

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1011-AIR-E **TCEQ ID:** RN101049195 **CASE NO.:** 36126
RESPONDENT NAME: Holly Energy Partners - Operating, 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: Holly Energy Partners - El Paso Eastside Terminal, 1000 Eastside Road, El Paso, El Paso County</p> <p>TYPE OF OPERATION: Petroleum bulk station and distribution 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 December 15, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-1460; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Dan Houlihan, Terminal Superintendent, Holly Energy Partners - Operating, L.P., 1000 Eastside Road, El Paso, Texas 79915 Mr. Mark Cunningham, Vice President, Operations, Holly Energy Partners - Operating, L.P., 1000 Eastside Road, El Paso, Texas 79915 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input 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 13, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 30, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to comply with the maximum Reid vapor pressure ("RVP") limit of 7.0 pounds per square inch absolute ("psia") for gasoline which may be used in a motor vehicle in the El Paso area during the period of May 1, 2008 through September 16, 2008. Specifically, lab results from a sample taken from Tank No. 201 was found to have an RVP of 8.2 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,700</p> <p>Total Deferred: \$540 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,080</p> <p>Total Paid to General Revenue: \$1,080</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>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, establish and implement a process designed to ensure that gasoline dispensed and/or stored on site meets the required maximum RVP limits of 7.0 psia during the control period of May 1 through September 16; 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): EE00570

Attachment A
Docket Number: 2008-1011-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Holly Energy Partners – Operating, L.P.
Penalty Amount: Two Thousand One Hundred Sixty Dollars (\$2,160)
SEP Offset Amount: One Thousand Eighty Dollars (\$1,080)
Type of SEP: Pre-approved
Third-Party Recipient: Texas PTA – *Clean School Bus Program*
Location of SEP: El Paso County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* in El Paso County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

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

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6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Jun-2008	Screening	23-Jun-2008	EPA Due	
	PCW	24-Jun-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Holly Energy Partners - Operating, L.P.
Reg. Ent. Ref. No.	RN101049195
Facility/Site Region	6-El Paso
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36126	No. of Violations	1
Docket No.	2008-1011-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Sidney Wheeler
		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*

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 Total Adjustments *Subtotal 5*

Economic Benefit Enhancement* *Subtotal 6*

Total EB Amounts
Approx. Cost of Compliance

*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 23-Jun-2008

Docket No. 2008-1011-AIR-E

PCW

Respondent Holly Energy Partners - Operating, L.P.

Policy Revision 2 (September 2002)

Case ID No. 36126

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101049195

Media [Statute] Air

Enf. Coordinator Sidney Wheeler

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	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements 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%
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement due to four dissimilar NOV's.

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

Screening Date 23-Jun-2008	Docket No. 2008-1011-AIR-E	PCW		
Respondent Holly Energy Partners - Operating, L.P.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36126	<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN101049195				
Media [Statute] Air				
Enf. Coordinator Sidney Wheeler				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 115.252(2) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to comply with the maximum Reid vapor pressure ("RVP") limit of 7.0 pounds per square inch absolute ("psia") for gasoline which may be used in a motor vehicle in the El Paso area during the period of May 1, 2008 through September 16, 2008, as documented during an investigation conducted on May 13, 2008. Specifically, lab results from a sample taken from tank no. 201 was found to have an RVP of 8.2 psia.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				25%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				0%
Matrix Notes	Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment			\$7,500	
			\$2,500	
Violation Events				
Number of Violation Events		1	41	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="checkbox"/>		
Violation Base Penalty			\$2,500	
One single event is recommended.				
Good Faith Efforts to Comply			\$0	
		0.0% Reduction		
		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"/>	<input type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal			\$2,500	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$10	Violation Final Penalty Total	\$2,700	
This violation Final Assessed Penalty (adjusted for limits)			\$2,700	

Economic Benefit Worksheet

Respondent Holly Energy Partners - Operating, L.P.
Case ID No. 36126
Reg. Ent. Reference No. RN101049195
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$600	13-May-2008	16-Sep-2008	0.35	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost of implementing procedures to ensure the required RVP psia is maintained for gasoline used in motor vehicles in the El Paso area. Date required is the investigation date and the final date is the last day of the control period.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$600	TOTAL	\$10
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Compliance History

Customer/Respondent/Owner-Operator:	CN602777476 Holly Energy Partners - Operating, L.P.	Classification: AVERAGE	Rating: 1.62
Regulated Entity:	RN101049195 HOLLY ENERGY PARTNERS - EL PASO EASTSIDE TERMINAL	Classification: AVERAGE	Site Rating: 2.08
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000010900
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	84173
	AIR NEW SOURCE PERMITS	PERMIT	12474
	AIR NEW SOURCE PERMITS	PERMIT	17977
	AIR NEW SOURCE PERMITS	PERMIT	19983
	AIR NEW SOURCE PERMITS	PERMIT	19984
	AIR NEW SOURCE PERMITS	PERMIT	20950
	AIR NEW SOURCE PERMITS	PERMIT	29245
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EE00570
	AIR NEW SOURCE PERMITS	PERMIT	51959
	AIR NEW SOURCE PERMITS	AFS NUM	4814100037
	AIR OPERATING PERMITS	PERMIT	346
	AIR OPERATING PERMITS	PERMIT	2732
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	84173
Location:	1000 EASTSIDE RD, EL PASO, TX, 79915	Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 06 - EL PASO		
Date Compliance History Prepared:	June 23, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 23, 2003 to June 23, 2008		

