

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1487-AIR-E TCEQ ID: RN100210483 CASE NO.: 34614

RESPONDENT NAME: Pelican Refining Company, LLC

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: Channelview Asphalt Plant, 17310 Market Street, Channelview, Harris County</p> <p>TYPE OF OPERATION: Asphalt manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 3, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Don C. Nelson, Registered Agent, Pelican Refining Company, LLC, 8 Greenway Plaza, Suite 923, Houston, Texas 77046 Mr. David Cutting, Vice President Marketing & Asphalt Operations, Pelican Refining Company, LLC, 3355 West Alabama, Suite 575, Houston, Texas 77098 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: May 30, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 30, 2007 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>1) Failed to timely submit the annual permit compliance certification and its associated deviation reports for the period August 20, 2005 through August 19, 2006, and the deviation report for the period July 11, 2005 through August 20, 2005 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating permit No. O-01286, General Terms and Conditions].</p> <p>2) Failed to report or record all emission events. Specifically, an emission event relating to the baffle failure during the period from June 29, 2006 to December 7, 2007, was not reported as soon as practicable but not later than 24 hours after discovery [30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to keep records of the continuously monitored incinerator firebox exit temperature during the period from July 11, 2005 to February 19, 2007 [30 TEX. ADMIN. CODE §§ 115.122(a)(1)(A) and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 19742, Special Condition 23].</p>	<p>Total Assessed: \$9,120</p> <p>Total Deferred: \$1,824 <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: \$7,296</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. The Respondent began monitoring and keeping a record of the incinerator firebox exit temperature on February 19, 2007; and</p> <p>b. The Respondent submitted the semi-annual deviation reports and the annual compliance certifications on March 19, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure that all reportable emission events are reported within 24 hours after the discovery of an emissions event; 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 a.</p>

Additional ID No(s): HG1923V



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	4-Sep-2007	Screening	13-Sep-2007	EPA Due	24-Feb-2008
	PCW	19-Sep-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Pelican Refining Company, LLC
Reg. Ent. Ref. No.	RN100210483
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	34614	No. of Violations	3	
Docket No.	2007-1487-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Harvey Wilson	
Multi-Media		EC's Team	EnforcementTeam 3	
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 Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

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

Notes

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 13-Sep-2007

Docket No. 2007-1487-AIR-E

PCW

Respondent Pelican Refining Company, LLC

Policy Revision 2 (September 2002)

Case ID No. 34614

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100210483

Media [Statute] Air

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 20%

>> 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

A 20% enhancement is recommended because the Respondent was issued an Administrative Order with denial on March 21, 2005.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 13-Sep-2007	Docket No. 2007-1487-AIR-E	PCW			
Respondent Pelican Refining Company, LLC		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 34614		<small>PCW Revision September 19, 2007</small>			
Reg. Ent. Reference No. RN100210483					
Media [Statute] Air					
Enf. Coordinator Harvey Wilson					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and Federal Operating permit No. O-01286, General Terms and Conditions				
Violation Description	Failed to timely submit the annual permit compliance certification and its associated deviation reports for the period August 20, 2005 through August 19, 2006. Also, the Respondent failed to timely submit the deviation report for the period July 11, 2005 through August 20, 2005. All delinquent reports were submitted on March 19, 2007.				
	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"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirements were not met."/>				
	Adjustment	<input type="text" value="\$7,500"/>			
		<input type="text" value="\$2,500"/>			
Violation Events					
	Number of Violation Events	<input type="text" value="2"/>	Number of violation days	<input type="text" value="212"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$5,000"/>	
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	x			
	<input type="text" value="Two single events are recommended."/>				
Economic Benefit (EB) for this violation			Statutory Limit Test		
	Estimated EB Amount	<input type="text" value="\$19"/>	Violation Final Penalty Total	<input type="text" value="\$6,000"/>	
	This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$6,000"/>	

Economic Benefit Worksheet

Respondent Pelican Refining Company, LLC
Case ID No. 34614
Reg. Ent. Reference No. RN100210483
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$250	20-Sep-2005	19-Mar-2007	1.5	\$19	n/a	\$19

Notes for DELAYED costs

The estimated cost of preparing and submitting the annual compliance certifications and the semi-annual deviation reports. The Date Required is the date the first deviation/certification was due. The Final Date is the date the deviation/certifications were submitted.

