## EXECUTIVE SUMMARY - ENFORCEMENT MATTER Pa DOCKET NO.: 2009-1196-PST-E TCEQ ID: RN102852548 CASE NO.: 38060 RESPONDENT NAME: VSNB, LLC dba Lockwood Phillips 66

| X_1660 AGREED ORDER    | FINDINGS AGREED ORDER              | FINDINGS ORDER FOLLOWING<br>SOAH HEARING       |  |  |
|------------------------|------------------------------------|--|--|--|
| FINDINGS DEFAULT ORDER | SHUTDOWN ORDER                     | IMMINENT AND SUBSTANTIAL<br>ENDANGERMENT ORDER |  |  |
| AMENDED ORDER          | EMERGENCY ORDER                    |  |  |  |
| CASE TYPE:             |                                    |  |  |  |
| AIR                    | MULTI-MEDIA (check all that apply) | INDUSTRIAL AND HAZARDOUS<br>WASTE              |  |  |
| PUBLIC WATER SUPPLY    | <u>X</u> PETROLEUM STORAGE TANKS   | OCCUPATIONAL CERTIFICATION                     |  |  |
| WATER QUALITY          | SEWAGE SLUDGE                      | UNDERGROUND INJECTION<br>CONTROL               |  |  |
| MUNICIPAL SOLID WASTE  | RADIOACTIVE WASTE                  | DRY CLEANER REGISTRATION                       |  |  |

SITE WHERE VIOLATION(S) OCCURRED: Lockwood Phillips 66, 5320 East Freeway, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: X Yes No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The Texas Register comment period expired on December 28, 2009. No comments were received.

#### CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

**TCEQ Enforcement Coordinator:** Mr. Ross Fife, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2541; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 **Respondent:** Ms. Victoria Boulos, President, VSNB, LLC, 12019 Lismore Lake Drive, Cypress, Texas 77429 **Respondent's Attorney:** Not represented by counsel on this enforcement matter

| VIOLATION SUMMARY CHART:   |   |   |  |  |  |  |
|--|---|---|--|--|--|--|
| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS<br>TAKEN/REQUIRED  |  |  |  |  |
| Type of Investigation:<br>Complaint  | Total Assessed: \$2,557   | Corrective Actions Taken:   |  |  |  |  |
| X Routine<br>Enforcement Follow-up<br>Records Review<br>Date(s) of Complaints Relating to this   | <b>Total Deferred:</b> \$511<br><u>X</u> Expedited Settlement<br>Financial Inability to Pay                         | The Executive Director recognizes that the<br>University of Texas at Arlington, a TCEQ<br>contractor, received documentation<br>verifying that the Respondent successfully<br>conducted the required annual and |  |  |  |  |
| Case: None   | SEP Conditional Offset: \$0   | triennial testing of the Stage II equipment<br>on June 16, 2009.  |  |  |  |  |
| Date of Investigation Relating to this<br>Case: June 16, 2009  | <b>Total Paid (Due) to General Revenue: \$546</b><br>(remaining \$1,500 due in 3 monthly payments<br>of \$500 each) |   |  |  |  |  |
| Date of NOV/NOE Relating to this Case:<br>June 29, 2009 (NOE)  | Site Compliance History Classification<br>HighAveragePoor   |   |  |  |  |  |
| <b>Background Facts:</b> This was a routine investigation.   | Person Compliance History Classification<br>HighAveragePoor   |   |  |  |  |  |
| WASTE  | Major Source: <u>Y</u> es <u>X</u> No   |   |  |  |  |  |
| Failure to verify proper operation of Stage<br>II equipment at least once every 12 months<br>and the Stage II vapor space manifolding<br>and dynamic back pressure at least once<br>every 36 months, or upon major system<br>replacement or modification, whichever<br>occurs first. Specifically, the Stage II<br>annual and triennial system compliance<br>testing had not been conducted [30 TEX.<br>ADMIN. CODE § 115.245(2) and TEX.<br>HEALTH & SAFETY CODE § 382.085(b)]. | Applicable Penalty Policy: September 2002   |   |  |  |  |  |

