

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0276-AIR-E **TCEQ ID:** RN100542802 **CASE NO.:** 35383
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 Refining Valero, 301 Le Roy Street, Three Rivers, Live Oak County</p> <p>TYPE OF OPERATION: Petroleum refinery</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 July 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Audra Ruble, Enforcement Division, Enforcement Team 4, MC R-14, (361) 825-3126; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Harry Wright, Jr., Vice President and General Manager, Diamond Shamrock Refining Company, L.P., P.O. Box 490, Three Rivers, Texas 78071 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 Record Reviews Relating to this Case: September 26, 2007 and November 20, 2007</p> <p>Date of NOEs Relating to this Case: January 15, 2008 and March 20, 2008 (NOE)</p> <p>Background Facts: These were record reviews.</p> <p>AIR</p> <p>1) Failure to notify the TCEQ within 24 hours after the discovery of an emissions event. Specifically, the emissions event that occurred on August 18, 2007 was not reported until August 20, 2007 [30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to prevent an unauthorized emissions event which occurred on August 18, 2007. Specifically, approximately 514 pounds ("lbs") of sulfur dioxide ("SO2") were released during the 18 hour event. Additionally, the limit of 250 parts per million by volume ("ppmv") for SO2 was exceeded with a high of 502.9 ppmv. These emissions are not authorized by the permit. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b)(1-11) [30 TEX. ADMIN. CODE §§ 101.20(1) and (3) and 116.715(c)(7), 40 CODE OF FEDERAL REGULATIONS § 60.104(a)(2)(i), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit Nos. 50607, PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017, Special Conditions 1 and 2].</p> <p>3) Failure to prevent an unauthorized emissions event which started on November 20, 2007. Specifically,</p>	<p>Total Assessed: \$15,352</p> <p>Total Deferred: \$3,070 <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: \$12,282</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 the Respondent submitted compliance documentation on October 10, 2007 demonstrating that the following corrective measures have been implemented in response to the August 18, 2007 emissions event:</p> <p>a) The alarm and safety trip shutdown settings have been adjusted to notify operators of drops in fuel gas pressure; and</p> <p>b) Procedures have been put in place to take more frequent samples as necessary during emissions events in order to provide quicker reporting information.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, implement appropriate training measures to minimize and/or avoid the reoccurrence of emissions events similar to the November 20, 2007 incident; 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 2.a.</p>

<p>approximately 6,441.97 lbs of SO₂, 69.81 lbs of hydrogen sulfide, 2,239.13 lbs of carbon monoxide, 360.05 lbs of nitrogen oxides, and 5,222.60 lbs of volatile organic compounds were released from the FCCU and HCU flares during the 36 hour 20 minute event. Opacity was at 100%. These emissions are not authorized by the permit. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b)(1-11) [30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(4) and 116.715(c)(7); TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit Nos. 50607; PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017, Special Condition 1].</p>		
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Additional ID No(s): LK0009T



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	23-Jan-2008	Screening	8-Feb-2008	EPA Due	25-Nov-2008
	PCW	20-Feb-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Diamond Shamrock Refining Company, L.P.		
Reg. Ent. Ref. No.	RN100542802		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35383	No. of Violations	3
Docket No.	2008-0276-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Audra Ruble
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,600
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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	102% Enhancement	Subtotals 2, 3, & 7	\$7,752
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Notes
The Respondent has received two 1660 Agreed Orders, one Court Order, five non-similar NOVs, and has 11 self-reported DMR violations.

