

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0532-AIR-E **TCEQ ID:** RN100225093 **CASE NO.:** 37462
RESPONDENT NAME: Vopak Terminal Deer Park, Inc.

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: Vopak Terminal Deer Park, 2759 Battleground Road, Deer Park, Harris County</p> <p>TYPE OF OPERATION: Petrochemical transfer facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2009-1180-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. 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. Justin Iwuala, Environmental Specialist, Vopak Terminal Deer Park, Inc., 2759 Battleground Road, Deer Park, Texas 77536 Mr. Lawrence Waldron, General Manager, Vopak Terminal Deer Park, Inc., 2759 Battleground Road, Deer Park, Texas 77536 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: February 16, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 2, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to comply with the minimum net heating value of 300 British thermal units per standard cubic foot ("btu/scf") for Land Flare 900. Specifically, a performance test of Land Flare 900 on August 8, 2008 indicated the net heating value was 202.3 btu/scf and a subsequent performance test on October 30, 2008 indicated the net heating value was 242 btu/scf [Air Permit No. 466A, Special Condition No. 10, 40 CODE OF FEDERAL REGULATIONS §§ 60.18, 63.11, and 63.2350, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$7,200</p> <p>Total Deferred: \$1,440 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,880</p> <p>Total Paid (Due) to General Revenue: \$2,880</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 conducted a compliant test of Land Flare 900 on December 17, 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): HG0629I

Attachment A
Docket Number: 2009-0532-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Vopak Terminal Deer Park, Inc.
Payable Penalty Amount: Five Thousand Seven Hundred Sixty Dollars (\$5,760)
SEP Amount: Two Thousand Eight Hundred Eighty Dollars (\$2,880)
Type of SEP: Pre-approved
Third-Party Recipient: Houston Regional Monitoring Corporation - Houston Area Monitoring
Location of SEP: Harris County

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Office of Legal Services
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	6-Apr-2009	Screening	15-Apr-2009	EPA Due	28-Dec-2009
	PCW	6-Apr-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Vopak Terminal Deer Park, Inc.		
Reg. Ent. Ref. No.	RN100225093		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	37462	No. of Violations	1
Docket No.	2009-0532-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 5
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$5,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	69.0% Enhancement	Subtotals 2, 3, & 7	\$3,450
Notes	Penalty enhancement due to 16 NOVs issued for unrelated violations and two agreed orders with a denial of liability. Penalty reduction due to one Notice of Intended Audit and one Disclosure of Violations submitted.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$1,250
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$36	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$7,200
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Notes			
		Final Penalty Amount	\$7,200
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$7,200
DEFERRAL	20.0% Reduction	Adjustment	-\$1,440
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$5,760

Screening Date 15-Apr-2009

Docket No. 2009-0532-AIR-E

PCW

Respondent Vopak Terminal Deer Park, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37462

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100225093

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	16	32%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
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) 69%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Penalty enhancement due to 16 NOVs issued for unrelated violations and two agreed orders with a denial of liability. Penalty reduction due to one Notice of Intended Audit and one Disclosure of Violations submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 69%

Screening Date 15-Apr-2009	Docket No. 2009-0532-AIR-E	PCW		
Respondent Vopak Terminal Deer Park, Inc.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37462	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN100225093				
Media [Statute] Air				
Enf. Coordinator Rebecca Johnson				
Violation Number 1				
Rule Cite(s)	Air Permit No. 466A, Special Condition No. 10, 40 Code of Federal Regulations §§ 60.18, 63.11, and 63.2350, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to comply with the minimum net heating value of 300 British thermal units per standard cubic foot ("btu/scf") for Land Flare 900. Specifically, a performance test of Land Flare 900 on August 8, 2008 indicated the net heating value was 202.3 btu/scf and a subsequent performance test on October 30, 2008 indicated the net heating value was 242 btu/scf.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	x	<input type="text"/>
		Percent	25%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%	
Matrix Notes	Human health or the environment could have been exposed to a significant amount of pollutants which would not have exceeded protective levels as a result of the violation.			
Adjustment		\$7,500		
		\$2,500		
Violation Events				
Number of Violation Events		2	132	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		Violation Base Penalty		\$5,000
Two quarterly events are recommended based on the initial non-compliant test date of August 8, 2008 to the December 17, 2008 compliant test date.				
Good Faith Efforts to Comply		25.0% Reduction		\$1,250
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>			
Ordinary	x			
N/A	<input type="text"/>	(mark with x)		
Notes	The Respondent completed a compliant re-test of Flare 900 on December 17, 2008.			
Violation Subtotal		\$3,750		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$36	Violation Final Penalty Total	
		\$7,200		
This violation Final Assessed Penalty (adjusted for limits)		\$7,200		