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

Name: Sidney Wheeler Phone: (512) 239-4969

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? Holly Energy Partners -- Operating, L.P.
4. If Yes, who was/were the prior owner(s)? Navajo Pipeline Co
5. When did the change(s) in ownership occur? 10/26/05

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 02/10/2004 (256567)
 - 2 02/11/2004 (262431)
 - 3 08/11/2004 (266373)
 - 4 08/10/2005 (403740)
 - 5 11/10/2005 (433343)
 - 6 12/21/2005 (439207)

7 12/21/2005 (450111)
8 07/12/2006 (464654)
9 05/31/2007 (560557)
10 09/18/2007 (542552)
11 05/30/2008 (680222)

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

Date: 02/12/2004 (256567)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(10)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.23(a)

Description: Failure to have waste manifests properly completed and signed.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(4)

Description: Failure to have the job title and job description of each employee in a position related to hazardous waste management as part of the contingency plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter Q 335.474(1)(J)(iv)

Description: Failure to have a prioritized list of pollutants and contaminants to be reduced as part of the SWRM plan.

Date: 08/17/2005 (403740)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Description: Failure to submit Annual Compliance Certification prior to the end of the 30 day certification period. It was submitted at 44 days.

Date: 11/14/2005 (433343)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter R 335.503(a)(4)(A)

Description: Failure to analyze nonhazardous waste cartridge filters for Total Petroleum Hydrocarbon content in order to verify status as a Class 1 waste.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failure to amend the Notice of Registration with the following information: 1) correct facility contact, 2) proper waste form code for cartridge filters (should be 310 or 489, not 319), 3) correct facility name and 4) correct owner and owner address.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(a)

Description: Failure to use waste manifests for shipping Class 1 waste (nonhazardous cartridge filters) offsite during 2004 and 2005.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)

Description: Failure to indicate waste code identification number (Block I) on manifest numbers 02684428, 02785277. Manifest numbers 02785278 and 3295721 have waste code identification numbers listing waste as hazardous, whereas Block 11 on these manifests lists the waste as nonhazardous.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.13(k)

Description: Failure to submit an exception report to TCEQ for waste shipped under manifest number 3295721. Neither the transporter nor the destination facility signed for receipt of the waste.

Date: 09/24/2007 (542552)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Description: Failure to submit Annual Compliance Certification within 30 days after the end of the certification period. Compliance certification was submitted on day 56.

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
HOLLY ENERGY PARTNERS -
OPERATING, L.P.
RN101049195**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-1011-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 Holly Energy Partners - Operating, 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 bulk station and distribution terminal at 1000 Eastside Road in El Paso, El Paso County, Texas (the "Station").
2. The Station 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 June 4, 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 Two Thousand Seven Hundred Dollars (\$2,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid One Thousand Eighty Dollars (\$1,080) of the administrative penalty and Five Hundred Forty Dollars (\$540) 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. One Thousand Eighty Dollars (\$1,080) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and 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 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.
10. 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.
11. 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 Station, the Respondent is alleged to have failed to comply with the maximum Reid vapor pressure ("RVP") limit of 7.0 pounds per square inch absolute ("psia") for gasoline which may be used in a motor vehicle in the El Paso area during the period of May 1, 2008 through September 16, 2008, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 13, 2008. Specifically, lab results from a sample taken from tank no. 201 was found to have an RVP of 8.2 psia.

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: Holly Energy Partners - Operating, L.P., Docket No. 2008-1011-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. The Respondent shall implement and complete an SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Eighty Dollars (\$1,080) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, establish and implement a process designed to ensure that gasoline dispensed and/or stored on site meets the required maximum RVP limits of 7.0 psia during the control period of May 1 through September 16; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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:

Air Section, Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

4. 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 Station operations referenced in this Agreed Order.
5. 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.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
7. 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.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to 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

John S. ...
For the Executive Director

11/24/2008
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.

Mark Cunningham
Signature

26 Sept 08
Date

MARK Cunningham
Name (Printed or typed)
Authorized Representative of
Holly Energy Partners - Operating, L.P.

Vice President, 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.

Attachment A
Docket Number: 2008-1011-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Holly Energy Partners – Operating, L.P.
Penalty Amount: Two Thousand One Hundred Sixty Dollars (\$2,160)
SEP Offset Amount: One Thousand Eighty Dollars (\$1,080)
Type of SEP: Pre-approved
Third-Party Recipient: Texas PTA – *Clean School Bus Program*
Location of SEP: El Paso County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* in El Paso County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

