

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0172-AIR-E **TCEQ ID:** RN100825363 **CASE NO.:** 37123
RESPONDENT NAME: LANXESS Corporation

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: LANXESS Orange Plant, 4647 Farm-to-Market Road 1006, Orange, Orange County</p> <p>TYPE OF OPERATION: Chemical manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 20, 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. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Markus Linke, Site Manager, LANXESS Corporation, P.O. Box 2000, Orange, Texas 77631 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: November 5, 2008</p> <p>Date of NOV/NOE Relating to this Case: January 13, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>1) Failure to prevent unauthorized emissions during Incident No. 111300. Specifically, during the July 19, 2008 emissions event 3,000 pounds of unauthorized cyclohexane emissions were released over a period of one hour from a valve that was inadvertently left open during transfer operations. Since the emissions event was not properly reported and could have been avoided through better operational practices, the demonstration criteria in 30 TEX. ADMIN. CODE § 101.222 were not met [Federal Operating Permit No. O-2282, General Terms and Conditions and Special Condition No. 11, Air Permit No. 22508 and PSD-TX-874, Special Condition No. 1, 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to report Incident No. 111300 within 24 hours after discovery. Specifically, Incident No. 111300 was discovered on July 19, 2008 at 10:15 p.m., however, the initial notification was not submitted until July 21, 2008 at 9:46 a.m. [Federal Operating Permit No. O-2282, Special Condition No. 2.F., 30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$4,524</p> <p>Total Deferred: \$904 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,810</p> <p>Total Paid to General Revenue: \$1,810</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Completed corrective actions on August 18, 2008 in response to Incident No. 111300 including, replacement of the missing handle on the bleed valve and inspection of other related valves for damage, improvements to area lighting so valve position could more easily be determined, and the addition of more hydrocarbon detectors to the area; and</p> <p>b. Completed employee training on the emissions event reporting requirements on August 18, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): OC0004P

Attachment A
Docket Number: 2009-0172-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: LANXESS Corporation

Penalty Amount: Three Thousand Six Hundred Twenty Dollars (\$3,620)

SEP Offset Amount: One Thousand Eight Hundred Ten Dollars (\$1,810)

Type of SEP: Pre-approved

Third-Party Recipient: Ducks Unlimited, Inc.-Reforestation and Enhancement of Tony Houseman State Park & Wildlife Management Area at Blue Elbow Swamp

Location of SEP: Orange 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 **Ducks Unlimited, Inc. for Reforestation and Enhancement of Tony Houseman State Park & Wildlife Management Area at Blue Elbow Swamp** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP funds will be used for the restoration and enhancement of the forested wetlands at the park. SEP monies will be used to pay for the cost of trees, labor, and for the equipment needed to plant tree and remove undesired exotic species. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by the reforested wetland being able to serve as a filter for nutrients and heavy metals from runoff. The reforestation will also provide new habitats for wetland animals.

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:

Ducks Unlimited, Inc.
Ed Ritter, Director of Conservation Programs
1620 Farm-to-Market Road 2218
Richmond, Texas 77469

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.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	26-Jan-2009			
	PCW	4-Feb-2009	Screening	4-Feb-2009	EPA Due 10-Oct-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	LANXESS Corporation
Reg. Ent. Ref. No.	RN100825363
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37123	No. of Violations	2
Docket No.	2009-0172-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,600
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	99.0% Enhancement	Subtotals 2, 3, & 7	\$2,574
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Notes	Penalty enhancement due to three NOVs issued for same or similar violations, 22 NOVs issued for unrelated violations, and two agreed orders with a denial of liability.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$650
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$29	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,524
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$4,524
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,524
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DEFERRAL	20.0% Reduction	Adjustment	-\$904
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$3,620
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Screening Date 4-Feb-2009	Docket No. 2009-0172-AIR-E	PCW
Respondent LANXESS Corporation	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37123	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN100825363		
Media [Statute] Air		
Enf. Coordinator Rebecca Johnson		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	3	15%
	Other written NOVs	22	44%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 99%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to three NOVs issued for same or similar violations, 22 NOVs issued for unrelated violations, and two agreed orders with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 99%

