

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0853-IWD-E **TCEQ ID:** RN102325974 **CASE NO.:** 37745
RESPONDENT NAME: LCY ELASTOMERS LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: LCY Elastomers, located on the west side of Decker Drive, approximately 1,700 feet north of Baker Road and 1,600 feet south of Redell Road, Harris County</p> <p>TYPE OF OPERATION: Synthetic rubber manufacturing facility with a wastewater treatment system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 October 26, 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. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Cecil Lee, Site General Manager, LCY ELASTOMERS LP, 4803 Decker Drive, Baytown, Texas 77520 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 26, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 29, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for total dissolved oxygen, flow, and carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004772000, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p>	<p>Total Assessed: \$24,125</p> <p>Total Deferred: \$4,825 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$9,650</p> <p>Total Paid to General Revenue: \$9,650</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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0004772000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): IWD/04772/CO

Attachment A
Docket Number: 2009-0853-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: LCY ELASTOMERS LP

Penalty Amount: Nineteen Thousand Three Hundred Dollars (\$19,300)

SEP Offset Amount: Nine Thousand Six Hundred Fifty Dollars (\$9,650)

Type of SEP: Pre-approved

Third-Party Recipient: Gulf Coast Waste Disposal Authority - River, Lakes, Bays 'N Bayous Trash Bash

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 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. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

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

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

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:

Gulf Coast Waste Disposal Authority
Rivers, Lakes, Bays, and Bayous Trash Bash
Attention: Lori Gernhardt
910 Bay Area Boulevard
Houston, TX 77052

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 13088
Austin, Texas 78711-3088

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.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	1-Jun-2009	Screening	4-Jun-2009	EPA Due	5-Jun-2009
	PCW	4-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	LCY ELASTOMERS LP
Reg. Ent. Ref. No.	RN102325974
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37745	No. of Violations	1
Docket No.	2009-0853-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
Admin. Penalty \$	Limit Minimum \$0	EC's Team	Enforcement Team 1
	Maximum \$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	93.0% Enhancement	Subtotals 2, 3, & 7	\$11,625

Notes
The Respondent self-reported eight months of effluent quality violations, was issued one Notice of Violation ("NOV") for violations that are considered to be same or similar, was issued four NOV's for violations that are considered not to be similar, and was issued two final-agreed orders containing a denial of liability language.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$520	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$5,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$24,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment		
Reduces or enhances the Final Subtotal by the indicated percentage.				
Notes				
			Final Penalty Amount	\$24,125

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$24,125
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,825
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)				
Notes	Deferral offered for expedited settlement.			

PAYABLE PENALTY	\$19,300
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Screening Date 4-Jun-2009

Docket No. 2009-0853-IWD-E

PCW

Respondent LCY ELASTOMERS LP

Policy Revision 2 (September 2002)

Case ID No. 37745

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102325974

Media (Statute) Water Quality

Enf. Coordinator Heather Brister

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)	9	45%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

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) 93%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported eight months of effluent quality violations, was issued one Notice of Violation ("NOV") for violations that are considered to be same or similar, was issued four NOVs for violations that are considered not to be similar, and was issued two final agreed orders containing a denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 93%

Screening Date: 4-Jun-2009 **Docket No.:** 2009-0853-IWD-E **PCW**
Respondent: LCY ELASTOMERS LP *Policy Revision 2 (September 2002)*
Case ID No.: 37745 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN102325974
Media [Statute]: Water Quality
Enf. Coordinator: Heather Brister

Violation Number: 1
Rule Cite(s): Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004772000, Effluent Limitations and Monitoring Requirements Nos. 1 and 3
Violation Description: Failed to comply with permitted effluent limits, as documented during a record review conducted on March 26, 2009. See attached table.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix
OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.
Adjustment: \$7,500
Total: \$2,500

Violation Events
 Number of Violation Events: 5 Number of violation days: 183

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	

 Violation Base Penalty: \$12,500
 Five quarterly events are recommended (four events for the quarters containing January, February, June, August, and December 2008 at Outfall 002 and one event for the quarter containing October 2008 at Outfall 003).

Good Faith Efforts to Comply 0.0% Reduction \$0
 Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.
Violation Subtotal: \$12,500

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount: \$520 Violation Final Penalty Total: \$24,125
This violation Final Assessed Penalty (adjusted for limits): \$24,125

Economic Benefit Worksheet

Respondent: LCY ELASTOMERS LP
Case ID No.: 37745
Reg. Ent. Reference No.: RN102325974
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	31-Jan-2008	28-Feb-2010	2.08	\$520	n/a	\$520

Notes for DELAYED costs

Estimated cost to evaluate the cause of non-compliance and to make necessary adjustments at the Facility to achieve compliance with the permitted effluent limitations. Date Required is the initial month of non-compliance. Final Date is the anticipated date of compliance.