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	

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

	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$82	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,352
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$15,352
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,352
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DEFERRAL	20% Reduction	Adjustment	-\$3,070
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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	\$12,282
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Screening Date 8-Feb-2008

Docket No. 2008-0276-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 35383

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN100542802

Media [Statute] Air

Enf. Coordinator Audra Ruble

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	16	32%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	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 (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%

Please Enter Yes or No

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) 102%

>> 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 received two 1660 Agreed Orders, one Court Order, five non-similar NOV's, and has 11 self-reported DMR violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 8-Feb-2008 **Docket No.** 2008-0276-AIR-E **PCW**
Respondent Diamond Shamrock Refining Company, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 35383 *PCW Revision January 29, 2008*
Reg. Ent. Reference No. RN100542802
Media [Statute] Air
Enf. Coordinator Audra Ruble

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(1) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to notify the TCEQ within 24 hours after the discovery of an emissions event, as documented during a record review conducted on September 26, 2007. Specifically, the emissions event that occurred on August 18, 2007 was not reported until August 20, 2007.
Base Penalty

>> Environmental, Property and Human Health Matrix
OR

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

>> Programmatic Matrix

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

Matrix Notes
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	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>	

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$202"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$202"/>	

Economic Benefit Worksheet

Respondent: Diamond Shamrock Refining Company, L.P.

Case ID No.: 35383

Reg. Ent. Reference No.: RN100542802

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				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)	\$100	18-Aug-2007	10-Oct-2007	0.1	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to submit notification to the TCEQ. Date required is the date of the emissions event and Final date is when compliance was achieved.

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

\$100

TOTAL

\$1

Screening Date 8-Feb-2008	Docket No. 2008-0276-AIR-E	PCW
Respondent Diamond Shamrock Refining Company, L.P.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35383	<i>PCW Revision January 29, 2008</i>	
Reg. Ent. Reference No. RN100542802		
Media [Statute] Air		
Enf. Coordinator Audra Ruble		

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1) and (3) and 116.715(c)(7); 40 CFR § 60.104(a)(2)(i); Tex. Health & Safety Code § 382.085(b); and Air Permit Nos. 50607, PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017, Special Conditions 1 and 2

Violation Description Failed to prevent an unauthorized emissions event which occurred on August 18, 2007, as documented during a record review conducted on September 26, 2007. Specifically, approximately 514 pounds ("lbs") of sulfur dioxide ("SO2") were released during the 18 hour event. Additionally, the limit of 250 parts per million by volume ("ppmv") for SO2 was exceeded with a high of 502.9 ppmv. These emissions are not authorized by the permit. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty

>> 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="25%"/>

>> 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 The emissions event resulted in the release of an insignificant amount of pollutants which did not exceed protective levels.

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

One quarterly event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
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Estimated EB Amount <input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$5,050"/>
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This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Diamond Shamrock Refining Company, L.P.
Case ID No.: 35383
Reg. Ent. Reference No.: RN100542802
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)	\$500	18-Aug-2007	10-Oct-2007	0.1	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to make equipment adjustments to prevent reoccurrence of similar events. Date required is the date of the event and Final date is when compliance was achieved.

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

\$500

TOTAL

\$4

Screening Date	8-Feb-2008	Docket No.	2008-0276-AIR-E	PCW
Respondent	Diamond Shamrock Refining Company, L.P.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35383			<i>PCW Revision January 29, 2008</i>
Reg. Ent. Reference No.	RN100542802			
Media [Statute]	Air			
Enf. Coordinator	Audra Ruble			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 111.111(a)(4) and 116.715(c)(7); Tex. Health & Safety Code § 382.085(b); and Air Permit Nos. 50607, PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017, Special Condition 1

Violation Description

Failed to prevent an unauthorized emissions event which started on November 20, 2007, as documented during a record review conducted on November 20, 2007. Specifically, approximately 6,441.97 lbs of SO2, 69.81 lbs of hydrogen sulfide, 2,239.13 lbs of carbon monoxide, 360.05 lbs of nitrogen oxides, and 5,222.60 lbs of volatile organic compounds were released from the FCCU and HCU flares during the 36 hour 20 minute event. Opacity was at 100%. These emissions are not authorized by the permit. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes The emissions event resulted in the release of a significant amount of pollutants which did not exceed protective levels.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One monthly 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. 35383
 Reg. Ent. Reference No. RN100542802
 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
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	\$1,500	20-Nov-2007	1-Dec-2008	1.0	\$77	n/a	\$77
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 procedures and/or training to prevent reoccurrence of similar events. Date required is the date of the event and Final date is when compliance is expected to be achieved.

