

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-0314-AIR-E TCEQ ID: RN100210517 CASE NO.: 32866  
RESPONDENT NAME: DIAMOND SHAMROCK REFINING COMPANY, L.P.**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 6701 FM 119, Sunray, Moore County</p> <p><b>TYPE OF OPERATION:</b> petroleum refinery</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There are three additional pending enforcement actions regarding this facility location: 2008-0738-AIR-E (settled, pending agenda); 2008-0384-AIR-E; and 2007-1544-AIR-E (settled, pending agenda).</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 9, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974                  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>SEP Coordinator:</b> Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Air Enforcement Section, MC 149, (512) 239-5025  <b>TCEQ Regional Contact:</b> Mr. Eddy Vance, Amarillo Regional Office, MC R-1, (806) 468-0510  <b>Respondent:</b> Thomas A. Shetina, Vice President &amp; General Manager, Diamond Shamrock Refining Company, L.P.,                  6701 FM 119, Sunray, Texas 79086  <b>Respondent's Attorney:</b> Ms. Donna C. Taylor, The Valero Companies, One Valero Way, San Antonio, Texas 78249</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> January 30 – February 2, 2006</p> <p><b>Date of NOE Relating to this Case:</b> February 20, 2007</p> <p><b>Background Facts:</b> This case was referred to the Litigation Division on April 17, 2007. The Respondent signed an Agreed Order on December 22, 2008, which was revised and re-signed on February 5, 2009.</p> <p><b>Current Compliance Status:</b> No outstanding Technical Requirements.</p> <p><b>AIR:</b></p> <p>1. Failed to record the Fluid Catalytic Cracking Unit (FCCU) coke burn-off rate and hours of operation [40 CFR § 60.105(c), 30 TEX. ADMIN. CODE § 101.20(1), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2. Failed to operate the Main Refinery Flare (EPN FL-1) with a pilot flame present at all times and with an automatic re-ignition system [New Source Review Flexible Air Permit No. 9708/PSD-TX-861M2, Special Condition 8(B), 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.715(a), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3. Failed to operate the Main Refinery Flare (EPN FL-1) with a flow indicator that provides a record of vent stream flow to the flare at least once every hour [40 CFR § 60.663(b)(2), 30 TEX. ADMIN. CODE § 101.20(1), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$30,750</p> <p><b>Total Deferred:</b> \$15,375</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input checked="" type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$15,375</p> <p>The Respondent has paid \$15,375 of the administrative penalty. The remaining amount of \$15,375 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision:</b> Within 30 days, the Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p><b>Corrective Measures:</b> The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant in response to this enforcement action:</p> <ol style="list-style-type: none"> <li>1. Implemented an electronic mail notification system that notifies the laboratory technician, laboratory supervisors, Complex Manager, FCC Unit Superintendent and Environmental Department staff that the FCCU coke burn-off rate data is missing;</li> <li>2. Implemented an alarm system that alerts operating personnel of an indication that a pilot may not be present. The system allows the operator to verify the presence of a flame and enter a confirmation that a flame is present. Additionally, the refinery replaced the existing Main Refinery Flare tip with an identical replacement in 2008; and</li> <li>3. Installed a distributed control system (DCS) for the Iso-octene Unit (formerly MTBE Unit). The flow from the vent in this unit is now monitored by the DCS and data is stored by the process historian instead of a strip chart.</li> </ol>

**Attachment A**  
**Docket Number: 2007-0314-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Diamond Shamrock Refining Company, L.P.  
**Penalty Amount:** Thirty thousand seven hundred fifty dollars (\$30,750)  
**SEP Offset Amount:** Fifteen thousand three hundred seventy-five dollars (\$15,375)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** **Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D")** *Unauthorized Trash Dump Clean Up*  
**Location of SEP:** Moore County

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

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Cleanup of Unauthorized Trash Dumps* project in Moore County. Any remaining SEP funds after completion of the Trash Dump Cleanup may, upon approval of the Executive Director, be spent on the Abandoned Tire Site Cleanup, Water or Wastewater Treatment Assistance, or other approved RC&D project. Specifically, SEP monies will pay for the labor and disposal costs associated with proper clean up and disposal of wastes, debris, or abandoned tires, antifreeze recycling, assistance to low-income residents with failing on site wastewater systems, plugging of abandoned wells, or other approved project. The projects will be administered in accordance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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 unauthorized trash dump clean up project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

**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 January 9, 2007

<b>DATES</b>	Assigned	26-Feb-2007
	PCW	16-Oct-2008
	Screening	6-Mar-2007
	EPA Due	1-Jan-2008

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Diamond Shamrock Refining Company, L.P.
Reg. Ent. Ref. No.	RN100210517
Facility/Site Region	1-Amarillo
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	32866	No. of Violations	3
Docket No.	2007-0314-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Terry Murphy
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7**

Notes: The penalty was enhanced by four NOV's for same or similar violations, eight NOV's for dissimilar violations, four 1660-style TCEQ orders, and one federal consent decree with a denial of liability.