Screening Date 4-Feb-2009	Docket No. 2009-0172-AIR-E	PCW
Respondent LANXESS Corporation		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 37123		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN100825363		
Media [Statute] Air		
Enf. Coordinator Rebecca Johnson		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	Federal Operating Permit No. O-2282, General Terms and Conditions and Special Condition No. 11, Air Permit No. 22508 and PSD-TX-874, Special Condition No. 1, 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c), and 122.143(4), and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to prevent unauthorized emissions during Incident No. 111300. Specifically, during the July 19, 2008 emissions event 3,000 pounds of unauthorized cyclohexane emissions were released over a period of one hour from a valve that was inadvertently left open during transfer operations. Since the emissions event was not properly reported and could have been avoided through better operational practices, the demonstration criteria in 30 Tex. Admin. Code § 101.222 were not met.	
	Base Penalty	<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Major Moderate Minor	
Actual	<input type="text"/>	<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>
	Percent	<input type="text" value="25%"/>
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text"/>	<input type="text"/>
	Percent	<input type="text" value="0%"/>
Matrix Notes	Human health or the environment have been exposed to an insignificant amount of pollutants that did not exceed protective levels.	
	Adjustment	<input type="text" value="\$7,500"/>
		<input type="text" value="\$2,500"/>
Violation Events		
Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="1"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
	Violation Base Penalty	<input type="text" value="\$2,500"/>
One quarterly event is recommended based on the July 19, 2008 emissions event.		
Good Faith Efforts to Comply	<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$625"/>
	Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	<small>(mark with x)</small>
Notes	The Respondent completed corrective actions on August 18, 2008.	
	Violation Subtotal	<input type="text" value="\$1,875"/>
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$29"/>	Violation Final Penalty Total <input type="text" value="\$4,350"/>
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,350"/>	

Economic Benefit Worksheet

Respondent LANXESS Corporation
Case ID No. 37123
Reg. Ent. Reference No. RN100825363
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	19-Jul-2008	18-Aug-2008	0.08	\$1	\$27	\$29
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace the missing valve handle on the bleed valve and to inspect other valves for damage, relocate and add new hydrocarbon detectors to the area, and increase area lighting to prevent the recurrence of emissions events caused by valves being inadvertently left open during transfer operations. The date required is the date of the emissions event. The final date is the date corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$29

Screening Date 4-Feb-2009 **Docket No.** 2009-0172-AIR-E **PCW**
Respondent LANXESS Corporation *Policy Revision 2 (September 2002)*
Case ID No. 37123 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100825363
Media [Statute] Air
Enf. Coordinator Rebecca Johnson
Violation Number 2
Rule Cite(s) Federal Operating Permit No. O-2282, Special Condition No. 2.F., 30 Tex. Admin. Code §§ 101.201(a)(1)(B) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to report Incident No. 111300 within 24 hours after discovery. Specifically, Incident No. 111300 was discovered on July 19, 2008 at 10:15 p.m., however, the initial notification was not submitted until July 21, 2008 at 9:46 a.m.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes Less than 30% of the reporting requirements were not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 2 Number of violation days

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

Violation Base Penalty \$100

One single event is recommended based on the one report that was submitted late.

Good Faith Efforts to Comply

25.0% Reduction \$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent completed corrective actions on August 18, 2008.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$174

This violation Final Assessed Penalty (adjusted for limits) \$174

Economic Benefit Worksheet

Respondent LANXESS Corporation
Case ID No. 37123
Reg. Ent. Reference No. RN100825363
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	\$100	20-Jul-2008	18-Aug-2008	0.08	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to conduct employee training to review the emissions event reporting requirements. The date required is the date the emissions event was due to be reported and was not. The final date is the date corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN602665556 LANXESS Corporation Classification: AVERAGE Rating: 3.96
 Regulated Entity: RN100825363 LANXESS ORANGE PLANT Classification: AVERAGE Site Rating: 2.50

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	OC0004P
	AIR OPERATING PERMITS	PERMIT	1391
	AIR OPERATING PERMITS	PERMIT	2279
	AIR OPERATING PERMITS	PERMIT	2280
	AIR OPERATING PERMITS	PERMIT	2281
	AIR OPERATING PERMITS	PERMIT	2282
	WASTEWATER	PERMIT	WQ0001167000
	WASTEWATER	PERMIT	TX0003654
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1810007
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1810007
	AIR NEW SOURCE PERMITS	PERMIT	38280
	AIR NEW SOURCE PERMITS	PERMIT	39197
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	OC0004P
	AIR NEW SOURCE PERMITS	PERMIT	7427
	AIR NEW SOURCE PERMITS	PERMIT	10499
	AIR NEW SOURCE PERMITS	PERMIT	11834
	AIR NEW SOURCE PERMITS	PERMIT	18072
	AIR NEW SOURCE PERMITS	PERMIT	19663
	AIR NEW SOURCE PERMITS	PERMIT	22508
	AIR NEW SOURCE PERMITS	PERMIT	29624
	AIR NEW SOURCE PERMITS	PERMIT	52977
	AIR NEW SOURCE PERMITS	REGISTRATION	55829
	AIR NEW SOURCE PERMITS	AFS NUM	4836100020
	AIR NEW SOURCE PERMITS	PERMIT	56568
	AIR NEW SOURCE PERMITS	REGISTRATION	81449
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30020
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD061283479
	WASTEWATER LICENSING	LICENSE	WQ0001167000
	WATER LICENSING	LICENSE	1810007

