150117)
36	08/15/2003	(150402)
37	08/15/2003	(150074)
38	08/18/2003	(150410)
39	08/29/2003	(152993)
40	08/29/2003	(152978)
41	08/29/2003	(152987)
42	08/29/2003	(152990)
43	08/29/2003	(152982)
44	09/10/2003	(325390)
45	10/07/2003	(249490)
46	10/08/2003	(325391)
47	11/06/2003	(252941)
48	11/12/2003	(325392)
49	12/12/2003	(325393)
50	01/12/2004	(325394)
51	02/10/2004	(325384)
52	02/13/2004	(262439)
53	02/13/2004	(262426)
54	03/04/2004	(263545)
55	03/04/2004	(263543)
56	03/04/2004	(263539)
57	03/11/2004	(263598)

58	03/12/2004	(325385)
59	04/08/2004	(266806)
60	04/26/2004	(365867)
61	04/30/2004	(271083)
62	05/13/2004	(365868)
63	05/14/2004	(262197)
64	05/19/2004	(270186)
65	05/19/2004	(270183)
66	05/19/2004	(270190)
67	05/19/2004	(270192)
68	05/19/2004	(270194)
69	06/10/2004	(365869)
70	06/29/2004	(277795)
71	06/29/2004	(277740)
72	07/13/2004	(365870)
73	07/19/2004	(282462)
74	07/19/2004	(282628)
75	07/30/2004	(281203)
76	07/30/2004	(285088)
77	07/30/2004	(285091)
78	08/18/2004	(365871)
79	09/10/2004	(365872)
80	09/24/2004	(333652)
81	09/24/2004	(333661)
82	09/24/2004	(334110)
83	09/24/2004	(333657)
84	10/09/2004	(334360)
85	10/09/2004	(334357)
86	10/12/2004	(365873)
87	11/08/2004	(389424)
88	11/23/2004	(341283)
89	11/29/2004	(265255)
90	11/29/2004	(265429)
91	11/29/2004	(265642)
92	12/08/2004	(389425)
93	12/21/2004	(344658)
94	12/21/2004	(344651)
95	12/21/2004	(344660)
96	12/29/2004	(342063)
97	12/30/2004	(342075)
98	12/30/2004	(340798)
99	12/30/2004	(341924)
100	12/30/2004	(342199)
101	12/30/2004	(342037)
102	12/30/2004	(335411)
103	12/30/2004	(339581)
104	12/30/2004	(341816)
105	12/30/2004	(342089)
106	12/30/2004	(342170)
107	01/12/2005	(389426)
108	01/25/2005	(347113)
109	01/28/2005	(347557)
110	01/28/2005	(347546)
111	01/28/2005	(347482)
112	01/31/2005	(349140)
113	02/08/2005	(430654)
114	02/25/2005	(349075)
115	03/04/2005	(372795)
116	03/04/2005	(372791)
117	03/04/2005	(372782)
118	03/04/2005	(372817)
119	03/11/2005	(351080)
120	03/14/2005	(389423)
121	03/17/2005	(374583)
122	03/17/2005	(374606)
123	04/11/2005	(430655)
124	04/27/2005	(378884)
125	04/27/2005	(372560)
126	05/10/2005	(430656)
127	06/03/2005	(394664)
128	06/07/2005	(453773)