**Culpability** **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

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

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

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

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

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

Notes: Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY**

Screening Date 6-Mar-2007

Docket No. 2007-0314-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32866

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100210517

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

### 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)	4	20%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 146%

>> 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 penalty was enhanced by four NOVs for same or similar violations, eight NOVs for dissimilar violations, four 1660-style TCEQ orders, and one federal consent decree with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 146%

Screening Date 6-Mar-2007

Docket No. 2007-0314-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32866

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100210517

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 1

Rule Cite(s) 40 CFR § 60.105(c), 30 Tex. Admin. Code § 101.20(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to record the Fluid Catalytic Cracking Unit (FCCU) coke burn-off rate and hours of operation. Specifically, on August 2, 2005, the Respondent failed to record that data, as documented during an investigation conducted on January 30, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%

The Respondent failed to comply with 100% of the rule.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$217

Violation Final Penalty Total \$6,150

This violation Final Assessed Penalty (adjusted for limits) \$6,150

## Economic Benefit Worksheet

**Respondent:** Diamond Shamrock Refining Company, L.P.  
**Case ID No.:** 32866  
**Reg. Ent. Reference No.:** RN100210517  
**Media:** Air Quality  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000	2-Aug-2005	1-Dec-2007	2.3	\$117	n/a	\$117
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for additional personnel training or data monitoring and recording improvements. The Date Required is the date of the violation, and the Final Date is the date the Respondent is expected to complete the additional training or data monitoring and recording improvements.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	2-Aug-2005	2-Aug-2005	0.0	\$0	\$100	\$100
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs to have calculated and recorded the required data. The Date Required and the Final Date are the date of the violation.

Approx. Cost of Compliance	\$1,100	TOTAL	\$217
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Screening Date 6-Mar-2007

Docket No. 2007-0314-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32866

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100210517

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 2

Rule Cite(s)

New Source Review Flexible Air Permit No. 9708/PSD-TX-861M2, Special Condition 8(B), 30 Tex. Admin. Code §§ 101.20(3) and 116.715(a), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to operate the Main Refinery Flare (EPN FL-1) with a pilot flame present at all times and with an automatic re-ignition system. Specifically, the flare's pilot flame was absent, and not automatically relit, on May 14, 2005, May 16, 2005, May 17, 2005, July 6, 2005, and November 22, 2005, as documented during an investigation conducted on January 30, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could have been exposed to significant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violations.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

5 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$664

Violation Final Penalty Total \$12,300

This violation Final Assessed Penalty (adjusted for limits) \$12,300

## Economic Benefit Worksheet

**Respondent:** Diamond Shamrock Refining Company, L.P.  
**Case ID No.:** 32866  
**Reg. Ent. Reference No.:** RN100210517  
**Media:** Air Quality  
**Violation No.:** 4

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000	14-May-2005	1-Dec-2007	2.6	\$128	n/a	\$128
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for additional personnel training or flare pilot flame monitoring and re-ignition improvements. The Date Required is the date of the first violation, and the Final Date is the date the Respondent is expected to complete the additional training or flare pilot flame monitoring and re-ignition improvements.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	14-May-2005	22-Nov-2005	1.4	\$36	\$500	\$536
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs of additional flare oversight. The Date Required is the date of the first violation and the Final Date is the date of the last violation.

Approx. Cost of Compliance

\$1,500

TOTAL

\$664

Screening Date 6-Mar-2007

Docket No. 2007-0314-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32866

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100210517

Media [Statute] Air Quality

Enf. Coordinator Terry Murphy

Violation Number 3

Rule Cite(s) 40 CFR § 60.663(b)(2), 30 Tex. Admin. Code § 101.20(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to operate the Main Refinery Flare (EPN FL-1) with a flow indicator that provides a record of vent stream flow to the flare at least once every hour. Specifically, the hourly flow to the flare was not recorded on November 6, 2004, June 14, 2005, July 13, 2005, and August 11, 2005, as documented during an investigation conducted on January 30, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could have been exposed to significant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violations.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

4

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$473

Violation Final Penalty Total \$12,300

This violation Final Assessed Penalty (adjusted for limits) \$12,300

## Economic Benefit Worksheet

**Respondent** Diamond Shamrock Refining Company, L.P.  
**Case ID No.** 32866  
**Reg. Ent. Reference No.** RN100210517  
**Media** Air Quality  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000	6-Nov-2004	1-Dec-2007	3.1	\$153	n/a	\$153
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for additional personnel training or flow recorder improvements. The Date Required is the date of the first violation, and the Final Date is the date the Respondent is expected to complete the additional training or flow recorder improvements.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$400	6-Nov-2004	11-Aug-2005	0.8	\$15	\$305	\$320
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs of additional oversight of the flow recorder's operation. The Date Required is the date of the first violation and the Final Date is the date of the last violation.

