

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0500-AIR-E **TCEQ ID:** RN100210806 **CASE NO.:** 37435
RESPONDENT NAME: Intercontinental Terminals Company LLC

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input checked="" 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: Intercontinental Terminals Deer Park Terminal, 1943 Independence Parkway South, La Porte, Harris County</p> <p>TYPE OF OPERATION: Petroleum bulk storage terminal</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Gary Cotie, Environmental Supervisor, Intercontinental Terminals Company LLC, 1943 Battleground Road La Porte, Texas 77571 Mr. Carl Holley, Vice President-SHES and Regulatory Compliance, Intercontinental Terminals Company LLC, 1943 Battleground Road, La Porte, Texas 77571 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: October 20, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 25, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions. Specifically, 6,745 pounds of unauthorized 1,3 butadiene, a hazardous air pollutant, were released into the atmosphere due to the failure to prevent an increase in pressure inside Tank 50-2 which resulted in the lifting of the tank's relief valve. The emissions event occurred on August 10, 2008 and lasted 12 minutes. Since the emissions event was avoidable by better operational practices and determined to be excessive, the Respondent failed to meet the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 1078, Special Condition No. 5].</p> | <p>Total Assessed: \$10,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,000</p> <p>Total Paid to General Revenue: \$5,000</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>Findings Orders Justification: This case involves unauthorized emissions which have been deemed excessive. Screen 3 modeling predicted that the fence line ambient air concentration of 1,3 butadiene exceeded the TCEQ 1-hour short term Effects Screening Level.</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. Comply with the TCEQ request dated March 25, 2009 for submittal of a corrective action plan ("CAP") to address the excessive emissions event that occurred on August 10, 2008;</p> <p>b. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by any other deadline specified in writing;</p> <p>c. Upon Executive Director approval, implement the CAP, in accordance with the approved schedule; and</p> <p>d. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provisions 2.a. through 2.c.</p> |

Additional ID No(s): HG0403N

Attachment A
Docket Number: 2009-0500-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|--------------------------------|--|
| Respondent: | Intercontinental Terminals Company LLC |
| Payable Penalty Amount: | Ten Thousand Dollars (\$10,000) |
| SEP Amount: | Five Thousand Dollars (\$5,000) |
| Type of SEP: | Pre-approved |
| Third-Party Recipient: | Houston Regional Monitoring Corporation - Houston Area Monitoring |
| Location of SEP: | Harris County |

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

1. Project Description

A. Project

Performing Party shall use SEP Funds to operate, maintain, and potentially expand portions of the existing Houston Regional Monitoring Corporation Ambient Air Quality Monitoring Network in the Houston area in order to continue to provide information on data quality and trends to the public, TCEQ, and industry representatives. SEP funds may be used to operate a single monitoring site or multiple sites contingent upon the amount of SEP funds provided.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Data from this monitoring may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, and assess potential community exposure to toxic air contaminants. Performing party notifies the TCEQ on a quarterly basis of all exceedences of the National Ambient Air Quality Standards (“NAAQS”) that it measures at its monitoring stations. The TCEQ uses this information, along with information collected at its own monitors and monitors operated by the City of Houston, to evaluate Houston’s progress toward achieving or remaining in attainment of the NAAQS.

C. Minimum Expenditure

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

2. Performance Schedule

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

Christopher B. Amandes
Esquire, Vinson & Elkins LLP
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|
| DATES | Assigned | 30-Mar-2009 | | | |
| | PCW | 29-Apr-2009 | Screening | 9-Apr-2009 | EPA Due |

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Intercontinental Terminals Company LLC |
| Reg. Ent. Ref. No. | RN100210806 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Major |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37435 | No. of Violations | 1 |
| Docket No. | 2009-0500-AIR-E | Order Type | Findings |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Roshondra Lowe |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$10,000 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|--------------------|--------------------------------|----------|
| Compliance History | 103.0% Enhancement | Subtotals 2, 3, & 7 | \$10,300 |
|---------------------------|--------------------|--------------------------------|----------|