Economic Benefit Worksheet

Respondent Vopak Terminal Deer Park, Inc.
Case ID No. 37462
Reg. Ent. Reference No. RN100225093
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
<i>No commas or \$</i>							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	8-Aug-2008	17-Dec-2008	0.36	\$36	n/a	\$36

Notes for DELAYED costs

Estimated cost to make adjustments to the flare operation. The date required is the date of the initial non-compliant test. The final date is the date of the compliant test.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000 TOTAL \$36

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601178734 Vopak Terminal Deer Park, Inc.	Classification: AVERAGE	Rating: 1.09
Regulated Entity:	RN100225093 VOPAK TERMINAL DEER PARK	Classification: AVERAGE	Site Rating: 1.09

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0629I
	AIR OPERATING PERMITS	PERMIT	1068
	AIR NEW SOURCE PERMITS	PERMIT	773A
	AIR NEW SOURCE PERMITS	PERMIT	780A
	AIR NEW SOURCE PERMITS	PERMIT	781A
	AIR NEW SOURCE PERMITS	PERMIT	782A
	AIR NEW SOURCE PERMITS	PERMIT	783A
	AIR NEW SOURCE PERMITS	PERMIT	878A
	AIR NEW SOURCE PERMITS	PERMIT	1069A
	AIR NEW SOURCE PERMITS	PERMIT	1070A
	AIR NEW SOURCE PERMITS	PERMIT	3470A
	AIR NEW SOURCE PERMITS	PERMIT	3473
	AIR NEW SOURCE PERMITS	PERMIT	3563
	AIR NEW SOURCE PERMITS	PERMIT	3795
	AIR NEW SOURCE PERMITS	PERMIT	40132
	AIR NEW SOURCE PERMITS	PERMIT	50085
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0629I
	AIR NEW SOURCE PERMITS	PERMIT	466A
	AIR NEW SOURCE PERMITS	PERMIT	503A
	AIR NEW SOURCE PERMITS	AFS NUM	4820100248
	AIR NEW SOURCE PERMITS	PERMIT	5193A
	AIR NEW SOURCE PERMITS	REGISTRATION	77743
	AIR NEW SOURCE PERMITS	REGISTRATION	77383
	AIR NEW SOURCE PERMITS	REGISTRATION	80015
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010580
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000807982
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	33579
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50030
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50030
	WASTEWATER	PERMIT	WQ0001731000
	WASTEWATER	PERMIT	TPDES0030937
	WASTEWATER	EPA ID	TX0084115
	WASTEWATER	PERMIT	TX0030937

WASTEWATER	PERMIT	WQ0002383000
WASTEWATER	PERMIT	TX0084115
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	33579

Location: 2759 BATTLEGROUND RD, DEER PARK, TX, 77536

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 13, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 13, 2004 to April 13, 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 08/07/2005

ADMINORDER 2004-1572-AIR-E

Classification: Moderate

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

Rqmt Prov: TCEQ Air Permit #466A, SC #5A PERMIT

Description: Failed to comply with permitted emission limits during an emissions event that began on November 21, 2003. Specifically, 11,401 pounds of benzene were released during the four hour event while only 9.13 lbs/hr are authorized.

Effective Date: 03/12/2009

ADMINORDER 2008-1205-AIR-E

Classification: Moderate

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

Rqmt Prov: 466A/SPECIAL CONDITION I PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 1,044.30 pounds ("lbs") of volatile organic compounds were released when the Respondent failed to close the bypass valve on the circulation line at Loading Station 22, leading to the overfilling of the tank truck, resulting in an emissions event which began on February 21, 2008, and lasted for one hour (Incident No. 104029).

Classification: Moderate

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

Rqmt Prov: 466A/Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 4,753.50 lbs of Methyl Tertiary Butyl Ether were released when the Respondent failed to close a block valve on the pipeline which is directly connected to Tank 600 at the conclusion of a previous transfer, leading to the overfilling of the tank, resulting in an emissions event which began on March 11, 2008, and lasted for one hour and thirty minutes (Incident No. 104864)

