

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1603-AIR-E TCEQ ID: RN102534138 CASE NO.: 38465

RESPONDENT NAME: Flint Hills Resources, LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input 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: Flint Hills Resources East Refinery, 1700 Nueces Bay Boulevard, Corpus Christi, Nueces County</p> <p>TYPE OF OPERATION: Oil refining 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 no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 22, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Audra Benoit, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8799; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Richard Harris, Vice President of Manufacturing, Flint Hills Resources, LP, P.O. Box 2608, Corpus Christi, TX 78403 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 31, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 24, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions during Incident No. 124475. Specifically, the May 19, 2009 emissions event resulted from fibrous material lodged in the sight glass inlet pipe, the overfill of the chemical bulk tank and subsequent fire at the Fluidized Catalytic Cracking Unit II ("FCCU2"), emission point number ("EPN") F-112, which injured one contractor with non-life threatening injuries. The FCCU2 was shut down and the 36-inch Main Flare, EPN FL-97, released 597.5 pounds ("lbs") of volatile organic compounds, 249.6 lbs of sulfur dioxide, 22.1 lbs of nitrogen oxides, 21 lbs of particulate matter, 15.9 lbs of carbon monoxide and had a 70% opacity that lasted one hour and one minute. Since the emissions event could have been avoided through better operational and/or maintenance practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.715(a), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Flexible Permit No. 6308/PSDTX137M21].</p>	<p>Total Assessed: \$5,700</p> <p>Total Deferred: \$1,140 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,560</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 on May 20, 2009, the Respondent completed fire remediation of the unit, repaired the faulty sight glass inlet pipe of the chemical bulk tank, and revised procedures on the delivery of material to the tank.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Sep-2009	Screening	30-Sep-2009	EPA Due	27-Jun-2010
	PCW	6-Oct-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Flint Hills Resources, LP		
Reg. Ent. Ref. No.	RN102534138		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	38465	No. of Violations	1
Docket No.	2009-1603-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Audra Benoit
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$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 **39.0% Enhancement** *Subtotals 2, 3, & 7* **\$1,950**

Notes
Penalty enhancement due to one same or similar NOV, eight nonsimilar NOVs, and one agreed order without a denial of liability. Penalty reduction due to five notices of intended audit, and one disclosure of violation.

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 **\$1**
Approx. Cost of Compliance **\$3,500**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$5,700**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$5,700**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$5,700**

DEFERRAL **20.0% Reduction** *Adjustment* **-\$1,140**

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

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY **\$4,560**

Screening Date: 30-Sep-2009

Docket No. 2009-1603-AIR-E

PCW

Respondent: Flint Hills Resources, LP

Policy Revision 2 (September 2002)

Case ID No. 38465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102534138

Media [Statute]: Air

Enf. Coordinator: Audra Benoit

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)	1	5%
	Other written NOVs	8	16%
Orders:	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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	1	25%
Judgments and Consent Decrees:	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	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)	5	-5%
	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) 39%

>> 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 one same or similar NOV, eight nonsimilar NOVs, and one agreed order without a denial of liability. Penalty reduction due to five notices of intended audit, and one disclosure of violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date 30-Sep-2009

Docket No. 2009-1603-AIR-E

PCW

Respondent Flint Hills Resources, LP

Policy Revision 2 (September 2002)

Case ID No. 38465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102534138

Media [Statute] Air

Enf. Coordinator Audra Benoit

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.715(a), Tex. Health & Safety Code § 382.085(b), and New Source Review Flexible Permit No. 6308/PSDTX137M21

Violation Description

Failed to prevent unauthorized emissions during Incident No. 124475. Specifically, the May 19, 2009 emissions event resulted from fibrous material lodged in the sight glass inlet pipe which led to the overflow of the chemical bulk tank and subsequent fire at the Fluidized Catalytic Cracking Unit II ("FCCU2"), emission point number ("EPN") F-112, which injured one contractor with non-life threatening injuries. The FCCU2 was shut down and the 36-inch Main Flare, EPN FL-97, released 597.5 pounds ("lbs") of volatile organic compounds, 249.6 lbs of sulfur dioxide, 22.1 lbs of nitrogen oxides, 21 lbs of particulate matter, 15.9 lbs of carbon monoxide and had a 70% opacity that lasted one hour and one minute. Since the emissions event could have been avoided through better operational and/or maintenance practices, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health and the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation. One worker was treated and released from the hospital with non-life threatening burns as a result of the fire in the FCCU2 Unit.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One monthly event is recommended based on the emissions event that occurred on May 19, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent completed corrective actions for this violation on May 20, 2009, prior to the September 24, 2009 NOE.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$5,700