Notes
Penalty enhanced due to six NOVs for same or similar violations, 17 NOVs for unrelated violations and two 1660-style agreed orders containing a denial of liability. Penalty reduced due to one notice of an audit submitted.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes
The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts \$171
Approx. Cost of Compliance \$2,500
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$20,300 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$20,300 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$10,000 |
|-----------------------------------|-------------------------------|----------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

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

Notes
No deferral is recommended for Findings Orders.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$10,000 |
|------------------------|----------|

Screening Date 9-Apr-2009

Docket No. 2009-0500-AIR-E

PCW

Respondent Intercontinental Terminals Company LLC

Policy Revision 2 (September 2002)

Case ID No. 37435

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210806

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 6 | 30% |
| | Other written NOVs | 17 | 34% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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 (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 1 | -1% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 103%

>> 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

Penalty enhanced due to six NOVs for same or similar violations, 17 NOVs for unrelated violations and two 1660-style agreed orders containing a denial of liability. Penalty reduced due to one notice of an audit submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 103%

Screening Date 9-Apr-2009 **Docket No.** 2009-0500-AIR-E **PCW**
Respondent Intercontinental Terminals Company LLC *Policy Revision 2 (September 2002)*
Case ID No. 37435 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100210806
Media [Statute] Air
Enf. Coordinator Roshondra Lowe

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and Air Permit No. 1078, Special Condition No. 5
Violation Description
 Failed to prevent unauthorized emissions. Specifically, 6,745 pounds of unauthorized 1,3 butadiene, a hazardous air pollutant, were released into the atmosphere due to the failure to prevent an increase in pressure inside Tank 50-2 which resulted in the lifting of the tank's relief valve. The emissions event occurred on August 10, 2008 and lasted 12 minutes. Since the emissions event was avoidable by better operational practices and determined to be excessive, the Respondent failed to meet the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222.
Base Penalty

>> Environmental, Property and Human Health Matrix

| | | Harm | | | |
|----|-----------|-------------------------------------|--------------------------|--------------------------|---|
| | | Major | Moderate | Minor | |
| OR | Actual | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text" value="100%"/> |
| | Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

>> Programmatic Matrix

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

Matrix Notes
 Human health or the environment in the Houston-Galveston-Brazoria nonattainment area has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation. Screen 3 modeling predicted that the fence line ambient air concentration of 1,3 butadiene exceeded the TCEQ 1-hour short term Effects Screening Level.
Adjustment

Violation Events

Number of Violation Events Number of violation days
 mark only one with an x

| | |
|--------------|-------------------------------------|
| daily | <input checked="" type="checkbox"/> |
| weekly | <input type="checkbox"/> |
| monthly | <input type="checkbox"/> |
| quarterly | <input type="checkbox"/> |
| semiannual | <input type="checkbox"/> |
| annual | <input type="checkbox"/> |
| single event | <input type="checkbox"/> |

Violation Base Penalty
 One daily event is recommended based upon the emissions event which occurred on August 10, 2008.

Good Faith Efforts to Comply Reduction

| | | |
|---|--|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="checkbox"/> | <input type="checkbox"/> |
| Ordinary | <input type="checkbox"/> | <input type="checkbox"/> |
| N/A | <input checked="" type="checkbox"/> | (mark with x) |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |
| Violation Subtotal <input type="text" value="\$10,000"/> | | |

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: Intercontinental Terminals Company LLC
Case ID No.: 37435
Reg. Ent. Reference No.: RN100210806
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 | | | | 0.00 | \$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 | \$2,500 | 10-Aug-2008 | 21-Dec-2009 | 1.36 | \$171 | n/a | \$171 |
| 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 training operators on proper positioning of the manual valve to the flare to prevent over-pressurization of the tank after power failure. The date required is the date of violation. The final date is based on the date corrective actions are expected to be completed.