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	04/23/2004	(360788)
2	05/21/2004	(360789)
3	06/22/2004	(316243)
4	07/26/2004	(360790)
5	08/24/2004	(260007)
6	08/24/2004	(360791)
7	09/27/2004	(360792)
8	10/18/2004	(360793)
9	11/29/2004	(386773)
10	11/30/2004	(340805)
11	12/08/2004	(335585)
12	12/08/2004	(335798)
13	12/22/2004	(386774)
14	01/24/2005	(386775)
15	02/23/2005	(430383)
16	02/25/2005	(348327)
17	03/28/2005	(386772)
18	04/26/2005	(430384)
19	05/19/2005	(430385)
20	06/22/2005	(430386)
21	06/24/2005	(393479)
22	07/22/2005	(445312)
23	08/01/2005	(401981)
24	08/12/2005	(403374)
25	08/12/2005	(403387)
26	08/23/2005	(445313)
27	09/23/2005	(445314)
28	10/18/2005	(476612)
29	11/28/2005	(476613)
30	12/27/2005	(476614)
31	01/19/2006	(497011)
32	01/24/2006	(476615)
33	02/21/2006	(476610)
34	03/21/2006	(476611)
35	04/20/2006	(503575)
36	05/03/2006	(459800)
37	05/15/2006	(460903)
38	05/19/2006	(503576)
39	06/20/2006	(503577)
40	07/20/2006	(503578)
41	08/18/2006	(525929)
42	08/31/2006	(480011)
43	09/20/2006	(525930)
44	10/18/2006	(525931)
45	11/15/2006	(550347)
46	12/18/2006	(550348)
47	01/19/2007	(550349)
48	02/19/2007	(550346)
49	02/22/2007	(534772)
50	03/19/2007	(586273)
51	04/13/2007	(555739)
52	04/19/2007	(586274)
53	05/18/2007	(586275)

54 06/20/2007 (586276)
 55 07/20/2007 (586277)
 56 08/21/2007 (604671)
 57 08/28/2007 (573195)
 58 09/06/2007 (571991)
 59 09/19/2007 (604672)
 60 10/16/2007 (604673)
 61 10/17/2007 (597931)
 62 11/20/2007 (624320)
 63 12/19/2007 (624321)
 64 12/20/2007 (609011)
 65 01/18/2008 (624322)
 66 01/24/2008 (615834)
 67 02/01/2008 (612235)
 68 02/01/2008 (612285)
 69 02/20/2008 (675262)
 70 03/20/2008 (675263)
 71 03/25/2008 (679822)
 72 04/18/2008 (675264)
 73 05/19/2008 (693578)
 74 05/22/2008 (610511)
 75 06/02/2008 (670843)
 76 06/02/2008 (670856)
 77 06/15/2008 (433928)
 78 06/20/2008 (693579)
 79 07/01/2008 (681719)
 80 07/16/2008 (684354)
 81 07/17/2008 (693580)
 82 07/22/2008 (684077)
 83 07/22/2008 (686122)
 84 08/18/2008 (714876)
 85 08/22/2008 (700681)
 86 09/23/2008 (714877)
 87 10/20/2008 (714878)
 88 11/19/2008 (730774)
 89 01/19/2009 (730775)
 90 01/21/2009 (707984)
 91 01/21/2009 (710077)
 92 03/13/2009 (737396)
 93 04/02/2009 (737386)
 94 04/02/2009 (741279)

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

Date: 06/30/2004 (360790)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2004 (360792)
 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: 09/30/2004 (360793)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

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

Date: 02/28/2005 (386772)

Self Report? YES Classification: Moderate

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

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

Date: 03/01/2005 (348327)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-6(a)
Special Condition 4 E PERMIT

Description: Open ended lines (5)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-1(d)

Description: Failure to tag all equipment in NESHAP service.

Date: 06/24/2005 (393479)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.356(3)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-01068, SC #1 OP

Description: failure to document cumulative emissions from leaking components scheduled to be repaired at the next unit shutdown.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(2)(D)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-01068, SC #5 OP

Description: failure to equip the roof drains to the internal floating roof tanks at the terminal with a slotted membrane fabric cover.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

No. 466A, SC #5H PERMIT
No. O-01068, SC #18 OP

Description: failure to attempt to repair four (4) leaking valves within 15 days of the date the leaks were found.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. 466A, SC #9 PERMIT
No. O-01068, SC #18 OP

Description: failure to submit notification of change in service of Storage Tanks T-608 and T-501 within 10 days of the change of service.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-7(a)
No. 466A, SC #3 PERMIT
No. O-01068, SC #18 OP

Description: failure to monitor components connected to Storage Tank T-501 for fugitive emissions for the first 30 days the storage vessel and the related components were in benzene service.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
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 60.7(a)(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(a)(3)
No. 466A, SC #2 PERMIT

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

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

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/31/2006 (503575)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 08/30/2006 (480011)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-6(a)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 466A, SC 3 PERMIT
No. 466A, SC 5E PERMIT
No. O-01068, SC 18A OP
No. O-01068, SC 1A OP