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

\$250

TOTAL

\$19

Screening Date 13-Sep-2007	Docket No. 2007-1487-AIR-E	PCW
Respondent Pelican Refining Company, LLC		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 34614		<i>PCW Revision September 19, 2007</i>
Reg. Ent. Reference No. RN100210483		
Media [Statute] Air		
Enf. Coordinator Harvey Wilson		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 101.201(a)(1)(B) and Tex. Health & Safety Code § 382.085(b)"/>	
Violation Description	<input type="text" value="Failed to report or record all emission events. Specifically, an emission event relating to the baffle failure during the period from June 29, 2006 to December 7, 2007 was not reported as soon as practicable but not later than 24 hours after discovery."/>	
	Base Penalty	<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
	Harm	
	Major Moderate Minor	
OR	Release	
	Actual	<input type="text"/>
	Potential	<input type="text"/>
		Percent <input type="text" value="0%"/>
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text"/>	<input type="text" value="x"/>
		Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>	
	Adjustment	<input type="text" value="\$7,500"/>
		<input type="text" value="\$2,500"/>
Violation Events		
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="441"/> Number of violation days
	mark only one with an x	
	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 <input type="text" value="\$2,500"/>
	<input type="text" value="One single event is recommended."/>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount	<input type="text" value="\$23"/>	Violation Final Penalty Total <input type="text" value="\$3,000"/>
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,000"/>	

Economic Benefit Worksheet

Respondent Pelican Refining Company, LLC
Case ID No. 34614
Reg. Ent. Reference No. RN100210483
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)	\$250	29-Jun-2006	1-May-2008	1.8	\$23	n/a	\$23

Notes for DELAYED costs

The estimated cost of recording and reporting the emission events from June 29, 2006 to December 7, 2006. The Date Required is the date of the first emission event. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$23

Screening Date 13-Sep-2007	Docket No. 2007-1487-AIR-E	PCW
Respondent Pelican Refining Company, LLC	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34614	<small>PCW Revision September 19, 2007</small>	
Reg. Ent. Reference No. RN100210483		
Media [Statute] Air		
Enf. Coordinator Harvey Wilson		
Violation Number <input type="text" value="3"/>		
Rule Cite(s)	30 Tex. Admin. Code §§ 115.122(a)(1)(A) and 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 19742, Special Condition 23	
Violation Description	Failed to keep records of the continuously monitored incinerator firebox exit temperature during the period from July 11, 2005 to February 19, 2007.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
		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"/>	x	
					Percent <input type="text" value="1%"/>

Matrix Notes

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	x

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$81"/>	Violation Final Penalty Total <input type="text" value="\$120"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$120"/>	

Economic Benefit Worksheet

Respondent Pelican Refining Company, LLC
Case ID No. 34614
Reg. Ent. Reference No. RN100210483
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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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,000	11-Jul-2006	19-Feb-2007	1.6	\$81	n/a	\$81

Notes for DELAYED costs

The estimated cost of continuously monitoring and keeping records of the incinerator firebox exit temperature. The Date Required is the first date of noncompliance. The Final Date is the Date of Compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$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 **\$1,000**

TOTAL **\$81**

Compliance History

Customer/Respondent/Owner-Operator: CN602983553 Pelican Refining Company, LLC Classification: AVERAGE Rating: 1.61
 Regulated Entity: RN100210483 CHANNELVIEW ASPHALT PLANT Classification: AVERAGE Site Rating: 1.61

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1923V
	AIR OPERATING PERMITS	PERMIT	1286
	VOLUNTARY CLEANUP PROGRAM	ID NUMBER	159
	AIR NEW SOURCE PERMITS	PERMIT	19742
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1923V
	AIR NEW SOURCE PERMITS	AFS NUM	4820101297
	AIR NEW SOURCE PERMITS	REGISTRATION	22638
	STORMWATER	PERMIT	TXR05S725

Location: 17310 MARKET ST, CHANNELVIEW, TX, 77530 Rating Date: September 18, 2007
 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 18, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 18, 2002 to September 18, 2007

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

Name: Harvey Wilson Phone: 239-0321

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? Yes
3. If Yes, who is the current owner? Pelican Refining Company, LLC
4. If Yes, who was/were the prior owner(s)? Owens Corning Sales, Inc.
5. When did the change(s) in ownership occur? 7/12/2005

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: 03/21/2005 ADMINORDER 2004-0561-AIR-E
 Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter H 101.359[G]
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit Form ECT-1, Annual Compliance Report, by March 31, 2003 for the 2002 control period.