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

\$5,000

TOTAL:

\$520

Effluent Limit Violation Table

table rev.

Respondent	LCY ELASTOMERS LP
ID Number(s)	WQ0004772000
Docket Number	2009-0853-IWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number:

1

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	Total Dissolved Oxygen Minimum: 4.0 mg/L	Daily Maximum Flow: 0.150 Million Gallons per Day	5-Day Carbonaceous Biochemical Oxygen Demand Daily Average Concentration 10 mg/L	5-Day Carbonaceous Biochemical Oxygen Demand Daily Maximum Concentration 25 mg/L
<i>Month/Year</i>				
Outfall 002				
Jan-08	3.9	n/a	c	c
Feb-08	3.58	n/a	c	c
Jun-08	3	n/a	c	c
Aug-08	2	n/a	13	37
Dec-08	c	n/a	19	67
Outfall 003				
Oct-08	c	0.163	c	c

c = compliant

n/a = not applicable

mg/L = Milligrams per Liter

Compliance History Report

Customer/Respondent/Owner-Operator: CN602579542 LCY ELASTOMERS LP Classification: AVERAGE Rating: 3.08
 Regulated Entity: RN102325974 LCY ELASTOMERS Classification: AVERAGE Site Rating: 3.08

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG3757A
	AIR OPERATING PERMITS	PERMIT	1756
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD988067070
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	23457
	AIR NEW SOURCE PERMITS	PERMIT	20311
	AIR NEW SOURCE PERMITS	PERMIT	42213
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG3757A
	AIR NEW SOURCE PERMITS	AFS NUM	4820101298
	STORMWATER	PERMIT	TXR05T536
	WASTEWATER	PERMIT	WQ0004772000
	WASTEWATER	EPA ID	TX0128015
	WASTEWATER	PERMIT	TX0128015

Location: Located on the west side of Decker Drive, approximately 1,700 feet north of Baker Road and 1,600 feet south of Redell Road, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: June 04, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 04, 2004 to June 04, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: 254-761-3034

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: 10/25/2004	ADMINORDER 2004-0551-AIR-E
Classification: Moderate	
Citation: 30 TAC Chapter 101, SubChapter H 101.359 5C THG Chapter 382, SubChapter A 382.085(b)	
Description: Failed to submit Form ECT-1, Annual Compliance Report, for the 2002 control period by March 31, 2003.	
Effective Date: 12/20/2008	ADMINORDER 2008-1013-AIR-E
Classification: Moderate	
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b)	
Rqmt Prov: 20311, Special Condition 1 PERMIT	

Description: LCY failed to avoid blocking the discharge valve of Pump P-764 and ensure that a loose lock nut on the nitrogen regulator was tightened.

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	08/25/2004	(262325)
2	09/30/2004	(279993)
3	10/31/2004	(289310)
4	11/29/2004	(339650)
5	01/27/2005	(343596)
6	06/02/2005	(375715)
7	08/30/2005	(372066)
8	10/11/2005	(418629)
9	12/29/2005	(436334)
10	01/26/2006	(452639)
11	03/28/2006	(452399)
12	05/26/2006	(467581)
13	10/30/2006	(517040)
14	11/29/2006	(517875)
15	07/16/2007	(543324)
16	08/20/2007	(606096)
17	09/12/2007	(571406)
18	09/19/2007	(606097)
19	10/19/2007	(606098)
20	11/17/2007	(634308)
21	12/17/2007	(634309)
22	01/08/2008	(634310)
23	01/23/2008	(635978)
24	02/13/2008	(678053)
25	02/19/2008	(678055)
26	02/19/2008	(678057)
27	02/19/2008	(678058)
28	02/19/2008	(678059)
29	02/19/2008	(678060)
30	03/10/2008	(678054)
31	04/18/2008	(678056)
32	05/12/2008	(696902)
33	06/03/2008	(654471)
34	06/16/2008	(696903)
35	07/09/2008	(696904)
36	07/21/2008	(686607)
37	08/08/2008	(718656)
38	08/08/2008	(718657)
39	08/08/2008	(718658)
40	08/08/2008	(718659)
41	08/08/2008	(718660)
42	08/08/2008	(718661)
43	08/08/2008	(718662)
44	08/08/2008	(718664)
45	08/08/2008	(718667)
46	08/08/2008	(718668)
47	08/12/2008	(718663)
48	09/05/2008	(718665)
49	10/07/2008	(718666)
50	10/07/2008	(718669)
51	11/11/2008	(733890)
52	12/08/2008	(733891)
53	05/29/2009	(740285)

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

Date: 08/30/2006 (372066)

Self Report? NO

Classification: Minor

Citation: 20311, Special Condition #9 PA

30 TAC Chapter 101, SubChapter A 101.20(1)

30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(i)

30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)
Description: visible emissions from a smoking flare more than 5 minutes in any 2 hour period in Unit H-7902.