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

\$2,500

TOTAL

\$171

Compliance History Report

Customer/Respondent/Owner-Operator: CN603186495 Intercontinental Terminals Company LLC Classification: AVERAGE Rating: 1.77

Regulated Entity: RN100210806 INTERCONTINENTAL TERMINALS Classification: AVERAGE Site Rating: 1.77
DEER PARK TERMINAL

| | | | |
|---------------|---|----------------------------------|--------------|
| ID Number(s): | AIR OPERATING PERMITS | ACCOUNT NUMBER | HG0403N |
| | AIR OPERATING PERMITS | PERMIT | 1081 |
| | WASTEWATER | PERMIT | WQ0001984000 |
| | WASTEWATER | PERMIT | TPDES0068349 |
| | WASTEWATER | PERMIT | TX0068349 |
| | AIR NEW SOURCE PERMITS | PERMIT | 1797 |
| | AIR NEW SOURCE PERMITS | PERMIT | 1971 |
| | AIR NEW SOURCE PERMITS | PERMIT | 2837 |
| | AIR NEW SOURCE PERMITS | PERMIT | 11781 |
| | AIR NEW SOURCE PERMITS | PERMIT | 13674 |
| | AIR NEW SOURCE PERMITS | PERMIT | 14296 |
| | AIR NEW SOURCE PERMITS | PERMIT | 16015 |
| | AIR NEW SOURCE PERMITS | PERMIT | 10581 |
| | AIR NEW SOURCE PERMITS | PERMIT | 15075 |
| | AIR NEW SOURCE PERMITS | PERMIT | 22980 |
| | AIR NEW SOURCE PERMITS | PERMIT | 24140 |
| | AIR NEW SOURCE PERMITS | PERMIT | 24909 |
| | AIR NEW SOURCE PERMITS | PERMIT | 31860 |
| | AIR NEW SOURCE PERMITS | PERMIT | 35631 |
| | AIR NEW SOURCE PERMITS | PERMIT | 43548 |
| | AIR NEW SOURCE PERMITS | PERMIT | 44392 |
| | AIR NEW SOURCE PERMITS | PERMIT | 45706 |
| | AIR NEW SOURCE PERMITS | PERMIT | 47853 |
| | AIR NEW SOURCE PERMITS | PERMIT | 50149 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HG0403N |
| | AIR NEW SOURCE PERMITS | PERMIT | 52721 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 76266 |
| | AIR NEW SOURCE PERMITS | AFS NUM | 4820100153 |
| | AIR NEW SOURCE PERMITS | PERMIT | 1078 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 74105 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 86193 |
| | PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | 1011622 |
| | VOLUNTARY CLEANUP PROGRAM | ID NUMBER | 1269 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD073912974 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 30966 |
| | WATER LICENSING | LICENSE | 1011622 |
| | IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 30966 |
| | STORMWATER | PERMIT | TXR05X836 |

Location: 1943 INDEPENDENCE PKWY S, LA PORTE, TX, 77571

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 09, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 09, 2004 to April 09, 2009

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

Name: Roshondra Lowe Phone: (713) 767-3553

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A

5. When did the change(s) in owner or operator occur?

N/A

6. Rating Date: 9/1/2008 Repeat Violator: NO

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: 11/06/2005

ADMINORDER 2005-0486-AIR-E

Classification: Moderate

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

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to prevent 1,127 pounds of unauthorized butadiene emissions from the tank 50-2 dryer pressure relief valve during an emissions event on August 16, 2004 that lasted four minutes.

Effective Date: 03/19/2007

ADMINORDER 2006-1017-AIR-E

Classification: Moderate

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

Rqmt Prov: Permit No. 1078, Special Condition 14 PERMIT
Permit No.1078 Special Condition No. 5 PERMIT

Description: Failed to prevent unauthorized emissions and to route all emissions from Storage Tank 50-2 to the TK 50-2 Flare, emissions point number ("EPN") FL-50-2 (Incident 71787).