Approx. Cost of Compliance

\$1,400

**TOTAL**

\$473

# Compliance History

Customer/Respondent/Owner-Operator: CN600124861 Diamond Shamrock Refining Company, L.P. Classification: AVERAGE Rating: 3.88

Regulated Entity: RN100210517 DIAMOND SHAMROCK MCKEE PLANT Classification: AVERAGE Site Rating: 7.84

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	MR0008T
	AIR OPERATING PERMITS	PERMIT	1555
	WASTEWATER	PERMIT	WQ0003927000
	WASTEWATER	PERMIT	TPDES0115851
	WASTEWATER	PERMIT	TX0115851
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1710004
	AIR NEW SOURCE PERMITS	REGISTRATION	75538
	AIR NEW SOURCE PERMITS	PERMIT	PSDTX861M2
	AIR NEW SOURCE PERMITS	REGISTRATION	70214
	AIR NEW SOURCE PERMITS	REGISTRATION	71692
	AIR NEW SOURCE PERMITS	REGISTRATION	71696
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1004
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX861M2
	AIR NEW SOURCE PERMITS	REGISTRATION	77646
	AIR NEW SOURCE PERMITS	PERMIT	13435
	AIR NEW SOURCE PERMITS	PERMIT	42
	AIR NEW SOURCE PERMITS	PERMIT	9708
	AIR NEW SOURCE PERMITS	PERMIT	10152
	AIR NEW SOURCE PERMITS	PERMIT	10727
	AIR NEW SOURCE PERMITS	PERMIT	13095
	AIR NEW SOURCE PERMITS	PERMIT	39988
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	MR0008T
	AIR NEW SOURCE PERMITS	PERMIT	32958
	AIR NEW SOURCE PERMITS	AFS NUM	4834100031
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD059685339
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30871
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50229
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50229
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW192
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW332
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW225
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW226
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW333
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW020
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW102
	WATER LICENSING	LICENSE	1710004
	STORMWATER	PERMIT	TXR05P771
	STORMWATER	PERMIT	TXR15P579
	ON SITE SEWAGE FACILITY	PERMIT	1710271
	ON SITE SEWAGE FACILITY	PERMIT	1710272
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30871
	INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50229

Location: 6701 FM 119, SUNRAY, TX, 79086

Rating Date: September 01 06  
Repeat Violator: NO

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: February 27, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 6, 2002 to March 6, 2007

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

Name: Terry Murphy Phone: (512) 239-5025

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No

3. If Yes, who is the current owner? N/A  
 4. If Yes, who was/were the prior owner(s)? N/A  
 5. When did the change(s) in ownership occur? N/A

**Components (Multimedia) for the Site :**

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

- 1 Effective Date: 03/31/2003 1660-style Admin. Order 2002-0181-AIR-E ①
- Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(2)[G]  
 30 TAC Chapter 101, SubChapter A 101.6(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to comply with upset reporting regulations for eight (8) upset events.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 116, SubChapter B 116.160[G]  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(c)(1)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(1)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: SC No. 1 PERMIT  
 SC No. 17 PERMIT  
 Description: Failure to repair nine (9) leaking components within fifteen calendar days after leaks were detected.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 116, SubChapter B 116.160[G]  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: SC 1 PERMIT  
 Description: Failure to maintain opacity of emissions within the permitted limits on nine (9) occasions.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 116, SubChapter B 116.160[G]  
 40 CFR Part 60, Subpart A 60.18(c)(1)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: SC No. 11 PERMIT  
 SC No. 4 PERMIT  
 Description: Failure to operate the affected flares with no visible emissions expect for periods not to exceed a total of five minutes during any two consecutive hours on ten (10) occasions.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 116, SubChapter B 116.160[G]  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: SC No. 14 PERMIT  
 Description: Failure to maintain the No. 2 incinerator firebox exit temperature above 1200F.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 116, SubChapter B 116.160[G]  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: SC No. 5 PERMIT  
 Description: Failure to conduct monthly monitoring of volatile organic compounds (VOCs) associated with cooling tower water with an approved method.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)(iii)  
 30 TAC Chapter 116, SubChapter B 116.160[G]  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to make available, at the request of the TNRCC, monthly emissions records required by NSR Permit No. 9914, Special Conditions, Storage of VOC, No. 7G.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
 30 TAC Chapter 113, SubChapter C 113.230  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 40 CFR Part 63, Subpart R 63.425(b)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC No. 2 PERMIT