Description: failed to equip open ended lines or valves with a cap, plug, blind flange or second valve.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter H 101.360(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
No. O-01068, SC 1F(vii) OP

Description: failed to submit a completed Form ECT-3 to the TCEQ.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter H 101.359(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
No. O-01068, SC 1F(vi) OP

Description: failed to submit a completed Form ECT-1 to the TCEQ.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(a)(3)(i)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 466A, SC 3 PERMIT
No. O-01068, SC 18A OP

Description: failed to provide a 30-day advance written notice for the inspection of the IFR Seal to a storage tank.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.424(a)
5C THC Chapter 382, SubChapter D 382.085(b)
No. O-01068, SC 1E OP

Description: failed to monitor components of storage tank in gasoline service for fugitive emissions.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter E 117.520(c)(2)(A)(ii)(I)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: failed to submit results of stack test for two (2) boilers within the 60 day deadline.

Date: 04/13/2007 (555739)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.214(a)(3)(F)
30 TAC Chapter 115, SubChapter D 115.355(1)
30 TAC Chapter 116, SubChapter B 116.116(c)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR 466A SC 5F PA
Description: Failed to quarterly monitor all valves in volatile organic compound ("VOC") service in accordance Method 21.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.214(a)(3)(F)
30 TAC Chapter 115, SubChapter D 115.352(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to properly seal two open-ended lines. Specifically, two lines (Nos. 367 and 402) were equipped with plugs that were leaking.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.214(a)(3)(F)
30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR Permit 466A SC 5H PA

Description: Failed to repair components or place components on delay of repair list within 15 calendar days after a leak is discovered.

Date: 02/01/2008 (612235)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.215(3)(A)
40 CFR Part 60, Subpart A 60.18

Description: The RE failed to properly follow method 18 during a reference method stack test by failing to calibrate using three different concentrations of each organic compound expected to be measured in the sample.

Date: 02/01/2008 (612285)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.215(3)(A)
40 CFR Part 60, Subpart A 60.18

Description: The RE failed to properly follow method 18 during a reference method stack test by failing to calibrate using three different concentrations of each organic compound expected to be measured in the sample.

Date: 03/25/2008 (679822)

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: 05/22/2008 (641387)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, General Terms and Conditions OP
FOP, ST & C 18 OP
NSR, Special Condition 9 OP

Description: Failure to submit notification of service change and revised Storage Tank Table 7 for Tanks 746, 504, 608 within the ten day deadline.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(d)(5)(ii)
5C THSC Chapter 382 382.085(b)
FOP, General Terms and Conditions OP
FOP, ST & C 1A OP

Description: Failure to report the startup, shutdown, and malfunction reports (SSM) within the

required two days by fax or verbally, and submit a letter within seven of the incident.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT TT 63.1005(a)
40 CFR Part 61, Subpart V 61.242-7
5C THSC Chapter 382 382.085(b)
FOP, General Terms and Conditions OP
FOP, ST & C 18 OP
FOP, ST & C 1A OP
NSR, Special Condition 5H OP

Description: Failure repair leaking components within 15 days.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
FOP, General Terms and Conditions OP

Description: Failure to report scheduled tank cleaning events in the deviation reporting period of September 26, 2006 through March 25, 2007 and March 26, 2007 through September 26, 2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 118 118.5
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, General Terms and Conditions OP

Description: Failure to maintain an Emission Reduction Plan.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
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)
FOP, General Terms and Conditions OP
FOP, Special Condition 18 OP
FOP, Special Condition 1A OP
NSR, Special Condition 5E OP

Description: Failure to properly seal thirty-three open-ended lines in volatile organic compound (VOC) service. (Category C10)

Date: 01/21/2009 (710077)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition-1 PERMIT

Description: Failure to prevent unauthorized emissions.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

5C THSC Chapter 382 382.085(b)
Description: Failure to provide permit number governing the facilities involved in the emissions event.

Date: 01/21/2009 (707984)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special condition 1 PERMIT

Description: Failed to prevent the unauthorized emission

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit the final report within 14 days of the end of the maintenance

activity.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)(1)(I)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide the permit number governing the facilities involved in the maintenance activity.