Additional ID No(s).: 57397

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| Policy Revision 2 (Se  | Penalty Calculation Worksheet (PCW)  | V Revision October 30, 2008 |
|--|--|-----------------------------|
| TCEQ<br>DATES Assigned<br>PCW  |  |                             |
| RESPONDENT/FACILIT<br>Respondent<br>Reg. Ent. Ref. No.<br>Facility/Site Region | VSNB, LLC dba Lockwood Phillips 66<br>RN102852548  |                             |
|  | 2009-1196-PST-E Order Type 1660<br>Petroleum Storage Tank Government/Non-Profit No   |                             |
| Admin. Penalty \$  | Limit Minimum \$0 Maximum \$10,000   |                             |
|  | Penalty Calculation Section  |                             |
| TOTAL BASE PENA  | TY (Sum of violation base penalties)   | \$2,500                     |
| ADJUSTMENTS (+/-)<br>Subtotals 2-7 are obtai<br>Compliance Hist                | TO SUBTOTAL 1<br>ned by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.<br>ory 5.0% Enhancement Subtotals 2, 3, & 7 | \$125                       |
| Notes  | Enhancement for one NOV for same or similar violation,   |                             |
| Culpability  | No 0:0% Enhancement Subtotal 4   | \$0                         |
| Notes  | The Respondent does not meet the culpability criteria.   |                             |
| Good Faith Effor   | t to Comply Total Adjustments  | \$625                       |
| Economic Benef<br>Approx.  | t 0.0% Enhancement Subtotal 6<br>Total EB Amounts \$557<br>Cost of Compliance \$466  | \$0                         |
| SUM OF SUBTOTAL  | S 1-7 Electric Subtotal  | \$2,000                     |
|  | S JUSTICE MAY REQUIRE 27.9% Adjustment   | \$557                       |
| Notes  | Recommended enhancement to capture the avoided cost of<br>compliance associated with violation no. 1.  |                             |
|  | Final Penalty Amount   | \$2,557                     |
| STATUTORY LIMIT A  | DJUSTMENT  | \$2,557                     |
| DEFERRAL<br>Reduces the Final Assessed Per                                     | 20.0% Reduction Adjustment<br>ally by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)                                   | -\$511                      |
| Notes  | Deferral offered for expedited settlement.   |                             |
| <br> PAYABLE PENALTY   |  | \$2,046                     |

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| Kes                                       | ing Date 27-Jul-2009 Docket No. 2009-1196-PST-E  | Policy F           | Revision 2 (Septem |
|---|--|--------------------|--------------------|
| Ca  | Se ID Nov 38060  | PCV                | V Revision Octobe  |
| In works, the record of the second second | ence No RN102852548  |                    |                    |
|   | [Statute] Petroleum Storage Tank   |                    |                    |
| 111 II   | The star star star star star star star star  |                    |                    |
| ENT. COL                                  | ordinator: Ross Fife   |                    |                    |
|   | Compliance History Worksheet   |                    |                    |
| ompliance Histor                          | (Site Enhancement (Subtotal 2)   |                    |                    |
| Component                                 |  | Enter Number Here  | Adjust.            |
|   | Written NOVs with same or similar violations as those in the current enforcement action  |                    |                    |
| NOVs                                      | (number of NOVs meeting criteria)  | 1                  | 5%                 |
| NOVS                                      |  | :<br>              |                    |
|   | Other written NOVs   | Û                  | 0%                 |
|   | Any agreed final enforcement orders containing a denial of liability (number of orders   | 0                  | 0%                 |
|   | meeting criteria )   |                    |                    |
| Orders                                    | 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  | 0                  | 0%                 |
|   | emergency orders issued by the commission  |                    |                    |
| · · · · · · · · · · · · · · · · · · ·     | Any non-adjudicated final court judgments or consent decrees containing a denial of liability  |                    | †                  |
|   | of this state or the federal government (number of judgements or consent decrees meeting   | Ő                  | 0%                 |
| Judgments                                 | criteria)  | v                  | 0,0                |
| and Consent                               |  |                    |                    |
| Decrees                                   | 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   | 0                  | 0%                 |
|   | government   |                    |                    |
| 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%                 |
|   | Letters notifying the executive director of an intended audit conducted under the Texas  |                    |                    |
|   |  | a                  | 007                |
|   | Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of   | 0                  | 0%                 |
| Audits                                    | audits for which notices were submitted)   |                    |                    |
| Audita                                    |  | · .                | ł I                |
| 1   | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege  | 0                  | 0%                 |
| ÷   | Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   |                    |                    |
|   | l  | se Enter Yes or No | 1                  |
| :   |  | :                  |                    |
|   | 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%                 |
| Other                                     |  | NI                 |                    |
|   | Participation in a voluntary pollution reduction program   | No                 | 0%                 |
|   | Early compliance with, or offer of a product that meets future state or federal government   | No                 | 0%                 |
|   | environmental requirements   |                    |                    |
|   |  |                    |                    |
|   | Adjustment Po  | ercentage (Si      | ubtotal 2) 🔄       |
|   |  |                    |                    |
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| peat Violator (Su                         | btotal 3)  |                    |                    |
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| epeat Violator (Su                        |  | ercentage (Si      | ubtotal 3) 📃       |
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| ompliance History                         | Adjustment Po<br>Person Classification (Subtotal 7)<br>Adjustment Po<br>Summany  |                    |                    |