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

\$1,500

TOTAL

\$77

Compliance History

Customer/Respondent/Owner-Operator:	CN600124861	Diamond Shamrock Refining Company, L.P.	Classification: AVERAGE	Rating: 2.85
Regulated Entity:	RN100542802	DIAMOND SHAMROCK REFINING VALERO	Classification: AVERAGE	Site Rating: 5.35
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	LK0009T	
	AIR OPERATING PERMITS	PERMIT	1450	
	WASTEWATER	PERMIT	WQ0001353000	
	WASTEWATER	PERMIT	TPDES0088331	
	WASTEWATER	PERMIT	TX0088331	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD990709966	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31553	
	AIR NEW SOURCE PERMITS	AFS NUM	4829700006	
	AIR NEW SOURCE PERMITS	PERMIT	50607	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	LK0009T	
	AIR NEW SOURCE PERMITS	PERMIT	9968	
	AIR NEW SOURCE PERMITS	PERMIT	2362B	
	AIR NEW SOURCE PERMITS	PERMIT	5139A	
	AIR NEW SOURCE PERMITS	PERMIT	6328	
	AIR NEW SOURCE PERMITS	PERMIT	9190	
	AIR NEW SOURCE PERMITS	PERMIT	10815	
	AIR NEW SOURCE PERMITS	PERMIT	15000	
	AIR NEW SOURCE PERMITS	PERMIT	15404	
	AIR NEW SOURCE PERMITS	PERMIT	16020	
	AIR NEW SOURCE PERMITS	PERMIT	16103	
	AIR NEW SOURCE PERMITS	PERMIT	27201	
	AIR NEW SOURCE PERMITS	PERMIT	30363	
	AIR NEW SOURCE PERMITS	PERMIT	40102	
	AIR NEW SOURCE PERMITS	PERMIT	45790	
	AIR NEW SOURCE PERMITS	PERMIT	49756	
	AIR NEW SOURCE PERMITS	PERMIT	49489	
	AIR NEW SOURCE PERMITS	PERMIT	49486	
	AIR NEW SOURCE PERMITS	PERMIT	49488	
	AIR NEW SOURCE PERMITS	REGISTRATION	54729	
	AIR NEW SOURCE PERMITS	REGISTRATION	55285	
	AIR NEW SOURCE PERMITS	REGISTRATION	55896	
	AIR NEW SOURCE PERMITS	REGISTRATION	75517	
	AIR NEW SOURCE PERMITS	REGISTRATION	70536	
	AIR NEW SOURCE PERMITS	PERMIT	PSDTX1017	
	AIR NEW SOURCE PERMITS	PERMIT	55728	
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX331M5	
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX804	
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX331	
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX331M1	
	AIR NEW SOURCE PERMITS	REGISTRATION	71415	
	AIR NEW SOURCE PERMITS	PERMIT	50835	
	AIR NEW SOURCE PERMITS	REGISTRATION	71663	
	AIR NEW SOURCE PERMITS	REGISTRATION	76733	
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1017	
	AIR NEW SOURCE PERMITS	REGISTRATION	78562	
	AIR NEW SOURCE PERMITS	REGISTRATION	79137	
	AIR NEW SOURCE PERMITS	REGISTRATION	78872	
	AIR NEW SOURCE PERMITS	REGISTRATION	79862	
	AIR NEW SOURCE PERMITS	REGISTRATION	81078	
	AIR NEW SOURCE PERMITS	REGISTRATION	82209	
	AIR NEW SOURCE PERMITS	REGISTRATION	81730	
	AIR NEW SOURCE PERMITS	REGISTRATION	81540	
	AIR NEW SOURCE PERMITS	REGISTRATION	83511	
	AIR NEW SOURCE PERMITS	REGISTRATION	82663	
	STORMWATER	PERMIT	TXR05L552	
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW404	
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW405	
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW406	
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50100	

INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50100
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31553
INDUSTRIAL AND HAZARDOUS WASTE DISPOSAL	PERMIT	50100
WASTE WATER GENERAL PERMIT	PERMIT	TXG670020
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50100

Location: 301 LE ROY ST, THREE RIVERS, TX, 78071 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 07, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 07, 2003 to February 07, 2008

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

Name: Audra Ruble Phone: (361) 825-3126

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.

Effective Date: 07/21/2003 ADMINORDER 2002-1233-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: SC 19F PERMIT
 Description: Failure to test the utility boiler associated with EPN B-009 w/in 180 days of start up.

Effective Date: 11/23/2005 COURTOORDER
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.6(b)
 30 TAC Chapter 101, SubChapter A 101.6(c)
 Description: Failure to create and report a final record which sufficiently identified rule-required criteria.

Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
 Description: Failure to obtain regulatory authority for upset and shutdown emissions from the Akylation Unit.

Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: SC1 PERMIT
 Description: Failure to obtain regulatory authority for upset, shutdown, maintenance and start-up emissions.

Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)
 Description: Failure to limit visible emissions to no more than five minutes in any two-hour period from flare FL-003.

Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.110(a)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 116, SubChapter B 116.116(a)
 Rqmt Prov: SC1 PERMIT
 Description: Failure to obtain regulatory authority for continuous emissions from the HCU Flare,

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.116(a)

Rqmt Prov: Not specified PERMIT

Description: Failure to obtain regulatory authority for continuous emissions from the FCCU Flare.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure to prevent the unauthorized discharge of fire suppression water containing phase separated hydrocarbons into and adjacent to waters of the state.³

Effective Date: 10/04/2007

ADMINORDER 2005-1948-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Conditin 1 PERMIT

Description: Failed to comply with permitted emissions limits (TCEQ Incident Nos. 57793, 57796, and 57800), documented during an investigation conducted July 29, 2005 through August 2, 2005.

Specifically, an emissions event that occurred May 3 - 6, 2005 had the following quantities: 5,959.15 pounds carbon monoxide, 56.51 pounds nitrogen dioxide, 1,073.76 pounds nitrogen monoxide, 35,534.85 pounds sulfur dioxide, 2,350.87 pounds butane, 179.25 pounds hydrogen sulfide, and 5,936.53 pounds propane.

Classification: Minor

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

Description: Failure to submit a complete and accurate final report for Incident No. 57800.

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	02/19/2003	(24343)
2	02/19/2003	(24355)
3	02/20/2003	(210596)
4	02/20/2003	(210601)
5	03/14/2003	(22981)
6	03/18/2003	(210604)
7	03/19/2003	(28075)
8	03/28/2003	(263548)
9	04/21/2003	(210609)
10	05/20/2003	(210613)
11	06/17/2003	(210617)
12	07/03/2003	(112482)
13	07/09/2003	(140811)
14	08/18/2003	(317590)
15	08/19/2003	(149919)
16	09/12/2003	(317588)
17	09/19/2003	(317592)
18	09/26/2003	(153044)
19	10/16/2003	(317594)
20	11/20/2003	(317595)
21	12/23/2003	(317596)
22	01/16/2004	(259884)
23	02/02/2004	(261494)
24	02/02/2004	(261547)
25	02/17/2004	(263224)
26	02/18/2004	(317580)
27	02/26/2004	(317597)
28	03/16/2004	(261988)
29	03/17/2004	(317582)
30	04/15/2004	(264142)
31	04/20/2004	(317583)
32	06/21/2004	(361454)
33	06/21/2004	(361455)