Description: Failure to determine a monitored operating parameter value for the performance test of the vapor system.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.230  
30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Part 63, Subpart R 63.427(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC No. 2 PERMIT

Description: Failed to install, calibrate, certify, operate, and maintain a continuous monitoring system capable of measuring temperature in the firebox or in the ductwork.

Classification: Moderate

Citation: 30 TAC Chapter 112, SubChapter A 112.3(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain a net ground level concentration of 0.4 parts per million by volume of SO<sub>2</sub> averaged over a 30 minute period.

Classification: Minor

Citation: 30 TAC Chapter 21 21.4(e)  
30 TAC Chapter 290, SubChapter E 290.51(a)(3)  
30 TAC Chapter 305, SubChapter M 305.503[G]

Description: Failure to pay outstanding Public Health Service fees WQA fees and WWI fees.

2 Effective Date: 08/07/2005 1660-stlye Admin. Order 2004-1645-MLM-E (2)

Classification: Major

Citation: 2D TWC Chapter 27, SubChapter A 27.011  
30 TAC Chapter 331, SubChapter A 331.7(a)  
  
30 TAC Chapter 335, SubChapter A 335.2(g)  
30 TAC Chapter 335, SubChapter B 335.43[G]  
40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1[G]

Rqmt Prov: VI A-Waste Streams Prohibited from Inj. OP

Description: Failed to prevent the unauthorized injection of characteristically hazardous waste containing benzene into non-hazardous storage tanks and then into non-hazardous waste disposal wells in violation of permit provision VI A for permits numbered WDW-020, WDW-225, and WDW-226.

3 Effective Date: 11/23/2005 COURTORDER (1)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: MAERT OP

Description: Failed to maintain emission rate below the allowable limit and failed to obtain authorization for emission events that occurred October 13 and 24, and December 11, 2003, and March 19, July 29, and August 29, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)[G]  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to provide written initial notification to the TCEQ within 24 hours of emission events that occurred on October 13 and 24, 2003, and August 29, 2004.

Classification: Minor

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

Description: Failed to submit a final report within 2 weeks of the end date for emission events which occurred October 13 and 24, 2003.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to include all required information on the final reports for emission events which occurred October 24, 2003 and August 29, 2004.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)

Description: Failure to include estimated quantities on the initial notification for an emissions event

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
Description: Failure to submit final report for an emissions event within 2 weeks  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to meet the maximum allowable emission rates for Permit No. 9914  
Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
Description: Failure to submit initial notification within 24 hours for an emissions event  
Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
Description: Failure to submit final report for an emissions event within 2 weeks  
Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
Description: Failure to include in the final report all individually listed compounds which were released during an emissions event  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to comply with the maximum allowable emission rates for Permit No. 9914  
Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
Description: Failure to submit initial notification within 24 hours of discovery of an emissions event  
Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
Description: Failure to include all individually listed air contaminants in the final report for an emissions event  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to meet the maximum allowable emission rates of Permit No. 9914  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to obtain authorization for emissions from a 4" transfer line on Tank 503

4 Effective Date: 03/23/2006 1660-style Admin. Order 2005-1111-AIR-E (3)

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to include all of the required information in the final reports submitted for the emission event reporting.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.117(a)[G]  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit No. 9708/PSD-TX-861M2 OP

Description: Failure to control emissions to the atmosphere by emitting unauthorized air contamination during an emission event (Incident No. 54540) on February 26, 2005.

5 Effective Date: 06/26/2006 1660-style Admin. Order 2006-0131-AIR-E (4)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit 9708 & PSD-TX-861M2, GC No. 1 PERMIT

Description: Failed to prevent unauthorized emissions of 1030.65 lbs of sulfur dioxide and 11.15 pounds of hydrogen sulfide from the Main Refinery Flare (EPN FL-1) during an avoidable emissions event at Complex 3, which began on October 11, 2005 and lasted for eighteen hours and forty seven minutes.