This violation Final Assessed Penalty (adjusted for limits) \$5,700

Economic Benefit Worksheet

Respondent: Flint Hills Resources, LP

Case ID No: 38485

Req. Ent. Reference No: RN102534138

Media: Air

Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

Item Description: No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$3,500	19-May-2009	20-May-2009	0.00	\$0	\$1	\$1
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for fire remediation of the FCCU2 unit, repairing the faulty sight glass inlet pipe of the chemical bulk tank and revising procedures for the delivery of material to the tank. The date required is the date of the fire and emissions event. The final date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$3,500

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600879712 Flint Hills Resources, LP	Classification: AVERAGE	Rating: 2.73
Regulated Entity:	RN102534138 FLINT HILLS RESOURCES EAST REFINERY	Classification: AVERAGE	Site Rating: 3.14

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD066447376
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30033
	WASTEWATER	PERMIT	WQ0000457000
	WASTEWATER	PERMIT	TPDES0006599
	WASTEWATER	PERMIT	TX0006599
	AIR NEW SOURCE PERMITS	PERMIT	2495
	AIR NEW SOURCE PERMITS	PERMIT	6308
	AIR NEW SOURCE PERMITS	PERMIT	20689
	AIR NEW SOURCE PERMITS	PERMIT	22954
	AIR NEW SOURCE PERMITS	PERMIT	21756
	AIR NEW SOURCE PERMITS	PERMIT	22455
	AIR NEW SOURCE PERMITS	PERMIT	23326
	AIR NEW SOURCE PERMITS	PERMIT	24423
	AIR NEW SOURCE PERMITS	PERMIT	24387
	AIR NEW SOURCE PERMITS	PERMIT	24442
	AIR NEW SOURCE PERMITS	PERMIT	35505
	AIR NEW SOURCE PERMITS	PERMIT	36220
	AIR NEW SOURCE PERMITS	PERMIT	37199
	AIR NEW SOURCE PERMITS	PERMIT	45289
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	NE0120H
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX137M2
	AIR NEW SOURCE PERMITS	AFS NUM	4835500020
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX137M1
	AIR NEW SOURCE PERMITS	REGISTRATION	77529
	AIR NEW SOURCE PERMITS	REGISTRATION	79929
	AIR NEW SOURCE PERMITS	REGISTRATION	81672
	AIR NEW SOURCE PERMITS	REGISTRATION	81606
	AIR NEW SOURCE PERMITS	REGISTRATION	81555
	AIR NEW SOURCE PERMITS	REGISTRATION	86054
	AIR OPERATING PERMITS	ACCOUNT NUMBER	NE0120H
	AIR OPERATING PERMITS	PERMIT	1445
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1780055
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30033

Location: 1700 NUECES BAY BLVD, CORPUS CHRISTI, TX, 78407

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: October 13, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 13, 2004 to October 13, 2009

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

Name: Audra Benoit Phone: (409) 899-8799

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: 9/1/2009 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: 08/20/2006

ADMINORDER 2005-0018-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to prevent unauthorized emissions from being released.

Classification: Major

Citation: 30 TAC Chapter 112, SubChapter B 112.32

5C THC Chapter 382, SubChapter A 382.085(a)

Description: Exceeded a net ground level concentration of 0.12 ppm averaged over a 30-minute period for H2S.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit, SC. No. 1 PERMIT

Description: Failed to maintain emissions at or below the limits authorized in the flexible permit.