| Case ID No: 8000       POW Revision October 90, 2001         Reg. Ent. Reference No: RN102852549       Media [Statute] Petrolem: Storage Tank         Enf. Coordinator Rose File       30 Tex. Admin. Code § 115.249(2) and Tex. Healin, 8. Safety Quie § 302.085(N)         Violation Member       T         Rule Clefel       30 Tex. Admin. Code § 115.249(2) and Tex. Healin, 8. Safety Quie § 302.085(N)         Violation Member       Failed to verify proper operation of Stage-II equipment at least once every 12 months and the Single Statem conflocation, whichever occurs first. Specifically, the Stage II email and the first Statem conflocation, whichever occurs first. Specifically, the Stage II email and the first Statem conflocation, whichever occurs first.         Violation Member       Specifically, the Stage II email of Marini: Statem conflocation, whichever occurs first.         Specifically, the Stage II email and the first Statem conflocation, whichever occurs first.       Specifically, the Stage II email and the first Statem conflocation, which ever occurs first.         OR       Revised Migor Moderate       Minor         OR       Revised Migor Moderate       Minor         Potential       X       Percent       0%         Violation Events       Minor       0%       42,600         Violation Events       IIII 1095       Number of violation days       82,500         Violation Events       IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII  | Screening Dat<br>Responder    | e 27-Jul-2009<br>It VSNB, LLC dba Lockwood             |  | 0, 2009-1196-PST-E  | Policy Revision 2 (September 2002) |
|---|-------------------------------|--|--|---|------------------------------------|
| Bridial [Statuid]       Periodem Storage Tark         Violation Number       1         Rule Cite(o)       50 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.055(0)         Violation Description       Falled to werk prozer operation of Biogle Agiupment at least once every 08 months and biometer of complexes test and once wery 08 months are upon major system replecement or molification. Withdrew occurs tast is Sectionally, the Bage II annual and test into all and or into molifications. Withdrew occurs tast is Sectionally, the Bage II annual and test into all annual and test into all   | Case ID No                    | 38080  |  |   |                                    |
| End. Coordinator Roos F16         Violation Number         Rule Citery         50 Tex. Admin. Code § 115.246(2) and Tex. Health & Starkty Code § 352.0500)         Violation Number         Falled to verify proor operation of Brigell disjonent is lead note every 10 months and months with molitary gates conditioned to an investore occurs field. Specificativ, the Stage II annual and therefall system conditioned testing had not been condicided to conditioned to an investore occurs field. Specificativ, the Stage II annual and therefall system conditioned testing had not been condicided to conditioned the investore its inves   |                               |  |  |   |                                    |
| Violation Number       1         Rule Cited       30 Tex. Admin. Code § 115.244(2) and Tex. Health & Stafety Code § 382.045(b)         Fallet 3 tevrify proper contains of Stage-Il scylprential least one severy 12 months and the dog all with one top all the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential least one severy 12 months and the dog all scylprential scylprentis scylprent   |                               | .75  |  |   | 1414<br>1414<br>1414<br>1414       |
| Rule Cite(e)       30 Tex. Admin. Code § 115.246(2) and Tex. Healin & Safety Code § 392.05(b)         Plack to verify proper operation of Staged Spliphment at least once every 12 months and months are proceeding of the spliphment at least once every 12 months and months are proceeding. Whilewer course fat. Specifically, the Stage II annual and blemal system compliance basing had not been condicided.         Plack to verify proper operation of Staged Spliphment at least once every 12 months are proceeding. Specifically, the Stage II annual and blemal system compliance basing had not been condicided.         Plack to verify proper operation of Staged Spliphment at least once every 12 months are proceeding.         Plack to verify proper operation of Staged Spliphment at least once every 12 months are proceeding.         Plack to verify proper operation of Staged Spliphment at least once every 12 months are proceeding.         Plack to verify the Stage II annual and the mail system compliance basing had not been condicided.         Properation of Staged Spliphment at least once every 12 months are proceeding.         Properation of Staged Spliphment at least once every 12 months are proceeding.         Properation of Staged Spliphment at least once every 12 months are proceeding.         Properation of Staged Spliphment at least once every 12 months are proceeding.         Properation of Staged Spliphment at least once every 12 months are proceeding.         Properation of Staged Spliphment at least once every 12 months are proceeding to verify the verification.         Staged Spliphment at least oncon every 12 months are proceeding to verify.  |                               |  |  |   | (*Pfc) H - Vywani                  |
| Violation Description       2016#. Admin. Gools 3 115:24(2) and 162; relating 4: stating Gools 342,050(2)         Pailed to verify proper operation of Stagell equipment at least once every 12 months and the Stagell respect and endown pressure at least more every 12 months and the Stagell respect and thensity where were theready where the stagel 10 mouth and the thensity where pressure at least main of the stagell respect and thermal wystem reglecement or modification, which were every 12 months and the second were the stagell respect and thermal wystem reglecement or modification, which were every 12 months and the second were the specific main or the stagell respect and thermal wystem reglecement or modification, which were every 12 months and the second were the specific main or the stagell respect and thermal wystem reglecement or modification, which were every 12 months and the second were the specific main of the stagell respect and thermal wystem reglecement or modification, which were every 12 months and the second were the stage of the stagell respect and thermal were every 12 months and the second were the stage of the st  |                               |  |  |   | - · ·                              |