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. (CEDS Inv. Track. No.)

| | | |
|----|------------|----------|
| 1 | 04/23/2004 | (310967) |
| 2 | 05/21/2004 | (310969) |
| 3 | 06/22/2004 | (310971) |
| 4 | 06/30/2004 | (274189) |
| 5 | 07/20/2004 | (251421) |
| 6 | 07/26/2004 | (358407) |
| 7 | 08/20/2004 | (358408) |
| 8 | 09/21/2004 | (358409) |
| 9 | 10/22/2004 | (358410) |
| 10 | 11/17/2004 | (340802) |
| 11 | 11/23/2004 | (358411) |
| 12 | 12/17/2004 | (290794) |
| 13 | 12/17/2004 | (358412) |
| 14 | 01/24/2005 | (385327) |
| 15 | 02/21/2005 | (341749) |
| 16 | 02/23/2005 | (385325) |
| 17 | 03/22/2005 | (385326) |
| 18 | 04/22/2005 | (423378) |
| 19 | 05/24/2005 | (380693) |
| 20 | 05/24/2005 | (423379) |
| 21 | 06/21/2005 | (423380) |
| 22 | 07/22/2005 | (444195) |
| 23 | 08/09/2005 | (403880) |
| 24 | 08/23/2005 | (444196) |
| 25 | 09/02/2005 | (404693) |
| 26 | 09/23/2005 | (444197) |
| 27 | 10/21/2005 | (434379) |
| 28 | 10/24/2005 | (474605) |

| | | |
|----|------------|----------|
| 29 | 10/24/2005 | (474606) |
| 30 | 11/21/2005 | (474607) |
| 31 | 12/27/2005 | (474608) |
| 32 | 01/25/2006 | (474609) |
| 33 | 02/16/2006 | (437127) |
| 34 | 02/21/2006 | (455166) |
| 35 | 02/21/2006 | (474602) |
| 36 | 02/28/2006 | (457243) |
| 37 | 03/27/2006 | (474603) |
| 38 | 03/30/2006 | (454492) |
| 39 | 04/07/2006 | (474604) |
| 40 | 05/18/2006 | (502372) |
| 41 | 05/30/2006 | (467313) |
| 42 | 05/30/2006 | (467405) |
| 43 | 05/30/2006 | (467456) |
| 44 | 05/30/2006 | (467474) |
| 45 | 06/20/2006 | (502373) |
| 46 | 07/05/2006 | (464712) |
| 47 | 07/19/2006 | (502374) |
| 48 | 08/15/2006 | (531029) |
| 49 | 08/21/2006 | (524690) |
| 50 | 10/04/2006 | (513041) |
| 51 | 10/06/2006 | (531030) |
| 52 | 10/12/2006 | (524691) |
| 53 | 10/19/2006 | (524692) |
| 54 | 10/19/2006 | (524693) |
| 55 | 11/21/2006 | (549640) |
| 56 | 12/11/2006 | (533506) |
| 57 | 12/20/2006 | (549641) |
| 58 | 02/14/2007 | (534906) |
| 59 | 02/20/2007 | (549639) |
| 60 | 03/20/2007 | (583591) |
| 61 | 04/20/2007 | (583592) |
| 62 | 05/08/2007 | (542716) |
| 63 | 05/21/2007 | (583593) |
| 64 | 06/18/2007 | (583594) |
| 65 | 06/20/2007 | (583595) |
| 66 | 08/20/2007 | (603993) |
| 67 | 08/31/2007 | (566945) |
| 68 | 09/18/2007 | (603994) |
| 69 | 10/15/2007 | (572860) |
| 70 | 10/15/2007 | (572912) |
| 71 | 10/18/2007 | (603995) |
| 72 | 10/18/2007 | (603996) |
| 73 | 11/02/2007 | (595572) |
| 74 | 11/02/2007 | (596438) |
| 75 | 11/05/2007 | (566950) |
| 76 | 11/19/2007 | (622871) |
| 77 | 11/27/2007 | (609671) |
| 78 | 12/17/2007 | (622872) |
| 79 | 02/01/2008 | (611820) |
| 80 | 02/13/2008 | (614533) |
| 81 | 02/20/2008 | (674320) |
| 82 | 03/19/2008 | (674321) |
| 83 | 04/18/2008 | (674322) |
| 84 | 04/18/2008 | (674323) |
| 85 | 05/20/2008 | (692665) |
| 86 | 06/20/2008 | (692666) |
| 87 | 07/23/2008 | (681834) |
| 88 | 08/07/2008 | (686235) |