34	06/25/2004	(272078)
35	07/08/2004	(317585)
36	07/19/2004	(274249)
37	07/28/2004	(284551)
38	08/20/2004	(361456)
39	09/20/2004	(361457)
40	10/15/2004	(361458)
41	11/15/2004	(361459)
42	12/17/2004	(361460)
43	01/19/2005	(387174)
44	02/11/2005	(387172)
45	02/17/2005	(344711)
46	02/17/2005	(344732)
47	03/14/2005	(387173)
48	03/30/2005	(334416)
49	04/01/2005	(375671)
50	04/20/2005	(586813)
51	05/20/2005	(586815)
52	05/25/2005	(335530)
53	06/17/2005	(586818)
54	06/20/2005	(396550)
55	06/20/2005	(395663)
56	06/22/2005	(397091)
57	06/24/2005	(395367)
58	06/28/2005	(397649)
59	06/29/2005	(380012)
60	07/19/2005	(586821)
61	08/18/2005	(404621)
62	08/19/2005	(404722)
63	08/22/2005	(586824)
64	08/22/2005	(404888)
65	08/22/2005	(401088)
66	08/29/2005	(404949)
67	08/30/2005	(405011)
68	08/30/2005	(404952)
69	08/31/2005	(418747)
70	08/31/2005	(418864)
71	09/21/2005	(586826)
72	10/08/2005	(432627)
73	10/20/2005	(406740)
74	11/16/2005	(435723)
75	11/17/2005	(586830)
76	12/01/2005	(438319)
77	12/19/2005	(586832)
78	12/22/2005	(449864)
79	01/02/2006	(449804)
80	01/19/2006	(586834)
81	02/12/2006	(452941)
82	02/22/2006	(455828)
83	03/10/2006	(458400)
84	03/14/2006	(457720)
85	03/17/2006	(586828)
86	03/17/2006	(586811)
87	03/28/2006	(452750)
88	04/06/2006	(586809)
89	04/17/2006	(586814)
90	04/20/2006	(463009)
91	05/18/2006	(586816)
92	06/15/2006	(586819)
93	06/30/2006	(483518)
94	07/24/2006	(586822)
95	08/17/2006	(586825)
96	08/17/2006	(486707)
97	09/18/2006	(586827)
98	10/16/2006	(586829)
99	11/15/2006	(586831)
100	11/15/2006	(519601)
101	11/17/2006	(531209)

102 12/18/2006 (586833)
 103 01/17/2007 (586835)
 104 01/29/2007 (538086)
 105 02/02/2007 (536186)
 106 02/16/2007 (539013)
 107 02/20/2007 (539328)
 108 02/22/2007 (586810)
 109 02/23/2007 (540422)
 110 03/19/2007 (543755)
 111 03/20/2007 (586812)
 112 03/22/2007 (541719)
 113 03/23/2007 (540495)
 114 04/05/2007 (534570)
 115 05/02/2007 (556217)
 116 05/08/2007 (555030)
 117 05/21/2007 (586817)
 118 06/22/2007 (586820)
 119 07/11/2007 (566548)
 120 07/23/2007 (586823)
 121 08/20/2007 (608555)
 122 08/31/2007 (573673)
 123 09/05/2007 (574266)
 124 12/17/2007 (609417)
 125 01/14/2008 (595864)
 126 01/16/2008 (614747)
 127 01/28/2008 (540527)

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

Date: 02/28/2003 (210604)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2003 (210609)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2003 (317596)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2004 (317580)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/29/2004 (317582)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2004 (317585)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2004 (361454)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2004 (361455)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/18/2005 (344732)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT TPDES Permit No. WQ0001353-000
 Description: Failure to comply with self monitored effluent limitations for biochemical oxygen demand (BOD), chemical oxygen demand (COD) and Zinc(Zn)

Date: 06/24/2005 (395367)
 Self Report? NO Classification: Moderate
 Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)
 Rqmt Prov: OP HW-50100 & CP-50100
 Description: Failure to maintain lids/covers on groundwater recovery wells.