Location: 4647 FM 1006, ORANGE, TX, 77630

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: January 28, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 28, 2004 to January 28, 2009

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

Name: Rebecca Johnson

Phone: (361) 825-3420

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Lanxess Corporation
4. If Yes, who was/were the prior owner(s)? Lanxess Buna LLC
5. When did the change(s) in ownership occur? 07/01/2004
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: 12/20/2004

ADMINORDER 2004-0203-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to properly report an emissions event at the CoBr unit. Moderate 2D

Classification: Moderate

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

Rqmt Prov: Special Condition 1 OP

Special Condition 1 PERMIT

Description: Failure to maintain emission rate below allowable emission limits.

Effective Date: 06/15/2006

ADMINORDER 2005-0006-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01391 Special Condition 7A OP

Description: Failing to prevent unauthorized emissions from being released at the Cobalt Butadiene Rubber Unit; and the Propylene Bullet Tank, and failing to maintain an emission rate below the permitted allowable emission limit.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
30 TAC Chapter 101, SubChapter F 101.201(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to properly notify the regional office of a reportable emissions event, which began on April 17, 2003 and ended on April 18, 2003.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(D)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to properly notify the regional office of a reportable emissions event, which occurred on July 17, 2003.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/04/2004	(257111)
2	02/23/2004	(294751)
3	02/27/2004	(264369)
4	03/24/2004	(265561)
5	03/25/2004	(294753)
6	04/22/2004	(294754)
7	05/24/2004	(294756)
8	06/22/2004	(294758)
9	07/02/2004	(276835)
10	07/15/2004	(351860)
11	08/24/2004	(351861)
12	09/20/2004	(351862)
13	10/19/2004	(351863)
14	10/19/2004	(351865)
15	10/21/2004	(293043)
16	10/21/2004	(293049)
17	10/21/2004	(293067)
18	10/21/2004	(293087)
19	10/21/2004	(293114)
20	10/21/2004	(293174)
21	10/21/2004	(293182)
22	10/21/2004	(293195)
23	10/21/2004	(293200)
24	10/21/2004	(293202)
25	10/21/2004	(293209)
26	10/21/2004	(293214)
27	11/29/2004	(337538)
28	11/29/2004	(351864)
29	12/27/2004	(381733)
30	02/22/2005	(419524)
31	03/21/2005	(419525)
32	04/25/2005	(419526)
33	05/12/2005	(375183)
34	05/23/2005	(419527)
35	06/23/2005	(395581)
36	06/23/2005	(395759)
37	06/23/2005	(419528)
38	07/13/2005	(394175)
39	07/22/2005	(440681)
40	08/03/2005	(398945)
41	08/23/2005	(440682)
42	08/31/2005	(418435)
43	09/23/2005	(440683)
44	10/24/2005	(440684)
45	11/28/2005	(468185)
46	12/16/2005	(436392)
47	12/27/2005	(468186)
48	01/23/2006	(468187)
49	02/28/2006	(468184)
50	03/28/2006	(498031)
51	03/31/2006	(455894)
52	04/24/2006	(498032)
53	05/09/2006	(453986)
54	05/16/2006	(465393)
55	05/26/2006	(498033)
56	06/26/2006	(498034)
57	07/05/2006	(462812)
58	07/10/2006	(498035)
59	07/18/2006	(520047)

60 08/21/2006 (520046)
61 09/22/2006 (544297)
62 10/03/2006 (511695)
63 10/17/2006 (520048)
64 11/16/2006 (544298)
65 12/18/2006 (406548)
66 12/27/2006 (544299)
67 01/04/2007 (533360)
68 01/19/2007 (544300)
69 02/07/2007 (533954)
70 02/20/2007 (544296)
71 03/20/2007 (574965)
72 04/09/2007 (593173)
73 04/20/2007 (574966)
74 05/16/2007 (555261)
75 05/18/2007 (574967)
76 06/14/2007 (559010)
77 06/20/2007 (574968)
78 07/03/2007 (566077)
79 07/20/2007 (574969)
80 07/26/2007 (566591)
81 08/02/2007 (645509)
82 09/13/2007 (571245)
83 09/20/2007 (607504)
84 10/05/2007 (571389)
85 10/19/2007 (607505)
86 10/19/2007 (607506)
87 11/20/2007 (619411)
88 12/14/2007 (600084)
89 12/17/2007 (598701)
90 12/20/2007 (619412)
91 02/19/2008 (614689)
92 02/21/2008 (671915)
93 03/20/2008 (671916)
94 04/08/2008 (640319)
95 04/21/2008 (671917)
96 04/21/2008 (671918)
97 05/19/2008 (689840)
98 05/23/2008 (653916)
99 06/20/2008 (689841)
100 08/13/2008 (685498)
101 08/20/2008 (710601)
102 11/13/2008 (702023)
103 01/13/2009 (702422)