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	03/07/2002	(229652)	85	09/24/2004	(333661)	171	04/19/2006	(463117)
2	04/09/2002	(229656)	86	09/24/2004	(334110)	172	04/19/2006	(463085)
			87	09/24/2004	(333657)	173	04/19/2006	(463093)
3	05/13/2002	(229659)	88	10/09/2004	(334360)	174	05/01/2006	(463546)
4	06/18/2002	(229661)	89	10/09/2004	(334357)	175	05/04/2006	(463490)
5	07/19/2002	(229663)	90	10/12/2004	(365873)	176	05/05/2006	(505768)
6	07/22/2002	(5685)	91	11/08/2004	(389424)	177	05/30/2006	(480407)
7	07/25/2002	(6233)	92	11/23/2004	(341283)	178	05/31/2006	(480794)
8	08/08/2002	(229665)	93	11/29/2004	(265255)	179	06/05/2006	(505769)
9	09/10/2002	(229667)	94	11/29/2004	(265429)	180	06/22/2006	(480967)
10	10/08/2002	(229669)	95	11/29/2004	(265642)	181	06/27/2006	(481025)
11	11/08/2002	(229671)	96	12/08/2004	(389425)	182	06/30/2006	(481177)
12	12/10/2002	(229672)	97	12/21/2004	(344658)	183	07/13/2006	(486456)
13	01/08/2003	(229674)	98	12/21/2004	(344651)	184	07/13/2006	(486447)
14	01/23/2003	(22639)	99	12/21/2004	(344660)	185	07/17/2006	(528026)
15	01/23/2003	(22621)	100	12/29/2004	(342063)	186	07/18/2006	(482533)
16	01/23/2003	(22391)	101	12/30/2004	(342075)	187	07/26/2006	(488930)
17	01/23/2003	(22420)	102	12/30/2004	(340798)	188	07/26/2006	(488656)
18	01/23/2003	(22629)	103	12/30/2004	(341924)	189	07/27/2006	(489065)
19	01/23/2003	(22416)	104	12/30/2004	(342199)	190	07/27/2006	(489074)
20	02/10/2003	(229651)	105	12/30/2004	(342037)	191	08/24/2006	(528027)
21	03/04/2003	(26741)	106	12/30/2004	(335411)	192	08/29/2006	(510486)
22	03/06/2003	(229653)	107	12/30/2004	(339581)	193	08/29/2006	(510494)
23	03/28/2003	(28061)	108	12/30/2004	(341816)	194	09/07/2006	(488389)
24	03/28/2003	(28057)	109	12/30/2004	(342089)	195	09/11/2006	(511697)
25	03/28/2003	(28050)	110	12/30/2004	(342170)	196	09/11/2006	(511821)
26	03/28/2003	(28056)	111	01/12/2005	(389426)	197	09/12/2006	(512020)
27	03/28/2003	(28053)	112	01/25/2005	(347113)	198	09/15/2006	(488452)
28	04/04/2003	(31294)	113	01/28/2005	(347557)	199	09/20/2006	(372800)
29	04/11/2003	(229657)	114	01/28/2005	(347546)	200	09/22/2006	(512784)
30	04/13/2003	(31707)	115	01/28/2005	(347482)	201	09/22/2006	(513104)
31	04/13/2003	(31712)	116	01/31/2005	(349140)	202	09/25/2006	(488931)
32	05/12/2003	(325386)	117	02/08/2005	(430654)	203	09/25/2006	(528028)
33	06/11/2003	(325387)	118	02/25/2005	(349075)	204	10/06/2006	(488938)
34	07/15/2003	(325388)	119	03/04/2005	(372795)	205	10/11/2006	(515781)
35	08/07/2003	(36149)	120	03/04/2005	(372791)	206	10/12/2006	(489193)
36	08/11/2003	(325389)	121	03/04/2005	(372782)	207	10/13/2006	(515941)
37	08/14/2003	(150090)	122	03/04/2005	(372817)	208	10/13/2006	(516008)
38	08/15/2003	(150108)	123	03/11/2005	(351080)	209	10/13/2006	(516058)
39	08/15/2003	(150117)	124	03/14/2005	(389423)	210	10/13/2006	(515995)
40	08/15/2003	(150402)	125	03/17/2005	(374583)	211	10/31/2006	(515088)
41	08/15/2003	(150074)	126	03/17/2005	(374606)	212	10/31/2006	(515083)
42	08/18/2003	(150410)	127	04/11/2005	(430655)	213	10/31/2006	(515085)
43	08/29/2003	(152993)	128	04/27/2005	(378884)	214	10/31/2006	(517795)
44	08/29/2003	(152978)	129	04/27/2005	(372560)	215	10/31/2006	(515056)
45	08/29/2003	(152987)	130	05/10/2005	(430656)	216	10/31/2006	(515097)
46	08/29/2003	(152990)	131	06/03/2005	(394664)	217	11/03/2006	(518280)
47	08/29/2003	(152982)	132	06/07/2005	(453773)	218	11/03/2006	(518264)
48	09/10/2003	(325390)	133	06/10/2005	(430657)	219	11/08/2006	(518742)
49	10/07/2003	(249490)	134	06/10/2005	(379079)	220	11/20/2006	(519567)
50	10/08/2003	(325391)	135	07/06/2005	(398782)	221	12/05/2006	(532900)
51	11/06/2003	(252941)	136	07/06/2005	(398777)	222	12/05/2006	(532888)
52	11/12/2003	(325392)	137	07/11/2005	(447145)	223	12/05/2006	(532897)
53	12/12/2003	(325393)	138	07/22/2005	(400328)	224	12/08/2006	(533121)
54	01/12/2004	(325394)	139	07/26/2005	(397864)	225	12/08/2006	(533139)
55	02/10/2004	(325384)	140	08/19/2005	(447146)	226	12/08/2006	(533445)
56	02/13/2004	(262439)	141	09/12/2005	(431439)	227	12/11/2006	(532830)
57	02/13/2004	(262426)	142	09/12/2005	(447147)	228	12/12/2006	(533646)
58	03/04/2004	(263545)	143	09/12/2005	(431445)	229	12/13/2006	(533581)
59	03/04/2004	(263543)	144	10/05/2005	(433468)	230	12/18/2006	(518681)
60	03/04/2004	(263539)	145	10/05/2005	(433480)	231	12/28/2006	(515100)
61	03/11/2004	(263598)	146	10/05/2005	(491410)	232	01/08/2007	(535737)
62	03/12/2004	(325385)	147	10/05/2005	(433476)	233	01/08/2007	(535677)
63	04/08/2004	(266806)	148	11/15/2005	(433770)	234	01/08/2007	(535755)
64	04/26/2004	(365867)	149	11/15/2005	(491411)	235	01/29/2007	(533808)