| Violation Description       the Stage II vapor appears manifolding, and dynamic back pressure at least once every 8b months, or you on major system compliance itselling had not been compliance its recommended for the three year period preceding the June 18, 2008 investigation         Violation Events       itselling had not been compliance on June 18, 2008 investigation         Cood Earth Efforts to Comply       25.057 Kind lober compliance on June 16, 2009. </td <td></td> <td>30 Tex. Admin. Code</td> <td>§ 115.245(2) and Tex. He</td> <td>alth &amp; Safety Code § 382.0</td> <td>35(b)</td> |                               | 30 Tex. Admin. Code                                    | § 115.245(2) and Tex. He   | alth & Safety Code § 382.0                                  | 35(b)                              |
|   | Violation Descriptio          | the Stage II vapor space i<br>months, or upon major    | manifolding and dynamic t<br>system replacement or m<br>annual and triennial syste | back pressure at least once<br>odification, whichever occur | every 36<br>s first                |
| OR       Major       Moderate       Minor         >>Programmable       Major       25%         >>Programmable       Percent       25%         >>Programmable       Percent       0%         Mairix       Percent       0%         Mairix       Human health or the environment will or could be exposed to joilustants which would socied lawes that are protective of human health or environmental receptors as a result of the violation.         Adjuscoent       \$7,500         Violation       \$7,500         Violation       \$7,500         Ware with so:       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         Mumber of Violation Events       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         One shigle event is recommended for the three-year pariod preceding the June 18, 2009 investigation         Good Faith Efforts to Comply       25.0% feedicition         Extraordinary       X         Mare       Notes         The Respondent achieved compliance on June 18, 2009         Violation S  |                               |  |  | Bas   | e Penalty\$10,000                  |
| OR       Major       Moderate       Minor         >>Programmable       Major       25%         >>Programmable       Percent       25%         >>Programmable       Percent       0%         Mairix       Percent       0%         Mairix       Human health or the environment will or could be exposed to joilustants which would socied lawes that are protective of human health or environmental receptors as a result of the violation.         Adjuscoent       \$7,500         Violation       \$7,500         Violation       \$7,500         Ware with so:       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         Mumber of Violation Events       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         Mare with so:       1         One shigle event is recommended for the three-year pariod preceding the June 18, 2009 investigation         Good Faith Efforts to Comply       25.0% feedicition         Extraordinary       X         Mare       Notes         The Respondent achieved compliance on June 18, 2009         Violation S  | >> Environmental, Property a  |  | rix  |   |                                    |
| OR       Actual       X       Percent       25%         >> Programmatic Matrix       Fallication       Moderate       Minor       Percent       0%         Matrix       Human health or the environment will or could be exposed to pollularits which would exceed levels that are protective of human health or environmental receptors as a result of the violation.       \$7,500         Violation Events       37,500       \$2,600         Violation Events       1       1095       Number of violation days         mark only one with a write and an analy one with a would exceed levels that are protective of human health or environmental receptors as a result of the violation.       \$2,500         Violation Events       1       1095       Number of violation days         mark only one with a write are write and an analy are write are write and an analy are write are   |                               | Harm   |  |   |                                    |
| Programmatic Matrix     Palsification Major Moderale Minor     Percent 0%     Matrix     Human health or the environment will or could be exposed to pollutants which would exceed levels that     are protective of human health or environmental receptors as a result of the violation.     Adjustopeat \$7,500     S2,500     Violation Events     Mumber of Violation Events     Mumber of Violation Events     Mumber of Violation Events     Mumber of Violation Base Penalty     S2,500     Violation Base Penalty     S2,500     Violation Base Penalty     S2,500     S2,500     Violation Base Penalty     S2,500     S2,500     S2,500     Violation Base Penalty     S2,500                   |                               |  |  |   |                                    |