129	06/10/2005	(430657)
130	06/10/2005	(379079)
131	07/06/2005	(398782)
132	07/06/2005	(398777)
133	07/11/2005	(447145)
134	07/22/2005	(400328)
135	07/26/2005	(397864)
136	08/19/2005	(447146)
137	09/12/2005	(431439)
138	09/12/2005	(447147)
139	09/12/2005	(431445)
140	10/05/2005	(433468)
141	10/05/2005	(433480)
142	10/05/2005	(491410)
143	10/05/2005	(433476)
144	11/15/2005	(433770)
145	11/15/2005	(491411)
146	11/22/2005	(438231)
147	11/22/2005	(438224)
148	11/22/2005	(438219)
149	12/14/2005	(434276)
150	12/15/2005	(491412)
151	01/05/2006	(437778)
152	01/05/2006	(437779)
153	01/06/2006	(439635)
154	01/13/2006	(491413)
155	01/30/2006	(438525)
156	01/30/2006	(434022)
157	02/02/2006	(454165)
158	02/07/2006	(491408)
159	02/24/2006	(434941)
160	02/24/2006	(434827)
161	03/07/2006	(491409)
162	04/07/2006	(505767)
163	04/11/2006	(461707)
164	04/12/2006	(461731)
165	04/19/2006	(463113)
166	04/19/2006	(463122)
167	04/19/2006	(463117)
168	04/19/2006	(463085)
169	04/19/2006	(463093)
170	05/01/2006	(463546)
171	05/04/2006	(463490)
172	05/05/2006	(505768)
173	05/30/2006	(480407)
174	05/31/2006	(480794)
175	06/05/2006	(505769)
176	06/22/2006	(480967)
177	06/27/2006	(481025)
178	06/30/2006	(481177)
179	07/13/2006	(486456)
180	07/13/2006	(486447)
181	07/17/2006	(528026)
182	07/18/2006	(482533)
183	07/26/2006	(488930)
184	07/26/2006	(488656)
185	07/27/2006	(489065)
186	07/27/2006	(489074)
187	08/24/2006	(528027)
188	08/29/2006	(510486)
189	08/29/2006	(510494)
190	09/07/2006	(488389)
191	09/11/2006	(511697)
192	09/11/2006	(511821)
193	09/12/2006	(512020)
194	09/15/2006	(488452)
195	09/20/2006	(372800)
196	09/22/2006	(512784)
197	09/22/2006	(513104)
198	09/25/2006	(488931)
199	09/25/2006	(528028)

200	10/06/2006	(551570)
201	10/06/2006	(488938)
202	10/11/2006	(515781)
203	10/12/2006	(489193)
204	10/13/2006	(515941)
205	10/13/2006	(516008)
206	10/13/2006	(516058)
207	10/13/2006	(515995)
208	10/31/2006	(515088)
209	10/31/2006	(515083)
210	10/31/2006	(515085)
211	10/31/2006	(517795)
212	10/31/2006	(515056)
213	10/31/2006	(515097)
214	11/03/2006	(518280)
215	11/03/2006	(518264)
216	11/08/2006	(518742)
217	11/09/2006	(551571)
218	11/20/2006	(519567)
219	12/05/2006	(551572)
220	12/05/2006	(532900)
221	12/05/2006	(532888)
222	12/05/2006	(532897)
223	12/08/2006	(533121)
224	12/08/2006	(533139)
225	12/08/2006	(533445)
226	12/11/2006	(532830)
227	12/12/2006	(533646)
228	12/13/2006	(533581)
229	12/18/2006	(518681)
230	12/28/2006	(515100)
231	01/08/2007	(535737)
232	01/08/2007	(535677)
233	01/08/2007	(535755)
234	01/11/2007	(551573)
235	01/29/2007	(533808)
236	02/11/2007	(551569)
237	02/20/2007	(452450)
238	02/28/2007	(542019)
239	02/28/2007	(542056)
240	03/06/2007	(542543)
241	03/06/2007	(542521)
242	03/06/2007	(542534)
243	03/08/2007	(542581)
244	03/27/2007	(555204)
245	04/09/2007	(541306)
246	04/10/2007	(555984)
247	04/12/2007	(556625)
248	04/12/2007	(556634)
249	04/12/2007	(556627)
250	04/12/2007	(556631)
251	04/12/2007	(556613)
252	04/12/2007	(556468)
253	04/13/2007	(556486)
254	04/13/2007	(556973)
255	05/08/2007	(559054)
256	05/14/2007	(537450)
257	05/16/2007	(560245)
258	05/22/2007	(558995)
259	06/18/2007	(559063)
260	06/27/2007	(563476)

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

Date: 08/06/2003 (36149)

Self Report? NO

Classification Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(c)(2)

Description: Failure to perform the first attempt to repair the leaking pumps no later than 5 days after each leak was detected.