89 08/20/2008 (713798)
 90 09/19/2008 (713799)
 91 10/09/2008 (700249)
 92 10/20/2008 (713800)
 93 10/20/2008 (713801)
 94 11/20/2008 (729808)
 95 12/11/2008 (703617)
 96 12/19/2008 (729809)
 97 12/30/2008 (721525)
 98 12/30/2008 (721707)
 99 03/25/2009 (705943)

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

Date: 06/30/2004 (358407) CN603186495
 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: 11/30/2004 (358412) CN603186495
 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: 12/17/2004 (290794)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
 5C THC Chapter 382, SubChapter A 382.085(b)
 TCEQ Air Permit # 1078, GC#8 PERMIT
 Description: The company failed to prevent benzene from spilling on top of the floating roof tank during a railcar unloading operation.

Date: 12/31/2004 (385327) CN603186495
 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: 01/31/2005 (385325) CN603186495
 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: 02/28/2005 (385326) CN603186495
 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: 03/31/2005 (423378) CN603186495
 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: 05/24/2005 (380693)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
 Description: ITC failed to submit the initial notification electronically using the online form on the commission's secure web server.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

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

Description: ITC failed to prevent the increased flow, during a loading operation, into Tank 105-3.

Date: 09/02/2005 (404693) CN603186495
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)

Description: The RE failed to detect a leak on a transferline.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
No. 1078 SC1.J PERMIT

Description: Failure to operated without visible liquid leaks or spills.
Date: 10/21/2005 (434379)
Self Report? NO Classification: Moderate
Citation: #1078 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(b)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: ITC failed to prevent a mechanical failure which resulted in a release of 85 pounds of unauthorized 1,3 butadiene emissions from an emergency atmospheric relief valve for a duration of 5 minutes.

Date: 03/29/2006 (454492) CN603186495
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permit effluent limits for biochemical oxygen demand (BOD5).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure to adequately manage solid waste.

Date: 05/31/2006 (502373) CN603186495
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: 08/15/2006 (531029) CN603186495
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 10/06/2006 (531030) CN603186495
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/31/2007 (583592) CN603186495
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: 04/30/2007 (583593) CN603186495
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: 08/31/2007 (566945) CN603186495

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
FOP O-01061, ST&C 14 OP
FOP O-01061, ST&C 1A OP
FOP O-01061, ST&C 5.B.i OP

Permit 1078, SC 1J PERMIT

Description: Failure to prevent leaks during loading and unloading operations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
FOP O-01061, ST&C 14 OP
Permit 1078, Special Condition 5 PERMIT

Description: Failure to operate equipment within the short-term emissions limits defined in the MAER Table of Permit 1078.

Date: 10/31/2007 (622871) CN603186495
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: 11/28/2007 (609671) CN603186495
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

Description: Failure to identify the permit in the final report.

Date: 02/14/2008 (614533) CN603186495
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)

Description: Failure to meet the minimum pressure tank capacity requirement.

Date: 07/23/2008 (681834) CN603186495
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)(i)
5C THSC Chapter 382 382.085(b)
ST&C 1A PERMIT

Description: Failure to maintain the internal floating roof of tanks TK100-24 and TK80-14 floating on the liquid surface at all times.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)
GT&C PERMIT

Description: Failure to submit the first semi-annual deviation report within 30 days after the end of the certification period for the period of March 8, 2007 through September 7, 2007.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)
30 TAC Chapter 115, SubChapter C 115.212(a)(6)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 SC 1J PERMIT
 ST&C 14 PERMIT
 ST&C 1A PERMIT
 Description: Failure to prevent VOC leakage during loading and unloading operations.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 GT&C PERMIT
 Description: Failure to include all instances of deviations in the second semi-annual deviation report dated March 28, 2008.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 30 TAC Chapter 122, SubChapter B 122.146(5)(D)
 5C THSC Chapter 382 382.085(b)
 GT&C PERMIT
 Description: Failure to identify all other terms and conditions of the permit for which compliance was not achieved.