| Felsification       Mejor       Moderate       Minor       Percent       0%         Matrix<br>Notes       Human health or the environment will or could be exposed to pollutarite which would exceed levels that<br>are protective of human health or environmental receptors as a result of the violation.       \$7,500         Adjustopent       \$7,500       \$2,600         Violation Events       1       1095       Number of violation days         web ar x       daily<br>web ar x       \$2,500       \$2,500         Violation Events       1       1095       Number of violation days         mark only one<br>web ar x       daily<br>web ar x       \$2,500         One single event ifs recommended for the three-year period preceding the June 18, 2009 Investigation       \$22,500         Cood Faith Efforts to Cemply       25.0% Reduction<br>Bake kov NVV to EDER=#settement Oter       \$8225         Extraordinary       X       Mark with x)       Notes         Notes       The Respondent achieved compliance on June 18, 2009.       Violation Stubiotal       \$1,875         Economic Benefit (EB) for this violation       \$1,875       Yiolation Final Penalty Total       \$2,557   | Potentia                      | al X   |  | Percent 25%   |                                    |
| Felsification       Mejor       Moderate       Minor       Percent       0%         Matrix<br>Notes       Human health or the environment will or could be exposed to pollutarite which would exceed levels that<br>are protective of human health or environmental receptors as a result of the violation.       \$7,500         Adjustopent       \$7,500       \$2,600         Violation Events       1       1095       Number of violation days         web ar x       daily<br>web ar x       \$2,500       \$2,500         Violation Events       1       1095       Number of violation days         mark only one<br>web ar x       daily<br>web ar x       \$2,500         One single event ifs recommended for the three-year period preceding the June 18, 2009 Investigation       \$22,500         Cood Faith Efforts to Cemply       25.0% Reduction<br>Bake kov NVV to EDER=#settement Oter       \$8225         Extraordinary       X       Mark with x)       Notes         Notes       The Respondent achieved compliance on June 18, 2009.       Violation Stubiotal       \$1,875         Economic Benefit (EB) for this violation       \$1,875       Yiolation Final Penalty Total       \$2,557   | >>Drogrammatic Matrix         |  |  |   |                                    |
| Matrix<br>Notes       Human health or the environment will or could be exposed to isolutants which would exceed lavels that<br>are protective of human health or environmental receiptors as a result of the violation.         Adjustment       \$7,500         Xotes       \$2,600         Violation Events       1         Mumber of Violation Events       1         Mumber of Violation Events       1         Marks       1095         Number of Violation Events       1         Marks       1         Marks       1         Marks       1         Mumber of Violation Events       1         Marks       1         Marks       1         Mumber of Violation Events       1         Marks       1   |                               | Major Moderate   | Minor  |   |                                    |
| Notes       are protective of human health or environmental récéptors as a result of the violation.         Adjustment       \$7,500         \$2,600       \$2,600         Violation Events       1         Number of Violation Events       1         mark only one       1         webs ar x       \$2,500         Violation Base Penalty       \$2,500         One single event is recommended for the three-year period preceding the June 18, 2009 investigation         Good Faith Efforte to Comply       25.0% feeticition         Batron NCV       NOV to EDPRPSettement Offer         Extraordinary       X         Notes       The Respondent achieved compliance on June 18, 2009.         Violation Subtotal       \$1,875         Economic Benefit (EB) for this violation       \$1875         Estimated EB Amount       \$557   |                               |  |  | Percent 0%  |                                    |
| Notes       are protective of human health or environmental receptors as a result of the violation.         Adjustment       \$7,500         \$2,600       \$2,600         Violation Events       1         Number of Violation Events       1         mark only one       1         with as x       1         Semiannual       \$2,500         One single event is recommended for the three-year period preceding the June 18, 2009 Investigation         Good Faith Efforts to Comply       25.0% feedicition         Bake NOV       Nov to EDPP?/Settement Offer         Extraordinary       X         Notes       The Respondent achieved compliance on June 16, 2009.         Violation Subtotal       \$1,875         Economic Benefit (EB) for this violation       \$1,875         Estimated EB Amount       \$557         Violation Final Penalty Total       \$2,557   |                               |  |  | •   |                                    |
| Yiolation Events       1095       Number of violation days         Baily       1095       Number of violation days         Baily       1095       Number of violation days         Baily       1095       Number of violation days         With arx       1095       Number of violation days         Baing       1095       Violation Base Penalty         Stringte event       1       1095         Code Faith Efforts to Comply       25.0% Reduction         Baters NOV       NOV to EDPR#/SetGenent Offer         Extraordinary       2         Notes       The Respondent achieved compliance on June 16, 2009.         Violation Subtotal       \$1,975         Economic Benefit (EB) for this violation       \$257         Statutory Limit Test       \$257  |                               |  |  |   | /éls:that                          |
| Yiolation Events       1095       Number of violation days         Baily       1095       Number of violation days         Baily       1095       Number of violation days         Baily       1095       Number of violation days         With arx       1095       Number of violation days         Baing       1095       Violation Base Penalty         Stringte event       1       1095         Code Faith Efforts to Comply       25.0% Reduction         Baters NOV       NOV to EDPR#/SetGenent Offer         Extraordinary       2         Notes       The Respondent achieved compliance on June 16, 2009.         Violation Subtotal       \$1,975         Economic Benefit (EB) for this violation       \$257         Statutory Limit Test       \$257  |                               |  |  |   | e7 500                             |
