

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0965-IWD-E **TCEQ ID:** RN103137790 **CASE NO.:** 33813
RESPONDENT NAME: Vopak Terminal Galena Park, Inc.

| | | |
|--|---|--|
| 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 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 checked="" 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: Vopak Terminal Galena Park, 1500 Clinton Drive, south of Interstate Highway ("IH") 10 and east of the IH 610 East Loop on the north bank of Buffalo Bayou/Houston Ship Channel, Galena Park, Harris County</p> <p>TYPE OF OPERATION: Stormwater discharge operation for a storage terminal</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is 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 12, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Enforcement Team 1, MC R-12, (713) 767-3672; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Kirk Spinks, Operations Manager, Vopak Terminal Galena Park, Inc., 2000 West Loop South, Suite 2200, Houston, Texas 77027-3597 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|---|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input 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: April 17, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 2, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permit limits for Total Organic Carbon and Oil and Grease [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 01662, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p> | <p>Total Assessed: \$3,900</p> <p>Total Deferred: \$780 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,120</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that Vopak, on August 31, 2006, completed an engineering assessment of the Facility's storm water treatment capacity and the development of a storm water system improvement plan.</p> <p>Ordering Provisions:</p> <p>2) The order will require Vopak to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit a detailed schedule for the storm water improvement plan as certified by a Texas registered, professional engineer to the Order Compliance Team;</p> <p>b. By January 1, 2009, submit written certification, of the completion of the storm water system improvements; and</p> <p>c. By April 1, 2009, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. 01662. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p> |

Additional ID No(s): WQ0001662000 and TX0030929



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

| | | | | | | |
|--------------|-----------------|------------|------------------|-------------|----------------|--|
| DATES | Assigned | 7-May-2007 | Screening | 14-Jun-2007 | EPA Due | |
| | PCW | 3-Jul-2007 | | | | |

| | | | |
|--|----------------------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Vopak Terminal Galena Park, Inc. | | |
| Reg. Ent. Ref. No. | RN103137790 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

| | | | |
|--------------------------|----------------------|--------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 33813 | No. of Violations | 1 |
| Docket No. | 2007-0965-IWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Catherine Albrecht |
| Multi-Media | | EC's Team | EnforcementTeam 1 |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum |
| | | | \$10,000 |

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

| | | |
|----------------------|----------------------|-------------------------------------|
| | Before NOV | NOV to EDRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | X | (mark with x) |

Notes

50% Enhancement* **Subtotal 6**

**Capped at the Total EB \$ Amount*

| | |
|-----------------------------------|-------------|
| Total EB Amounts | \$245,326 |
| Approx. Cost of Compliance | \$1,200,000 |

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 14-Jun-2007

Docket No. 2007-0965-IWD-E

PCW

Respondent Vopak Terminal Galena Park, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33813

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN103137790

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

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>) | 10 | 50% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | 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 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) 50%

>> **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 has one NOV for same or similar violations and nine self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

| | | |
|--|---|---------------------------------------|
| Screening Date 14-Jun-2007 | Docket No. 2007-0965-IWD-E | PCW |
| Respondent Vopak Terminal Galena Park, Inc. | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 33813 | <i>PCW Revision May 25, 2007</i> | |
| Reg. Ent. Reference No. RN103137790 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Catherine Albrecht | | |
| Violation Number <input type="text" value="1"/> | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. 01662, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a) | |
| Violation Description | Failed to comply with permit limits. See attached table. | |
| Base Penalty | | <input type="text" value="\$10,000"/> |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|----|----------------|----------------------|----------------------|---|----------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | | x |
| | Potential | <input type="text"/> | <input type="text"/> | | <input type="text"/> |
| | | | | Percent <input type="text" value="10%"/> | |

>> Programmatic Matrix

| | | | | | |
|---------------------|--|----------------------|----------------------|----------------------|--|
| | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | | | | | Percent <input type="text" value="0%"/> |
| Matrix Notes | Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment. | | | | |

Adjustment

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 | x |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |

Violation Base Penalty

Two quarterly events are recommended.