- 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 10/13/2004 (335449)

N/A 2 10/14/2004 (336895)

3	10/19/2004	(352372)
4	10/25/2004	(352369)
5	11/19/2004	(341448)
6	11/23/2004	(352370)
7	12/06/2004	(342648)
8	12/06/2004	(342905)
9	12/08/2004	(337436)
10	12/21/2004	(341007)
11	02/16/2005	(350629)
12	02/22/2005	(381963)
13	02/22/2005	(381965)
14	03/22/2005	(381964)
15	04/25/2005	(419807)
16	04/25/2005	(419809)
17	05/23/2005	(419808)
18	07/11/2005	(395381)
19	07/15/2005	(399483)
20	08/09/2005	(348116)
21	08/18/2005	(405211)
22	08/22/2005	(440940)
23	08/22/2005	(440942)
24	09/23/2005	(440941)
25	10/24/2005	(468614)
26	10/24/2005	(468615)
27	10/24/2005	(468617)
28	10/31/2005	(434997)
29	11/14/2005	(405867)
30	11/22/2005	(468616)
31	12/15/2005	(449519)
32	02/22/2006	(468610)
33	02/22/2006	(468612)
34	02/22/2006	(468613)
35	03/14/2006	(458257)
36	03/23/2006	(468611)
37	04/18/2006	(460120)
38	04/28/2006	(463567)
39	05/22/2006	(498330)
40	06/16/2006	(481762)
41	06/23/2006	(498331)
42	08/21/2006	(520344)
43	08/21/2006	(520346)
44	08/22/2006	(489393)
45	08/31/2006	(510885)
46	09/15/2006	(509290)
47	09/25/2006	(520345)
48	10/02/2006	(514214)
49	10/24/2006	(544676)
50	11/27/2006	(544677)
51	12/27/2006	(544678)
52	01/29/2007	(538219)
53	02/22/2007	(575556)
54	02/22/2007	(575561)
55	03/01/2007	(542568)
56	03/23/2007	(575557)
57	04/10/2007	(556397)
58	04/23/2007	(575558)
59	05/08/2007	(555514)
60	05/23/2007	(575559)

61	05/29/2007	(559930)
62	05/29/2007	(560712)
63	06/25/2007	(575560)
64	07/09/2007	(586924)
65	07/11/2007	(564945)
66	08/20/2007	(563348)
67	08/22/2007	(601689)
68	08/30/2007	(570848)
69	08/31/2007	(563287)
70	08/31/2007	(572817)
71	09/24/2007	(601690)
72	10/22/2007	(619615)
73	11/20/2007	(619616)
74	12/20/2007	(619617)
75	01/16/2008	(614748)
76	01/16/2008	(672144)
77	01/28/2008	(613827)
78	01/30/2008	(616167)
79	02/21/2008	(672142)
80	03/10/2008	(637260)
81	03/24/2008	(672143)
82	04/14/2008	(646332)
83	04/18/2008	(641512)
84	04/22/2008	(690049)
85	05/22/2008	(690050)
86	06/23/2008	(690051)
87	07/08/2008	(683991)
88	07/22/2008	(710829)
89	08/25/2008	(710830)
90	08/27/2008	(700079)
91	09/10/2008	(657394)
92	09/22/2008	(710831)
93	10/22/2008	(727546)

94	11/14/2008	(703493)
95	11/24/2008	(727547)
96	12/22/2008	(750361)
97	01/23/2009	(750362)
98	02/02/2009	(725270)
99	02/18/2009	(725550)
100	02/23/2009	(750359)
101	02/25/2009	(735715)
102	03/23/2009	(750360)
103	04/07/2009	(740519)
104	04/22/2009	(768422)
105	05/01/2009	(744054)
106	05/21/2009	(768423)
107	05/26/2009	(746843)
108	06/19/2009	(746599)
109	07/07/2009	(743984)
110	08/20/2009	(759168)
111	08/20/2009	(764063)
112	08/26/2009	(767448)
113	08/26/2009	(767462)
114	08/27/2009	(767667)
115	08/28/2009	(760288)
116	09/05/2009	(746885)
117	09/24/2009	(765431)

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

Date: 06/30/2005 (419809) CN600879712
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: 08/19/2005 (405211) CN600879712
Self Report? NO Classification: Moderate
Citation: TPDES PERMIT NO. 00457-000 PERMIT
TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of wastewater.

Date: 06/30/2006 (468613) CN600879712
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: 08/31/2007 (572817) CN600879712
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.9(b)
Def. and Stand. Permit Cond. 3a (page 4) OP
Description: Failure to collect composite samples made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC Chapter 319.9(b).