| Violation Events         Number of Violation Events         aliv         aliv         mark only one         with an x         with an x         annold         single event         x         One single event is recommended for the three-year period preceding the June 18, 2009 Investigation         Good Faith Efforts to Comply         25.0% Reduction         Barre NOV         Notes         The Respondent achieved compliance on June 16, 2009.         Violation Subtotal         \$1,875         Extinated EB Amount         8557         Violation Final Penalty Total   |                               |  |  | Adjustment  | \$7,500                            |
| Number of Violation Events       1       1095       Number of violation days         mark only one with an x       10011/y       Violation Base Penalty       \$2,500         Mumber of Violation Base Penalty       1       \$2,500       \$2,500         One single event is recommended for the three-year period preceding the June 16, 2009 investigation       \$625         Good Faith Efforts to Comply       25.0% Reduction       \$625         Extraordinary       X       \$1000       \$625         Drinnary       X       \$1000       \$625         Drinnary       X       \$1000       \$625         Drinnary       X       \$1000       \$1000         Notes       The Respondent achieved compliance on June 16, 2009       \$1,875         Economic Benefit (EB) for this violation       \$1,875       \$10000 Limit Test   |                               |  |  |   | \$2,500                            |
| Number of Violation Events       1       1095       Number of violation days         mark only one with an x       10011/y       Violation Base Penalty       \$2,500         Mumber of Violation Base Penalty       1       \$2,500       \$2,500         One single event is recommended for the three-year period preceding the June 16, 2009 investigation       \$625         Good Faith Efforts to Comply       25.0% Reduction       \$625         Extraordinary       X       \$1000       \$625         Drinnary       X       \$1000       \$625         Drinnary       X       \$1000       \$625         Drinnary       X       \$1000       \$1000         Notes       The Respondent achieved compliance on June 16, 2009       \$1,875         Economic Benefit (EB) for this violation       \$1,875       \$10000 Limit Test   | Violation Events              |  |  |   |                                    |
| Imark only one with an x       Imothy guartery guarte  |                               | /iolation Events                                       | ] 1095   | Number of violation days                                    | ;                                  |
| Cood Faith Efforts to Comply       25.0% Reduction       \$625         Bafore NOV       NOV to EDPRP/Setiement Offer       \$625         Extraordinary  |                               | weekly<br>monthly<br>guarterty<br>semiannual<br>annual |  | Violation Base  | Penalty \$2,500                    |
| Bafore NOV NOV to EDPRP/Setilement Offer<br>Extraordinary<br>Ordinary<br>N/A<br>Notes<br>The Respondent achieved compliance on June 16, 2009.<br>Violation Subtotal<br>\$1,875<br>Economic Benefit (FB) for this violation<br>Estimated EB Amount<br>\$557<br>Violation Final Penalty Total<br>\$2,557  | One single (                  | event is recommended for the                           | three-year period preced   | ing the June 16, 2009 inves                                 | ligation                           |
| Extraordinary<br>Ordinary<br>N/A<br>Notes<br>The Respondent achieved compliance on June 16, 2009.<br>Violation Subtotal<br>\$1,875<br>Economic Benefit (EB) for this violation<br>Estimated EB Amount<br>\$557<br>Violation Final Penalty Total<br>\$2,557  | Good Faith Efforts to Comply  | 25.0%  |  |   | \$625                              |
| Ordinary x  |                               |  | NOV to EDPRP/Settlement Of   | fər   |                                    |
| N/A (mark with x)<br>Notes The Respondent achieved compliance on June 16, 2009.<br>Violation Subtotal \$1,875<br>Economic Benefit (EB) for this violation<br>Estimated EB Amount \$557 Violation Final Penalty Total \$2,557  |                               |  | · · · · · · · · · · · · · · · · · · ·  |   | n juur te                          |
| Notes       The Respondent achieved compliance on June 16, 2009.         Violation Subtotal       \$1,875         Economic Benefit (EB) for this violation       \$1,875         Estimated EB Amount       \$557         Violation Final Penalty Total       \$2,557  |                               | · {  | (mark with x)  |   |                                    |
| Economic Benefit (EB) for this violation           Estimated EB Amount         \$557         Violation Final Penalty Total         \$2,557  |                               |  | <u> </u>   | nce on June 16, 2009.                                       |                                    |
| Estimated EB Amount \$557 Violation Final Penalty Total \$2,557   |                               |  |  | Violation   | Subtotal \$1,875                   |
| Estimated EB Amount \$557 Violation Final Penalty Total \$2,557   | Economic Benefit (EB) for thi | s violation  |  | Statutory Limit Tes   |                                    |
|   |                               |  | ****   |   |                                    |
| This violation Final Assessed Penalty (adjusted for Ilmits) \$2,557   | Estimate                      | eα ⊨B Amount[  | \$557  | Violation Final Pena  | sz,557                             |
|   |                               |  | This violation Final Ass   | essed Penalty (adjusted fo                                  | or Ilmits) \$2,557                 |