| | |
|---|---|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$245,326"/> | Violation Final Penalty Total <input type="text" value="\$3,900"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,900"/> | |

Economic Benefit Worksheet

Respondent Vopak Terminal Galena Park, Inc.
Case ID No. 33813
Reg. Ent. Reference No. RN103137790
Media Water Quality
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-------------|---------------|------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | \$1,200,000 | 1-May-2006 | 1-Apr-2009 | 2.9 | \$11,682 | \$233,644 | \$245,326 |
| 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
 Reported costs of an engineering assessment and rehabilitation of the collection and construction of a treatment system to ensure compliance with permit limits. Date required is the first violation month in this case. Final date is the projected 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 | \$1,200,000 | TOTAL | \$245,326 |
|-----------------------------------|-------------|--------------|-----------|

Respondent: Vopak Terminal Galena Park, Inc.
ID Number: RN103137790
Docket Number: 2007-0965-IWD-E
Enf. Coordinator: Catherine Albrecht

Corresponds to Violation Number: 1

OUTFALL 001 EFFLUENT PARAMETERS

| Month/Year | TOC Dly Max Limit of 70.0 (in mg/L) | O&G Dly Max Limit of 15.0 (in mg/L) |
|------------|--|--|
| May-2006 | c | 19.0 |
| Jul-2006 | 381.4 | 50.7 |
| Dec-2006 | 284.0 | c |
| Jan-2007 | 141.0 | c |

Abbreviations: Total Organic Carbon (“TOC”); Oil and Grease (“O&G”);
Daily Maximum (“Dly Max”); milligrams per liter
 (“mg/L”); and compliant (“c”)

Compliance History

Customer/Respondent/Owner-Operator: CN600285969 Vopak Terminal Galena Park, Inc. Classification: AVERAGE Rating: 1.35
Regulated Entity: RN103137790 GALENA PARK TERMINAL Classification: AVERAGE Site Rating: 0.33
ID Number(s): WASTEWATER PERMIT WQ0001662000
WASTEWATER PERMIT TPDES0030929
WASTEWATER PERMIT TX0030929
Location: 1500 Clinton, south of Interstate Highway (IH) 10 and east of IH 610 East Loop on north bank of Buffalo Bayou/Houston Ship Channel in the City of Galena Park, Harris County, Texas Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: June 13, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 13, 2002 to June 13, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

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

1 06/18/2002 (177265)
2 07/25/2002 (177267)
3 08/23/2002 (177269)
4 09/12/2002 (177271)
5 10/28/2002 (177273)
6 11/14/2002 (177276)
7 12/19/2002 (177279)
8 01/15/2003 (177283)
9 02/21/2003 (177256)
10 03/21/2003 (303488)
11 04/24/2003 (177261)
12 05/22/2003 (303492)
13 06/13/2003 (303494)
14 07/15/2003 (303496)
15 08/19/2003 (303498)
16 09/18/2003 (303500)
17 10/16/2003 (303502)
18 11/04/2003 (252515)
19 11/18/2003 (303503)
20 12/19/2003 (303504)
21 01/20/2004 (303505)
22 02/24/2004 (303486)
23 03/22/2004 (303490)
24 03/22/2004 (264762)
25 04/23/2004 (355320)
26 05/14/2004 (355321)
27 06/15/2004 (355322)
28 07/29/2004 (355323)
29 08/23/2004 (355324)
30 09/15/2004 (355325)
31 11/29/2004 (383690)
32 12/22/2004 (355326)
33 12/28/2004 (383691)

34 01/18/2005 (383692)
35 02/18/2005 (421534)
36 03/28/2005 (383689)
37 04/26/2005 (421535)
38 05/19/2005 (421536)
39 05/31/2005 (421537)
40 07/22/2005 (421538)
41 08/25/2005 (442518)
42 09/19/2005 (442519)
43 10/18/2005 (471626)
44 11/28/2005 (471627)
45 12/27/2005 (471628)
46 01/12/2006 (471629)
47 02/17/2006 (471624)
48 03/07/2006 (471625)
49 04/19/2006 (459110)
50 05/10/2006 (500209)
51 05/24/2006 (500210)
52 06/27/2006 (500211)
53 07/19/2006 (500212)
54 08/20/2006 (522315)
55 09/20/2006 (522316)
56 10/19/2006 (522317)
57 11/14/2006 (547002)
58 12/18/2006 (547003)
59 01/18/2007 (547004)
60 02/16/2007 (547001)
61 05/02/2007 (557300)