Date: 03/19/2007 (543755)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 Description: Failure to comply with all terms and conditions codified in the permit and any provisional terms and conditions required to be included with the permit. Specifically, the Regulated Entity failed to conduct a quarterly observation for visible emissions for stationary vents for the period of 01/01/06 through 03/31/06.

Date: 05/31/2007 (586820)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (586823)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (608555)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2007 (573673)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT Interim Effluent Limitations No. 1, Pg.
 Description: Failure to comply with the permitted effluent limitations.

Date: 09/05/2007 (574266)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT Other Requirements No. 6 (C), Pg. 13
 Description: Failure to comply with the effluents limitations for wastewater used for irrigation.

Date: 03/19/2007 (543755)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 113, SubChapter C 113.120
 Description: Failure to comply with required standards for storage vessels as required by 40 CFR Part 63 (Subpart G). Specifically, the RE failed to inspect storage tank S-119 and submit a 30 day advanced notification per the HON standards prior to filling the tank.

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.
RN100542802**

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§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0276-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. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a petroleum refinery located at 301 Le Roy Street in Three Rivers, Live Oak County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 20 and March 25, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Three Hundred Fifty-Two Dollars (\$15,352) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Two Hundred Eighty-Two Dollars

(\$12,282) of the administrative penalty and Three Thousand Seventy Dollars (\$3,070) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent submitted compliance documentation on October 10, 2007 demonstrating that the following corrective measures have been implemented in response to the August 18, 2007 emissions event:
 - a. The alarm and safety trip shutdown settings have been adjusted to notify operators of drops in fuel gas pressure; and
 - b. Procedures have been put in place to take more frequent samples as necessary during emissions events in order to provide quicker reporting information.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to notify the TCEQ within 24 hours after the discovery of an emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 26, 2007. Specifically, the emissions event that occurred on August 18, 2007 was not reported until August 20, 2007.
2. Failed to prevent an unauthorized emissions event which occurred on August 18, 2007, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and (3) and 116.715(c)(7); 40 CODE OF FEDERAL REGULATIONS § 60.104(a)(2)(i); TEX. HEALTH & SAFETY CODE § 382.085(b); and Air Permit Nos. 50607, PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017, Special Conditions 1 and 2, as

documented during a record review conducted on September 26, 2007. Specifically, approximately 514 pounds of sulfur dioxide ("SO₂") were released during the 18 hour event. Additionally, the limit of 250 parts per million by volume ("ppmv") for SO₂ was exceeded with a high of 502.9 ppmv. These emissions are not authorized by the permit. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

3. Failed to prevent an unauthorized emissions event which started on November 20, 2007, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(4), and 116.715(c)(7); TEX. HEALTH & SAFETY CODE § 382.085(b); and Air Permit Nos. 50607, PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017, Special Condition 1, as documented during a record review conducted on November 20, 2007. Specifically, approximately 6,441.97 lbs of SO₂, 69.81 lbs of hydrogen sulfide, 2,239.13 lbs of carbon monoxide, 360.05 lbs of nitrogen oxides, and 5,222.60 lbs of volatile organic compounds were released from the FCCU and HCU flares during the 36 hour 20 minute event. Opacity was at 100%. These emissions are not authorized by the permit. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Diamond Shamrock Refining Company, L.P., Docket No. 2008-0276-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 the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement appropriate training measures to minimize and/or avoid the reoccurrence of emissions events similar to the November 20, 2007 incident; 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Dr., Suite 1200, Unit 5839
Corpus Christi, Texas 78412-5839

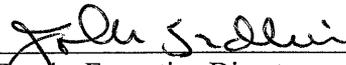
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/21/2008
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

05/06/08
Date

Harry Wright, Jr.
Name (Printed or typed)
Authorized Representative of
Diamond Shamrock Refining Company, L.P.

Vice President and 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.