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| Item Description - No commas or \$                                   | Date Required .  | Final Date   | Ýrš   | Interest Saved | 5.0<br>Onetime Costs  | Depreciation<br>15<br>EB Amount  |
|--|--|--|---|----------------|---|--|
| Item Description - No commas or \$ Delayed Costs Equipment Buildings | Date Required  | Final Date   | Yrs   | Interest Saved | Onetime Costs   | EB Amount  |
| Delayed Costs  |  |  |   |                |   |  |
| Equipment  |  |  |   |                |   | and a second |
| Equipment  | ľ  | And the second |   |                |   |  |
|  |  |  | 0.00  | \$0            | \$0   | \$0  |
|  |  |  | 0,00  | \$0            | \$0   | \$0  |
| Other (as needed)  | and the state  |  | 0.00  | \$0            | \$0   | \$0  |
| Engineering/construction   |  |  | 0.00  | \$0            | \$0   | \$0  |
| Land   | at a a   |  | 0.00  | \$0            | all hin/a   | \$0  |
| Record Keeping System  |  |  | 0,00  | \$0            | i n/a si s  | \$0  |
| Training/Sampling  |  |  | 0.00  | \$0            | n/a   | \$0  |
| Remediation/Disposal   |  |  | 0.00  | \$0            | s series a s | \$0  |
| Permit Costs   |  |  | 0,00  | \$0<br>\$0     | n/a n/a   | \$0<br>\$0   |
| Notes for DELAYED costs  | 11.<br>11. x   | •  |   |                |   |  |
|  |  |  |   |                |   |  |
| La                            | ILIZE [1] avoide   | a costs before e   |   |                |   | usis)<br>\$0   |
|  |  |  |   |                |   |  |
|  |  | <u> </u>   |   |                |   | <u></u> \$0  |
|  |  |  |   |                |   | \$0  |
|  |  |  |   |                |   | \$0  |
| Einemolat Genuranaa (2)  | and a second |  | 3.92  |                |   |  |
| Financial Assurance [2] ONE-TIME avoided costs [3]                   | 16-Jun-2006  | 16-Jun-2009  | 11 3 92 1                                       | \$91           | \$466   | \$557  |
| Disposal<br>Personnel<br>Inspection/Reporting/Sampling               | LIZE [1] avolde  | id costs before e  | ntering<br>0.00<br>0.00<br>0.00<br>0.00<br>0.00 |                | tem (except for<br>\$0<br>\$0<br>\$0<br>\$0<br>\$0<br>\$0   | \$0 \$0<br>\$0 \$0<br>\$0 \$0  |