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

Date: 06/30/2002 (177267)
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: 09/30/2002 (177273)
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: 02/28/2003 (303488)
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: 11/03/2003 (252515)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the permitted effluent limits for Oil & Grease (O&G) and Total Organic Carbon (TOC).

Date: 02/28/2005 (383689)
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: 05/31/2005 (421537)
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: 05/31/2006 (500211)
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: 07/31/2006 (522315)
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: 12/31/2006 (547004)
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: 01/31/2007 (547001)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.
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
VOPAK TERMINAL GALENA PARK,
INC.
RN103137790

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0965-IWD-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 Vopak Terminal Galena Park, Inc. ("Vopak") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Vopak appear before the Commission and together stipulate that:

1. Vopak owns and operates a stormwater discharge operation for a storage terminal facility located at 1500 Clinton Drive, south of Interstate Highway ("IH") 10 and east of the IH 610 East Loop on the north bank of Buffalo Bayou/Houston Ship Channel in Galena Park, Harris County, Texas (the "Facility").
2. Vopak has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Vopak agree that the Commission has jurisdiction to enter this Agreed Order, and that Vopak is subject to the Commission's jurisdiction.
4. Vopak received notice of the violations alleged in Section II ("Allegations") on or about May 7, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Vopak of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Nine Hundred Dollars (\$3,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Vopak has paid Three Thousand One Hundred Twenty Dollars (\$3,120) of the administrative penalty and Seven Hundred Eighty Dollars (\$780) is deferred contingent upon Vopak'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 Vopak fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Vopak to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Vopak 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 Vopak, on August 31, 2006, completed an engineering assessment of the Facility's storm water treatment capacity and the development of a storm water system improvement plan.
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 Vopak 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 Facility, Vopak is alleged to have failed to comply with permit limits, as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 01662, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on April 17, 2007:

| Month/Year | TOC Dly Max Limit of 70.0 (in mg/L) | O&G Dly Max Limit of 15.0 (in mg/L) |
|------------|-------------------------------------|-------------------------------------|
| May-2006 | c | 19.0 |
| Jul-2006 | 381.4 | 50.7 |
| Dec-2006 | 284.0 | c |
| Jan-2007 | 141.0 | c |

Abbreviations: Total Organic Carbon ("TOC"); Oil and Grease ("O&G"); Daily Maximum ("Dly Max"); milligrams per liter ("mg/L"); and compliant ("c")

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Vopak pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Vopak'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: Vopak Terminal Galena Park, Inc., Docket No. 2007-0965-IWD-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. It is further ordered that Vopak shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit a detailed schedule for the storm water improvement plan as certified by a Texas registered, professional engineer to the Order Compliance Team;
 - b. By January 1, 2009, submit written certification, as described in Ordering Provision 2.c., of the completion of the storm water system improvements; and
 - c. By April 1, 2009, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. 01662 as described below. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Vopak. Vopak is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Vopak 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, Vopak's failure to comply is not a violation of this Agreed Order. Vopak shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Vopak shall notify the Executive Director within seven days after Vopak 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 Vopak shall be made in writing to the Executive Director. Extensions are not effective until Vopak 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 Vopak 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), the effective date is the date of hand-delivery of the Order to Vopak, or three days after the date on which the Commission mails notice of the Order to Vopak, 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

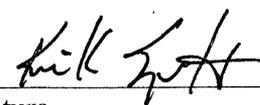
12/03/2007
Date

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

9/6/07
Date

KIRK SPINKS

OPERATIONS MANAGER

Name (Printed or typed)
Authorized Representative of
Vopak Terminal Galena Park, Inc.

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.

10/10/10

10/10/10