Date: 09/30/2008 (713800) CN603186495
 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: 11/30/2008 (729809) CN603186495
 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

F. Environmental audits.

Notice of Intent Date: 04/27/2006 (466867)
 No DOV Associated

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 | § | BEFORE THE |
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | |
| INTERCONTINENTAL TERMINALS | § | TEXAS COMMISSION ON |
| COMPANY LLC | § | |
| RN100210806 | § | ENVIRONMENTAL QUALITY |

**AGREED ORDER
DOCKET NO. 2009-0500-AIR-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Intercontinental Terminals Company LLC (“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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a petroleum bulk storage terminal at 1943 Independence Parkway South in La Porte, 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. During an investigation conducted on October 20, 2008, TCEQ staff documented that the Respondent failed to prevent unauthorized emissions. Specifically, 6,745 pounds of unauthorized 1,3 butadiene, a hazardous air pollutant, were released into the atmosphere due to the failure to prevent an increase in pressure inside Tank 50-2 which resulted in the lifting of the tank's relief valve. The emissions event occurred on August 10, 2008 and lasted 12 minutes.
4. The Respondent received notice of the violations on March 30, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Permit No. 1078, Special Condition No. 5. Since the emissions event was avoidable by better operational practices and determined to be excessive, the Respondent failed to meet the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Five Thousand Dollars (\$5,000) of the administrative penalty. Five Thousand Dollars (\$5,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.

Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Intercontinental Terminals Company LLC, Docket No. 2009-0500-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 a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Five Thousand Dollars (\$5,000) 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. The Respondent shall undertake the following technical requirements:
 - a. Comply with the TCEQ request dated March 25, 2009 for submittal of a corrective action plan ("CAP") to address the excessive emissions event that occurred on August 10, 2008, in accordance with 30 TEX. ADMIN. CODE § 101.222(b);
 - b. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by other deadline specified in writing;
 - c. Upon Executive Director approval, implement the CAP, in accordance with the approved schedule; and
 - d. Upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provisions 3.a. through 3.c. as described below:

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

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 Plant 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.

10. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/21/2009
Date

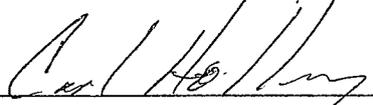
I, the undersigned, have read and understand the attached Agreed Order in the matter of Intercontinental Terminals Company LLC. I am authorized to agree to the attached Agreed Order on behalf of Intercontinental Terminals Company LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Intercontinental Terminals Company LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

8/2009
Date

Carl Holley
Name (Printed or typed)
Authorized Representative of
Intercontinental Terminals Company LLC

VP-SHE's Regulatory Compliance
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: 2009-0500-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|--------------------------------|--|
| Respondent: | Intercontinental Terminals Company LLC |
| Payable Penalty Amount: | Ten Thousand Dollars (\$10,000) |
| SEP Amount: | Five Thousand Dollars (\$5,000) |
| Type of SEP: | Pre-approved |
| Third-Party Recipient: | Houston Regional Monitoring Corporation - Houston Area Monitoring |
| Location of SEP: | Harris County |

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

1. Project Description

A. Project

Performing Party shall use SEP Funds to operate, maintain, and potentially expand portions of the existing Houston Regional Monitoring Corporation Ambient Air Quality Monitoring Network in the Houston area in order to continue to provide information on data quality and trends to the public, TCEQ, and industry representatives. SEP funds may be used to operate a single monitoring site or multiple sites contingent upon the amount of SEP funds provided.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Data from this monitoring may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, and assess potential community exposure to toxic air contaminants. Performing party notifies the TCEQ on a quarterly basis of all exceedences of the National Ambient Air Quality Standards ("NAAQS") that it measures at its monitoring stations. The TCEQ uses this information, along with information collected at its own monitors and monitors operated by the City of Houston, to evaluate Houston's progress toward achieving or remaining in attainment of the NAAQS.

C. Minimum Expenditure

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

2. Performance Schedule

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

Christopher B. Amandes
Esquire, Vinson & Elkins LLP
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