# Compliance History Report

| Custome     | er/Respondent/Owner-Operator:                     | CN603498163                          | VSNB,                             | LLC             |                | Classification:       | Rating:      |
|-------------|---|--------------------------------------|-----------------------------------|-----------------|----------------|-----------------------|--------------|
| Regulate    | ed Entity:  | RN102852548                          | LOCKV                             | VOOD PHILLIF    | PS 66          | Classification:       | Site Rating: |
| ID Numb     | per(s):   | PETROLEUM STORAGE TANK REGISTRATION  |                                   |                 | REGI           | STRATION              | 57397        |
| Location    | :   | 5320 EAST FWY                        | 5320 EAST FWY, HOUSTON, TX, 77020 |                 |                |                       |              |
| TCEQ R      | egion:  | REGION 12 - HOUSTON                  |                                   |                 |                |                       |              |
| Date Co     | mpliance History Prepared:                        | July 17, 2009                        |                                   |                 |                |                       |              |
| Agency I    | Decision Requiring Compliance History:            | Enforcement                          |                                   |                 |                |                       |              |
| Complia     | nce Period:                                       | July 17, 2004 to J                   | iuly 17, 20                       | 09              |                |                       |              |
|             | taff Member to Contact for Additional Inf         |                                      | -                                 | -               |                |                       |              |
| Name:       | Ross Fife   | Ph                                   | one:                              | 512-239-254     | 1              |                       |              |
|             |   | Site Compliar                        | n <b>ce Hist</b> e                | ory Compon      | ents           |                       |              |
| 1. Has th   | e site been in existence and/or operatio          | n for the full five year             | r complian                        | ce period?      | Yes            |                       |              |
|             | ere been a (known) change in ownershi             | p/operator of the site               | during the                        |                 | eriod?         | Yes                   |              |
| 3. If Yes,  | , who is the current owner/operator?              |                                      |                                   | VSNB, LLC       |                |                       |              |
|             |   |                                      |                                   |                 |                |                       |              |
| ∕L if Vos   | , who was/were the prior owner(s)/opera           | tor(s) ?                             | OM                                | /N              | ANA, INC.      |                       |              |
| 4. 11 100   |   |                                      |                                   |                 |                | ıramali Ferzol Ali    |              |
| E Mhor      | did the change(s) in owner or operator            | ~~~!!!?                              | Ų                                 |                 | Tranan i o     | 2017.00               |              |
| D. WITE     | r did the change(s) in owner or operator          |                                      |                                   | 06/01/2006      | 5              |                       |              |
|             |   |                                      |                                   | 11/01/2007      | 7              |                       |              |
| 6.          |   |                                      |                                   |                 |                |                       |              |
| Com         | ponents (Multimedia) for the Site                 | :                                    |                                   |                 |                |                       |              |
| -           | inal Enforcement Orders, court judgeme            |                                      | crees of the                      | e state of Texa | s and the fede | eral government.      |              |
|             | N/A   |                                      |                                   |                 |                |                       |              |
| В. А        | ny criminal convictions of the state of Te<br>N/A | xas and the federal g                | governmei                         | nt.             |                |                       |              |
|             |   |                                      |                                   |                 |                |                       |              |
| C. C        | hronic excessive emissions events.<br>N/A         |                                      |                                   |                 |                |                       |              |
| D. T        | he approval dates of investigations. (CC          | EDC inv Track No.)                   |                                   |                 |                |                       |              |
| <i>D.</i> I | 1 08/10/2007 (5710)                               |                                      |                                   |                 |                |                       |              |
|             | 2 06/29/2009 (7591-                               |                                      |                                   |                 |                |                       |              |
| E. W        | ritten notices of violations (NOV). (CCE          | DS Inv. Track. No.)                  |                                   |                 |                |                       |              |
|             | Date: 08/10/                                      | 2007 (571096)                        | C                                 | N60349816       | 33             |                       |              |
|             | Self<br>Report?                                   | NO                                   |                                   | Cla             | ssification:   | Moderate              |              |
|             | Citation:<br>Description:                         | 30 TAC Chapter 1<br>Tex. Admin. Code |                                   |                 |                | proper operation of t | ıe           |

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#### 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 VSNB, LLC DBA LOCKWOOD PHILLIPS 66 RN102852548 BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

#### AGREED ORDER DOCKET NO. 2009-1196-PST-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 VSNB, LLC dba Lockwood Phillips 66 ("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 convenience store with retail sales of gasoline at 5320 East Freeway in Houston, Harris County, Texas (the "Station").
- 2. The Station 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  $\Pi$  ("Allegations") on or about July 4, 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 Two Thousand Five Hundred Fifty-Seven Dollars (\$2,557) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Five Hundred Forty-Six Dollars (\$546) of the administrative penalty and Five Hundred Eleven Dollars (\$511) 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.

The remaining amount of One Thousand Five Hundred Dollars (\$1,500) of the administrative penalty shall be payable in three monthly payments of Five Hundred Dollars (\$500) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payment shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

- 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 University of Texas at Arlington, a TCEQ contractor, received documentation verifying that the Respondent successfully conducted the required annual and triennial testing of the Stage II equipment on June 16, 2009.
- 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.

VSNB, LLC dba Lockwood Phillips 66 DOCKET NO. 2009-1196-PST-E Page 3

#### **II. ALLEGATIONS**

As owner and operator of the Station, the Respondent is alleged to have failed to verify proper operation of Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months, or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 16, 2009. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.

#### 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: VSNB, LLC dba Lockwood Phillips 66, Docket No. 2009-1196-PST-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 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 Station operations referenced in this Agreed Order.
- 3. 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.
- 4. 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.

- 5. 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.
- 6. 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.
- 7. 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.

VSNB, LLC dba Lockwood Phillips 66 DOCKET NO. 2009-1196-PST-E Page 5

### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

12/1/2009 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.

ignature

Name (Printed or typed) Authorized Representative of VSNB, LLC dba Lockwood Phillips 66

Date Resident

**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.