65	04/30/2004	(271083)	150	11/22/2005	(438231)	236	02/20/2007	(452450)
66	05/13/2004	(365868)	151	11/22/2005	(438224)	237	02/28/2007	(542019)
67	05/14/2004	(262197)	152	11/22/2005	(438219)	238	02/28/2007	(542056)
68	05/19/2004	(270186)	153	12/14/2005	(434276)	239	03/06/2007	(542543)
69	05/19/2004	(270183)	154	12/15/2005	(491412)	240	03/06/2007	(542521)
70	05/19/2004	(270190)	155	01/05/2006	(437778)	241	03/06/2007	(542534)
71	05/19/2004	(270192)	156	01/05/2006	(437779)			
72	05/19/2004	(270194)	157	01/06/2006	(439635)			
73	06/10/2004	(365869)	158	01/13/2006	(491413)			
74	06/29/2004	(277795)	159	01/30/2006	(438525)			
75	06/29/2004	(277740)	160	01/30/2006	(434022)			
76	07/13/2004	(365870)	161	02/02/2006	(454165)			
77	07/19/2004	(282462)	162	02/07/2006	(491408)			
78	07/19/2004	(282628)	163	02/24/2006	(434941)			
79	07/30/2004	(281203)	164	02/24/2006	(434827)			
80	07/30/2004	(285088)	165	03/07/2006	(491409)			
81	07/30/2004	(285091)	166	04/07/2006	(505767)			
82	08/18/2004	(365871)	167	04/11/2006	(461707)			
83	09/10/2004	(365872)	168	04/12/2006	(461731)			
84	09/24/2004	(333652)	169	04/19/2006	(463113)			
			170	04/19/2006	(463122)			

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

- 1 Date: 08/06/2003 (36149)  
Self Report? NO Classification: Moderate  
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(c)(2)  
Description: Failure to perform the first attempt to repair the leaking pumps no later than 5 days after each leak was detected.
- 2 Date: 03/10/2004 (263598)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Rqmt Prov: PA Permit No. 9914, sp. provision No. 11  
Description: The facility failed to operate Wastewater Flare according to special provision No. 11 of permit No. 9914. Visible emissions were observed from this flare during several emissions events.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)  
Description: The company failed to submit the initial emissions event report within 24 hours following the discovery of the event, as required by the provisions of §101.201(e).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Description: The company failed to comply with the special provision 19B of the permit No. 8636 by operating a pump in violation of the required standards.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(4)  
Description: The company failed to provide sufficient information to review the emissions event, as required by the provisions of §101.201(a)(4).
- 3 Date: 11/29/2004 (265255)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
Description: Failure to include on the final report all compounds released during an emissions event
- 4 Date: 11/30/2004 (265429)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)  
Description: Failure to include authorized emissions limit on initial notification for an emissions event
- 5 Date: 12/30/2004 (342075)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
Description: Failure to submit an initial notification within 24 hours of an emissions event  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to obtain authorization to emit air contaminants
- 6 Date: 07/26/2005 (397864)