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

Date: 01/31/2004 (294751)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (294758)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (381733)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/14/2005 (394175)

Self Report? NO Classification: Moderate
Citation: EL&MR 1 PERMIT
Description: Failure by the permittee to discharge effluent that is compliant with permitted flow limitations.

Self Report? NO Classification: Minor
Citation: M&RR 3c PERMIT

Description: Failure by the permittee to maintain complete records of monitoring activities.

Self Report? NO Classification: Minor
Citation: OpR 1 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: OpR 1 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 08/31/2005 (418435)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
FOP O-02280, SC 10 OP
Permit 19663, SC 11A PERMIT

Description: Failure to document AVO inspections.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
FOP O-02279, SC 8 OP
Permit 18072, SC 17E PERMIT

Description: Failure to document AVO inspections for flanges.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
FOP O-02281, SC 11 OP
Permit 9794, SC 7 PERMIT

Description: Failure to operate the steam stripper with no less than 95 percent efficiency.

Date: 05/09/2006 (453986)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(d)(1)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(i)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)

Description: Failure to keep a container of hazardous waste closed in a satellite accumulation area (SAA).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)(G)

Description: Failure to document the location of a satellite accumulation area (SAA).

Date: 06/30/2006 (498035)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 07/06/2006 (462812)

Self Report? NO Classification: Moderate

Citation: 18072 SC4 PA
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-02279 SC8 OP

Description: Failure to limit the flow rate through carbon adsorption units D-1521V, D-12221V, and D-1221BV.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
9794 SC 7 PA
O-02281 SC 11 OP

Description: Failure to operate the steam stripper with no less than 95 percent efficiency.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.132(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-02282 SC 10 OP

Description: Failure to operate the water separator without emissions to the atmosphere.
Failure to operate the water separator without emissions to the atmosphere.

Date: 10/31/2006 (544298)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/08/2007 (533954)

Self Report? NO Classification: Moderate

Citation: 18072 Special Condition 7B PERMIT
19663 Special Condition 6 PERMIT
22508/PSD-TX-874, Special Condition 8B PERMIT
30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.100
30 TAC Chapter 113, SubChapter C 113.260
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)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)
5C THC Chapter 382, SubChapter A 382.085(b)
O-01391, Special Condition 1A OP
O-01391, Special Condition 1D OP
O-01391, Special Condition 7A OP

Description: Failure to maintain a constant pilot flame for the facility common flare, Emission Point Number (EPN) FLARE 1.

Date: 04/09/2007 (593173)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2007 (574968)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 07/03/2007 (566077)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)
30 TAC Chapter 335, SubChapter E 335.112(a)(9)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.193(e)(1)(iii)
Description: Failure to maintain the liner in the secondary containment.

Date: 07/31/2007 (520047)

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: 08/02/2007 (645509)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(2)
Description: BACT - NONACUTE MCL (5% OR >1)

Date: 08/31/2007 (607504)

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: 09/30/2007 (607505)

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

Date: 11/30/2007 (619412)

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: 12/17/2007 (600084)

Self Report? NO Classification: Moderate
Citation: 18072, Special Condition 4 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-02279, Special Condition 8 OP
Description: Failure to maintain an hourly flow rate through carbon adsorption units below allowable limits.

Self Report? NO Classification: Moderate

Citation: 18072, Special Condition 1 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-02279, Special Condition 8 OP
Description: Failure to maintain an emission rate below the allowable emission limits.

Date: 02/20/2008 (614689)

Self Report? NO Classification: Moderate
Citation: 22508 and PSD-TX-874, Special Condon 1 PERMIT
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-02281, Special Condition 11 OP

Description: Failure to maintain an emission rate below the allowable emission limits. B13 Mod

Date: 04/30/2008 (689840)

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: 05/31/2008 (689841)

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 (671918)

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: 07/31/2008 (710601)

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: 08/13/2008 (685498)

Self Report? NO Classification: Minor

Citation: WQ0001167-000 OT Pg 12, No 3 PERMIT

Description: Failure by Lanxess to discharge effluent compliant with the permit limitations for chlorine residual.