Date: 03/10/2004 (263598)

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PA Permit No. 9914, sp. provision No. 11
 Description: The facility failed to operate Wastewater Flare according to special provision No. 11 of permit No. 9914. Visible emissions were observed from this flare during several emissions events.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
 Description: The company failed to submit the initial emissions event report within 24 hours following the discovery of the event, as required by the provisions of §101.201(e).

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Description: The company failed to comply with the special provision 19B of the permit No. 8636 by operating a pump in violation of the required standards.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(4)
 Description: The company failed to provide sufficient information to review the emissions event, as required by the provisions of §101.201(a)(4).

Date: 11/29/2004 (265255)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)
 Description: Failure to include on the final report all compounds released during an emissions event

Date: 11/30/2004 (265429)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
 Description: Failure to include authorized emissions limit on initial notification for an emissions event

Date: 12/30/2004 (342075)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 Description: Failure to submit an initial notification within 24 hours of an emissions event

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to obtain authorization to emit air contaminants

Date: 07/26/2005 (397864)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 Description: The facility failed to comply with the provisions of the flexible permit No. 9708 by failure to have the Wastewater flare's pilot flame lit at all times.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 Description: The facility failed to comply with the provisions of the flexible permit No. 9708 by failure to operate the No. 2 SRU incinerator with the temperatures above 1200 degrees Fahrenheit.

Date: 05/05/2006 (463490)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure of FCCU to comply with opacity limits of Permit No. 9708/PSD-TX-861M2

Date: 06/23/2006 (480967)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to comply with special condition 24 of Permit No. 9708/PSD-TX-861M2 during an excess opacity event that occurred on March 23, 2006

Date: 06/28/2006 (481025)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
 Description: Failure to provide notification of an excess opacity event within 24 hours of discovery

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to comply with the opacity limit of permit no. 9708/PSD-TX-861M2 for V-20

Date: 09/25/2006 (488931)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
 Description: Failure to submit notification of an excess opacity event within 24 hours
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to comply with permitted opacity limit during an excess opacity event that did not meet the affirmative defense criteria

Date: 12/18/2006 (518681)
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: failure to comply with permitted opacity limits for FCCU stack during excess opacity event which did not meet affirmative defense criteria

Date: 02/28/2007 (542056)
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 Rqmt Prov: PERMIT MSGP Part III 7 (b)
 Description: Failure to conduct Annual Comprehensive Site Compliance Evaluations as permit required.

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
DIAMOND SHAMROCK REFINING
COMPANY, L.P.
RN100210517**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1096-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 Diamond Shamrock Refining Company, L.P. ("Diamond Shamrock") 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 Diamond Shamrock appear before the Commission and together stipulate that:

1. Diamond Shamrock owns and operates a petroleum refining plant at 6701 Farm-to-Market Road 119 in Moore 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 Diamond Shamrock agree that the Commission has jurisdiction to enter this Agreed Order, and that Diamond Shamrock is subject to the Commission's jurisdiction.
4. Diamond Shamrock received notice of the violations alleged in Section II ("Allegations") on or about June 23, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Diamond Shamrock of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirteen Thousand Eight Hundred Eighty-Four Dollars (\$13,884) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). Diamond Shamrock has paid Five Thousand Five Hundred Fifty-Four Dollars (\$5,554) of the administrative penalty and Two Thousand Seven Hundred Seventy-Six Dollars (\$2,776) is deferred contingent upon Diamond Shamrock'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 Diamond Shamrock fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Diamond Shamrock to pay all or part of the deferred penalty. Five Thousand Five Hundred Fifty-Four Dollars (\$5,554) shall be conditionally offset by Diamond Shamrock'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 Diamond Shamrock 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:
 - a. The unit where the emissions event occurred burned to the extent that it was inoperable, and was subsequently shutdown; and
 - b. TCEQ Air Permits Division ("APD") approved a permit alteration on August 27, 2007 authorizing Diamond Shamrock to rebuild the damaged unit in order to address operations and engineering concerns, include safety system upgrades, include improved controls, include increased energy and production efficiency, and simplify process and piping prior to starting the unit back up.
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 Diamond Shamrock 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, Diamond Shamrock is alleged to have:

1. Failed to submit additional information regarding Incident No. 87720 within the established timeframe, in violation of 30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 13, 2007. Specifically,

additional information was requested to be submitted by May 18, 2007 but no information has been submitted.

2. Failed to submit the final emissions event report for Incident No. 87720 within two weeks after the end of the event, in violation of 30 TEX. ADMIN. CODE § 101.201(c) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 13, 2007. Specifically, the final emissions event report was due March 5, 2007 but was not submitted until March 19, 2007.
3. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.715(a) and 101.20(3), Flexible Permit No. 9708/PSD-TX-861M2, Application Representations, Table F-2 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 13, 2007. Specifically, unauthorized emissions of 67.4 pounds ("lbs") of hydrogen sulfide, 22,029.39 lbs of volatile organic compounds, 1734.16 lbs of nitrogen oxides, 18,243.57 lbs of carbon monoxide, 6,223.7 lbs of sulfur dioxide SO₂, and 5,332 lbs of chlorine were released from several emissions points in the Complex 1 through 5 Units during an emissions event (Incident No. 87720) that began on February 16, 2007 and lasted 58 hours. Since the emissions event was avoidable and improperly reported, Diamond Shamrock failed to meet the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Diamond Shamrock pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Diamond Shamrock'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: Diamond Shamrock Refining Company, L.P., Docket No. 2007-1096-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. Diamond Shamrock shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Five Hundred Fifty-Four Dollars (\$5,554) of the assessed administrative penalty shall be offset with the condition that Diamond Shamrock implement the SEP defined in Attachment A, incorporated herein by reference. Diamond Shamrock'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. It is further ordered that Diamond Shamrock shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that emissions events are reported within the required timeframes; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

4. The provisions of this Agreed Order shall apply to and be binding upon Diamond Shamrock. Diamond Shamrock 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.
5. If Diamond Shamrock 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, Diamond Shamrock's failure to comply is not a violation of this Agreed Order. Diamond Shamrock shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Diamond Shamrock shall notify the Executive

Director within seven days after Diamond Shamrock becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

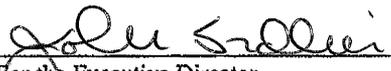
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Diamond Shamrock shall be made in writing to the Executive Director. Extensions are not effective until Diamond Shamrock receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Diamond Shamrock 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Diamond Shamrock, or three days after the date on which the Commission mails notice of the Order to Diamond Shamrock, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Diamond Shamrock Refining Company, L.P.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

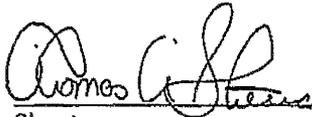
1/21/2008
Date

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.



Signature

12-17-07
Date

THOMAS A. SHETINA
Name (Printed or typed)
Authorized Representative of
Diamond Shamrock Refining Company, L.P.

VICE PRESIDENT + GENERAL MANAGER
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.

Attachment A
Docket Number: 2007-1096-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Diamond Shamrock Refining Company, L.P.
Payable Penalty Amount:	Eleven Thousand One Hundred Eight Dollars (\$11,108)
SEP Amount:	Five Thousand Five Hundred Fifty-Four Dollars (\$5,554)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP:	Moore 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is 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

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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 the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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:

Enforcement Division
Attention: SEP Coordinator, MC 219
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.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

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 an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