	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a)		
	Description:	The facility failed to comply with the provisions of the flexible permit No. 9708 by failure to have the Wastewater flare's pilot flame lit at all times.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a)		
	Description:	The facility failed to comply with the provisions of the flexible permit No. 9708 by failure to operate the No. 2 SRU incinerator with the temperatures above 1200 degrees Fahrenheit.		
7	Date:	05/05/2006 (463490)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 5C THC Chapter 382, SubChapter D 382.085(b)		
	Description:	Failure of FCCU to comply with opacity limits of Permit No. 9708/PSD-TX-861M2		
8	Date:	06/23/2006 (480967)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 5C THC Chapter 382, SubChapter A 382.085(b)		
	Description:	Failure to comply with special condition 24 of Permit No. 9708/PSD-TX-861M2 during an excess opacity event that occurred on March 23, 2006		
9	Date:	06/28/2006 (481025)		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 101, SubChapter F 101.201(e)		
	Description:	Failure to provide notification of an excess opacity event within 24 hours of discovery		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 5C THC Chapter 382, SubChapter D 382.085(b)		
	Description:	Failure to comply with the opacity limit of permit no. 9708/PSD-TX-861M2 for V-20		
10	Date:	09/25/2006 (488931)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 101, SubChapter F 101.201(e)		
	Description:	Failure to submit notification of an excess opacity event within 24 hours		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 5C THC Chapter 382, SubChapter D 382.085(b)		
	Description:	Failure to comply with permitted opacity limit during an excess opacity event that did not meet the affirmative defense criteria		
11	Date:	12/18/2006 (518681)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 5C THC Chapter 382, SubChapter D 382.085(b)		
	Description:	failure to comply with permitted opacity limits for FCCU stack during excess opacity event which did not meet affirmative defense criteria		
12	Date:	02/28/2007 (542056)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
	Rqmt Prov:	PERMIT MSGP Part III 7 (b)		
	Description:	Failure to conduct Annual Comprehensive Site Compliance Evaluations as permit required.		

- F. Environmental audits. N/A
  - G. Type of environmental management systems (EMSs). N/A
  - H. Voluntary on-site compliance assessment dates. N/A
  - I. Participation in a voluntary pollution reduction program. N/A
  - J. Early compliance. N/A
- Sites Outside of Texas N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DIAMOND SHAMROCK  
REFINING COMPANY, L.P.;  
RN100210517**

§  
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§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0314-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Diamond Shamrock Refining Company, L.P. ("Diamond Shamrock") under the authority of 40 CODE OF FEDERAL REGULATIONS part 60, TEX. WATER CODE ch. 7, and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Diamond Shamrock, represented by Donna Taylor, in-house counsel for Diamond Shamrock, appear before the Commission and together stipulate that:

1. Diamond Shamrock owns and operates a petroleum refinery located at 6701 FM 119, Sunray, Moore County, Texas (the "Plant").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Diamond Shamrock agree that the Commission has jurisdiction to enter this Agreed Order, and that Diamond Shamrock is subject to the Commission's jurisdiction.
4. Diamond Shamrock received notice of the violations alleged in Section II ("Allegations") on or about February 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Diamond Shamrock of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of thirty thousand seven hundred fifty dollars (\$30,750.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Diamond Shamrock has paid fifteen thousand three hundred seventy-five dollars (\$15,375.00) of the administrative penalty. Pursuant to TEX. WATER CODE § 7.067, fifteen thousand three hundred seventy-five dollars (\$15,375.00) of the administrative penalty shall be conditionally offset by Diamond Shamrock's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. Diamond Shamrock'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.
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 Diamond Shamrock have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Diamond Shamrock has implemented the following corrective measures at the Plant in response to this enforcement action:
  - a. The refinery has implemented an electronic mail notification system that notifies the laboratory technician, laboratory supervisors, Complex Manager, FCC Unit Superintendent and Environmental Department staff that the FCCU coke burn-off rate data is missing.
  - b. The refinery has implemented an alarm system that alerts operating personnel of an indication that a pilot may not be present. The system allows the operator to verify the presence of a flame and enter a confirmation that a flame is present. Additionally, the refinery replaced the existing Main Refinery Flare tip with an identical replacement in 2008.
  - c. The flow data for this vent was previously stored on a strip chart. The refinery has installed a distributed control system (DCS) for the Iso-octene Unit (formerly MTBE Unit). The flow from the vent in this unit is now monitored by the DCS and data is stored by the process historian instead of a strip chart.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Diamond Shamrock has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