Date: 01/26/2006 (452639) CN602579542
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent process wastewater from entering a storm water containment pond.

Date: 11/28/2006 (517875) CN602579542
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 324, SubChapter A 324.6
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)
Description: Failure to label containers with used oil with the words "Used Oil."

Date: 07/16/2007 (543324) CN602579542
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01756, SC 11 OP
Permit 20311, SC 9 PERMIT
Description: Low pressure flare had no pilot flame.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01756, GC OP
Description: All deviations were not included in the Semiannual Deviation Report.

Date: 07/31/2007 (606096) CN602579542
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: 10/31/2007 (634308) CN602579542
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: 01/23/2008 (635978) CN602579542
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		
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		
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		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
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Self Report?	NO	Classification:	Moderate
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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:	01/31/2008 (678053)	CN602579542	
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:	02/29/2008 (678054)	CN602579542	
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:	06/30/2008 (696904)	CN602579542	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2008 (718665)	CN602579542	
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:	10/31/2008 (733890)	CN602579542	
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:	12/31/2008 (718669)	CN602579542	
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. 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
LCY ELASTOMERS LP
RN102325974**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0853-IWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LCY ELASTOMERS LP ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. 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 synthetic rubber manufacturing facility with a wastewater treatment system located on the west side of Decker Drive, approximately 1,700 feet north of Baker Road and 1,600 feet south of Redell Road, Harris County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
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 3, 2009.
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 Twenty-Four Thousand One Hundred Twenty-Five Dollars (\$24,125) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Six Hundred Fifty Dollars (\$9,650)

of the administrative penalty, Nine Thousand Six Hundred Fifty Dollars (\$9,650) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP"), and Four Thousand Eight Hundred Twenty-Five Dollars (\$4,825) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director 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 Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004772000, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on March 26, 2009, and as shown in the following table:

EFFLUENT PARAMETER				
Permit Limit				
	Total Dissolved Oxygen Minimum 4.0 mg/L	Daily Maximum Flow 0.150 Million Gallons per Day	5-Day Carbonaceous Biochemical Oxygen Demand Daily Average Concentration 10 mg/L	5-Day Carbonaceous Biochemical Oxygen Demand Daily Maximum Concentration 25 mg/L
Month/Year				
Outfall 002				
Jan-08	3.9	n/a	c	c
Feb-08	3.58	n/a	c	c
Jun-08	3	n/a	c	c
Aug-08	2	n/a	13	37
Dec-08	c	n/a	19	67
Outfall 003				
Oct-08	c	0.163	c	c

c = compliant

n/a = not applicable

mg/L = Milligrams per Liter

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: LCY ELASTOMERS LP, Docket No. 2009-0853-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Nine Thousand Six Hundred Fifty Dollars (\$9,650) 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, within 90 days after the effective date of this Agreed Order submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0004772000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

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

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 Facility 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 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.
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



For the Executive Director

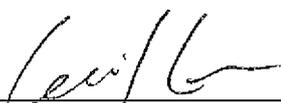
9/30/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

8/12/2009
Date

Cecil Lee
Name (Printed or typed)
Authorized Representative of
LCY ELASTOMERS LP

Site General Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2009-0853-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: LCY ELASTOMERS LP

Penalty Amount: Nineteen Thousand Three Hundred Dollars (\$19,300)

SEP Offset Amount: Nine Thousand Six Hundred Fifty Dollars (\$9,650)

Type of SEP: Pre-approved

Third-Party Recipient: Gulf Coast Waste Disposal Authority - River, Lakes, Bays 'N Bayous Trash Bash

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 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. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

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

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

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:

Gulf Coast Waste Disposal Authority
Rivers, Lakes, Bays, and Bayous Trash Bash
Attention: Lori Gernhardt
910 Bay Area Boulevard
Houston, TX 77052

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 13088
Austin, Texas 78711-3088

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.