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 | 01/13/2004 | (270010) |
| 2 | 01/04/2005 | (345661) |
| 3 | 07/20/2005 | (400516) |
| 4 | 07/29/2005 | (402189) |
| 5 | 07/29/2005 | (402270) |
| 6 | 08/05/2005 | (403654) |
| 7 | 08/15/2005 | (404935) |
| 8 | 08/17/2005 | (405701) |
| 9 | 08/17/2005 | (405665) |
| 10 | 08/19/2005 | (406182) |

11 08/22/2005 (406497)
12 08/29/2005 (418369)
13 09/08/2005 (418504)
14 11/01/2005 (405046)

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

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
PELICAN REFINING COMPANY, LLC
RN100210483

§
§
§
§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1487-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 Pelican Refining Company, LLC ("Pelican Refining") 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 Pelican Refining appear before the Commission and together stipulate that:

1. Pelican Refining owns and operates an asphalt manufacturing plant at 17310 Market Street in Channelview, Harris 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 Pelican Refining agree that the Commission has jurisdiction to enter this Agreed Order, and that Pelican Refining is subject to the Commission's jurisdiction.
4. Pelican Refining received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Pelican Refining of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand One Hundred Twenty Dollars (\$9,120) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Pelican Refining has paid Seven Thousand Two Hundred Ninety-Six Dollars (\$7,296) of the administrative penalty and One Thousand Eight Hundred Twenty-Four Dollars

(\$1,824) is deferred contingent upon Pelican Refining'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 Pelican Refining fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Pelican Refining 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 Pelican Refining 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 Pelican Refining has implemented the following corrective measures at the Plant:
 - a. Pelican Refining began monitoring and keeping a record of the incinerator firebox exit temperature on February 19, 2007; and
 - b. Pelican Refining submitted the semi-annual deviation reports and the annual compliance certifications on March 19, 2007.
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 Pelican Refining 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, Pelican Refining is alleged to have:

1. Failed to timely submit the annual permit compliance certification and its associated deviation reports for the period August 20, 2005 through August 19, 2006, and the deviation report for the period July 11, 2005 through August 20, 2005, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating permit No. O-01286, General Terms and Conditions, as documented during a record review conducted on May 30, 2007.
2. Failed to report or record all emission events, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 30, 2007. Specifically, an emission event relating to the baffle failure during the period from June 29, 2006 to December 7, 2007, was not reported as soon as practicable but not later than 24 hours after discovery.

3. Failed to keep records of the continuously monitored incinerator firebox exit temperature during the period from July 11, 2005 to February 19, 2007, in violation of 30 TEX. ADMIN. CODE §§ 115.122(a)(1)(A) and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 19742, Special Condition 23, as documented during a record review conducted on May 30, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Pelican Refining pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Pelican Refining'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: Pelican Refining Company, LLC, Docket No. 2007-1487-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. It is further ordered that Pelican Refining shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure that all reportable emission events are reported within 24 hours after the discovery of an emissions event; 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. 2.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
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 Pelican Refining. Pelican Refining is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Pelican Refining 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, Pelican Refining's failure to comply is not a violation of this Agreed Order. Pelican Refining shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Pelican Refining shall notify the Executive Director within seven days after Pelican Refining 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 Pelican Refining shall be made in writing to the Executive Director. Extensions are not effective until Pelican Refining 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 Pelican Refining 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 Pelican Refining, or three days after the date on which the Commission mails notice of the Order to Pelican Refining, 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

3/5/2008

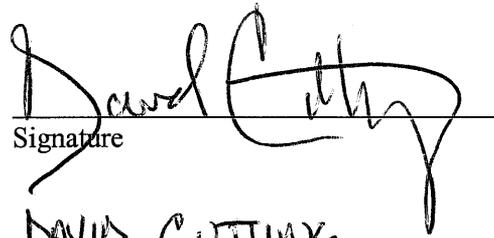
Date

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

12/6/07

Date

DAVID CUTTING

Name (Printed or typed)
Authorized Representative of
Pelican Refining Company, LLC

VP MARKETING & ASPHALT OPERATIONS

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.