During an investigation conducted on January 30, 2006 through February 2, 2006, a TCEQ Amarillo Regional Office investigator documented that Diamond Shamrock violated:

1. 40 CODE OF FEDERAL REGULATIONS § 60.105(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and 30 TEX. ADMIN. CODE § 101.20(1) by failing to record the Fluid Catalytic Cracking Unit ("FCCU") coke burn-off rate and hours of operation. Specifically, on August 2, 2005, Diamond Shamrock failed to record the FCCU coke burn-off rate and hours of operation.
2. TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.715(a), and New Sources Review Flexible Permit 9708/PSD-TX-861M2, Special Condition No. 8(B) by failing to operate the Main Refinery Flare (EPN FL-1) with a pilot flame present at all times and with an automatic re-ignition system. Specifically, the flare's pilot flame was absent, and not automatically relit on May 14, 2005, May 16, 2005, May 17, 2005, July 6, 2005 and November 22, 2005.
3. 40 CODE OF FEDERAL REGULATIONS § 60.663(b)(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and 30 TEX. ADMIN. CODE § 101.20(1) by failing to operate the Main Refinery Flare (EPN FL-1) with a flow indicator that provides a record of vent stream flow to the flare at least once every hour. Specifically, the hourly flow to the flare was not recorded on November 6, 2004, June 14, 2005, July 13, 2005, and August 11, 2005.

## III. DENIALS

Diamond Shamrock generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Diamond Shamrock pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Diamond Shamrock'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 considering or requiring corrective action or penalties for violations which are not raised here.

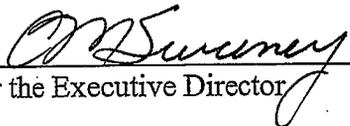
2. Diamond Shamrock shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067 and as set forth in Section I, Paragraph 6, above. Fifteen thousand three hundred seventy-five dollars (\$15,375.00) of the assessed administrative penalty shall be offset with the condition that Diamond Shamrock implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein by reference. Diamond Shamrock'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 provisions of this Agreed Order shall apply to and be binding upon Diamond Shamrock.
4. If Diamond Shamrock 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, Diamond Shamrock's failure to comply is not a violation of this Agreed Order. Diamond Shamrock shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Diamond Shamrock shall notify the Executive Director within seven days after Diamond Shamrock becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Diamond Shamrock shall be made in writing to the Executive Director. Extensions are not effective until Diamond Shamrock receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Diamond Shamrock in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Diamond Shamrock, or three days after the date on which the Commission mails notice of the Order to Diamond Shamrock, 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

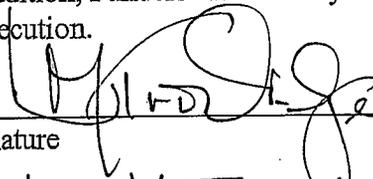
2/19/09  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Diamond Shamrock's compliance history;
- Greater scrutiny of any permit applications submitted by Diamond Shamrock;
- 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 against Diamond Shamrock;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Diamond Shamrock; and
- TCEQ seeking other relief as authorized by law.

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

  
Signature  
Lisa M. Trowbridge  
Name (Printed or typed)

2/5/09  
Date

Authorized representative of  
Diamond Shamrock Refining Company, L.P.

Health, Safety & Environmental Director  
Title

Attachment A  
Docket Number: 2007-0314-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** Diamond Shamrock Refining Company, L.P.  
**Penalty Amount:** Thirty thousand seven hundred fifty dollars (\$30,750)  
**SEP Offset Amount:** Fifteen thousand three hundred seventy-five dollars (\$15,375)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Unauthorized Trash Dump Clean Up*  
**Location of SEP:** Moore County

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

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") for the *Cleanup of Unauthorized Trash Dumps* project in Moore County. Any remaining SEP funds after completion of the Trash Dump Cleanup may, upon approval of the Executive Director, be spent on the Abandoned Tire Site Cleanup, Water or Wastewater Treatment Assistance, or other approved RC&D project. Specifically, SEP monies will pay for the labor and disposal costs associated with proper clean up and disposal of wastes, debris, or abandoned tires, antifreeze recycling, assistance to low-income residents with failing on site wastewater systems, plugging of abandoned wells, or other approved project. The projects will be administered in accordance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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 unauthorized trash dump clean up project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

C. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

**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:

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

**4. Failure to Fully Perform**

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

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

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

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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