F. Environmental audits.

Notice of Intent Date: 10/24/2006 (519276)

Disclosure Date: 10/24/2007

Viol. Classification: Moderate
Rqmt Prov: PERMIT 113.880 and 63.2246(a)1-3

Description: Failure to empty fixed roof tank TK-527 by 02/05/07.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.540
40 CFR Chapter 63, SubChapter C, PT 63, SubPT WW 63.1066(b)(1)

Description: Failure to submit 30 day written or 7 day call tank inspection notices or TK-601, 913, 416, 776, 920, 921, 510, and 603.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.540
40 CFR Chapter 63, SubChapter C, PT 63, SubPT WW 63.1063(c)(1)(i)(B)

Description: Failure to locate documentation of inspections of certain HAP tanks placed in service after 02/05/07 for TK-748 and TK-782.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

Description: Failure to locate seal damage and/or roof defect reports for certain Benzene tanks TK-512 and TK-514..

Viol. Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(a)(3)

Description: Failure to locate documentation of inspection of Benzen tank TK-409.

Viol. Classification: Major
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
4F TWC Chapter 60, SubChapter A 60.115(b)

Description: Failure to submit damage and/or defect reports to TCEQ within 30 days after visual inspection for TK-927 and 607.

Viol. Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.113(b)

Description: Failure to submit a notice of inspection prior to the filling activity. Specifically, 30 day advance or seven day notice for TK-409, 611, 409, 611, 501, 500, 505, 720, and 915.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.113(b)

Description: Failure to within 45 and 60 days of a visual inspection, to repair or take our of service NSPS IFR tanks where such inspection reveals that the tank seals are detached, or have holes for TK-927 and TK-60 7.

Viol. Classification: Moderate
Rqmt Prov: PERMIT 466A

Description: Failure to submit to TCEQ a revised storage tank table 7 within 10 days of a change in service.

Viol. Classification: Moderate
Rqmt Prov: PERMIT 466A, SC6

Description: Failure to comply with permit conditions for acetic acid storage tank water scrubber for tank 929 and 930.

Viol. Classification: Moderate
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT SS 63.998(a)(1)

Description: Failure to maintain monitoring records regarding flares FL-STYRENE1 AND FL-STYRENE2.

Viol. Classification: Moderate
Rqmt Prov: PERMIT 466A SC5F

Description: Failure to monitor leaks simultaneously while making repairs, LDAR 28 MID.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.510
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 61, Subpart V 61.242-7(d)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT TT 63.1005(a)

Rqmt Prov: PERMIT 466A SC5F

Description: Failure to repair leaking componets within 15 days or place on a delay of repair report for Value-Benzene/HAP/VOC3 and HAP/VOC4; pump VOC; Connector-HAP/VOC5 and Connector-benzene/HAP/VOC6.

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
VOPAK TERMINAL DEER PARK,
INC.
RN100225093

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0532-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 Vopak Terminal Deer Park, Inc. ("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 petrochemical transfer facility at 2759 Battleground Road in Deer Park, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. 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 April 7, 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 Seven Thousand Two Hundred Dollars (\$7,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Eighty Dollars (\$2,880) of the

administrative penalty and One Thousand Four Hundred Forty Dollars (\$1,440) 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. Two Thousand Eight Hundred Eighty Dollars (\$2,880) 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 conducted a compliant test of Land Flare 900 on December 17, 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 failed to comply with the minimum net heating value of 300 British thermal units per standard cubic foot ("btu/scf") for Land Flare 900, in violation of Air Permit No. 466A, Special Condition No. 10, 40 CODE OF FEDERAL REGULATIONS §§ 60.18, 63.11, and 63.2350, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on February 16, 2009. Specifically, a performance test of Land Flare 900 on August 8, 2008 indicated the net heating value was 202.3 btu/scf and a subsequent performance test on October 30, 2008 indicated the net heating value was 242 btu/scf.

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: Vopak Terminal Deer Park, Inc., Docket No. 2009-0532-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, Two Thousand Eight Hundred Eighty Dollars (\$2,880) 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

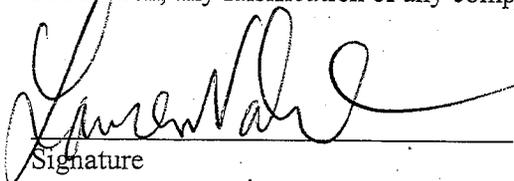
8/19/2009
Date

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

6/24/09
Date

Lawrence Waldron

Name (Printed or typed)
Authorized Representative of
Vopak Terminal Deer Park, Inc.

General Manager

Title

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

Attachment A
Docket Number: 2009-0532-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Vopak Terminal Deer Park, Inc.
Payable Penalty Amount: Five Thousand Seven Hundred Sixty Dollars (\$5,760)
SEP Amount: Two Thousand Eight Hundred Eighty Dollars (\$2,880)
Type of SEP: Pre-approved
Third-Party Recipient: Houston Regional Monitoring Corporation - Houston Area Monitoring
Location of SEP: Harris County

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Office of Legal Services
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