Self Report? NO Classification: Moderate

Citation: WQ0001167-000 OpR Pg 9, No 1 PERMIT

Description: Failure by Lanxess to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: WQ0001167-000 M&RR Pg 5, No3c PERMIT

Description: Failure by Lanxess to maintain complete records of monitoring activities.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
WQ0001167-000 CBR Pg 14, No 1e PERMIT

Description: Failure by Lanxess to comply with the permit required bio-monitoring sampling frequency.

Self Report? NO Classification: Moderate

Citation: WQ0001167-000 EL&MR Pg 2, No 1 PERMIT

Description: Failure by Lanxess to discharge effluent compliant with permit limitations for Biochemical Oxygen Demand (BOD).

Self Report? NO Classification: Moderate

Citation: WQ0001167-000 OpR Pg 9, No 1 PERMIT

Description: Failure by Lanxess to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: WQ0001167-000 OpR Pg 9, No 1 PERMIT

Description: Failure by Lanxess to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: WQ0001167-000 M&RR Pg 5, No 3b PERMIT

Description: Failure by Lanxess to maintain the required records and have them available for

review during the investigation.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125
WQ0001167-000 M&RR Pg 5, No 3b PERMIT
Description: Failure by Lanxess to maintain the required records and have them available for
review during the investigation.

- 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
LANXESS CORPORATION
RN100825363

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0172-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LANXESS Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 4647 Farm-to-Market Road 1006 in Orange, Orange County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 18, 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 Four Thousand Five Hundred Twenty-Four Dollars (\$4,524) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Eight Hundred Ten Dollars (\$1,810) of the administrative penalty and Nine Hundred Four Dollars (\$904) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. One Thousand Eight Hundred Ten Dollars (\$1,810) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. Completed corrective actions on August 18, 2008 in response to Incident No. 111300 including, replacement of the missing handle on the bleed valve and inspection of other related valves for damage, improvements to area lighting so valve position could more easily be determined, and the addition of more hydrocarbon detectors to the area; and
 - b. Completed employee training on the emissions event reporting requirements on August 18, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to prevent unauthorized emissions during Incident No. 111300, in violation of Federal Operating Permit No. O-2282, General Terms and Conditions and Special Condition No. 11, Air Permit No. 22508 and PSD-TX-874, Special Condition No. 1, 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 5, 2008. Specifically, during the July 19, 2008 emissions event 3,000 pounds of unauthorized cyclohexane emissions were released over a period of one hour from a valve that was inadvertently left open during transfer operations. Since the emissions event was not properly reported and could have been avoided through better

operational practices, the demonstration criteria in 30 TEX. ADMIN. CODE § 101.222 were not met.

2. Failed to report Incident No. 111300 within 24 hours after discovery, in violation of Federal Operating Permit No. O-2282, Special Condition No. 2.F., 30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 5, 2008. Specifically, Incident No. 111300 was discovered on July 19, 2008 at 10:15 p.m., however, the initial notification was not submitted until July 21, 2008 at 9:46 a.m.

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: LANXESS Corporation, Docket No. 2009-0172-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Eight Hundred Ten Dollars (\$1,810) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

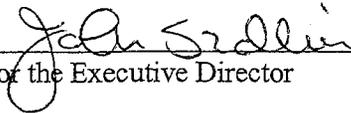
after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/15/2009
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

5/18/2009
Date

Markus Linke
Name (Printed or typed)
Authorized Representative of
LANXESS Corporation

Site 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: 2009-0172-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: LANXESS Corporation
Penalty Amount: Three Thousand Six Hundred Twenty Dollars (\$3,620)
SEP Offset Amount: One Thousand Eight Hundred Ten Dollars (\$1,810)
Type of SEP: Pre-approved
Third-Party Recipient: Ducks Unlimited, Inc.-Reforestation and Enhancement of Tony Houseman State Park & Wildlife Management Area at Blue Elbow Swamp
Location of SEP: Orange 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 **Ducks Unlimited, Inc. for Reforestation and Enhancement of Tony Houseman State Park & Wildlife Management Area at Blue Elbow Swamp** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP funds will be used for the restoration and enhancement of the forested wetlands at the park. SEP monies will be used to pay for the cost of trees, labor, and for the equipment needed to plant tree and remove undesired exotic species. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by the reforested wetland being able to serve as a filter for nutrients and heavy metals from runoff. The reforestation will also provide new habitats for wetland animals.

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:

Ducks Unlimited, Inc.
Ed Ritter, Director of Conservation Programs
1620 Farm-to-Market Road 2218
Richmond, Texas 77469

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.