Date: 08/31/2007 (570848) CN600879712
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 113, SubChapter C 113.340
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(d)
40 CFR Part 60, Subpart Kb 60.115b(b)(4)
40 CFR Part 63, Subpart CC 63.654(g)(3)
40 CFR Part 63, Subpart CC 63.654(i)(1)
40 CFR Part 63, Subpart G 63.123(d)
Special Condition 5D & 30D PA
Description: Failure to maintain raw data records of secondary seal gap measurements for EFR storage vessels E18TK110, E11TKS7, E12TK117, and E14TK526

Additionally, as regarding the storage vessel E18TK110, the RE failed to include "raw data" in reports dated December 5, 2005, January 26, 2006, or Periodic Report dated February 14, 2006, as required by § 63.654(g)(3)(i)(b).

Self Report? NO Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.9(h)(2)(ii)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT DDDDD 63.7545(e)
Description: Failure to demonstrate that a complete NOCS report regarding the DHT-K Heater (EPN 74R) had been submitted in a timely manner, as required by § 63.7545(e) in accordance with § 63.9(h)(2)(ii). The report was due October 7, 2006. However, a complete report was submitted April 4, 2007.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 113, SubChapter C 113.340
30 TAC Chapter 115, SubChapter D 115.322(4)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(d)
40 CFR Part 60, Subpart VV 60.482-6
40 CFR Part 63, Subpart CC 63.648(a)
SC 7 and SC 27E PA

Description: Failure to equip nine open-ended valves or lines in VOC service with a cap, blind flange, plug, or a second valve.

Date: 08/28/2008 (700079) CN600879712
Self Report? NO Classification: Moderate

Citation: [FOP No. O-01445] STC 26 OP
30 TAC Chapter 106, SubChapter T 106.452(2)(A)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
PBR Registration #77529 (Project 119685) PERMIT

Description: Failure to comply with TCEQ Permit-By-Rule (Registration No. 77529) special conditions. Specifically, between February 1-8, 2007, Flint Hills Resources (FHR), L.P. - Corpus Christi East Refinery exceeded the abrasive usage rate of one ton per day, as described on page 10 of 14 of the May 1, 2007 semiannual deviation report for Federal Operating Permit (FOP) No. O-01445. There was a total of five (5) days in which more than one ton of blast material was used.

Self Report? NO Classification: Moderate

Citation: [Flex 6308/PSD-TX-137M2] SC 31B PERMIT
[FOP No. O-01445] STC 26 OP
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with permit special conditions. Specifically, on January 29, 2007 through April 3, 2007, Flint Hills Resources, L.P. - Corpus Christi East Refinery failed to submit an alteration request within 30 days of the change of service (from xylene to toluene) of Tank E11TKS32, as described on page 13 of 14 of the May 1, 2007 semiannual deviation report for Federal Operating Permit (FOP) No. O-01445.

Self Report? NO Classification: Moderate

Citation: [Flex 6308/PSD-TX-137M2] General Conds. PERMIT
[FOP No. O-01445] STC 2G OP
{FOP No. O-01445} STC 2F OP
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 101, SubChapter F 101.211(b)
30 TAC Chapter 116, SubChapter G 116.715(c)(9)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to create a final record of all reportable and non-reportable emissions events/scheduled activity as soon as practicable, but no later than two weeks after the end of an emissions event/scheduled activity. Specifically, between February 17, 2007 and April 1, 2007, Flint Hills Resources, L.P. - Corpus Christi East Refinery failed to create final reports for seven (7) emissions events and two (2) scheduled activities.

Date: 07/07/2009 (743984) CN600879712
Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
TPDES Permit No. WQ0000457-000 PERMIT

Description: Failure to prevent an unauthorized discharge of domestic sewage from a private sanitary sewer line clean-out on 03/28/2009 and 11/21/2008.

Date: 08/20/2009 (764063) CN600879712
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
5C THSC Chapter 382 382.085(b)

Description: Failure to determine compliance for process gas flares by a daily notation in the flare operation log that the flare was observed, including the time of day and whether or not the flare was smoking. Specifically, from June 18, 2007 to August 18, 2007, Flint Hills Resources, LP failed to document or properly record opacity observations for the Main Flare (Emission Point Number FL-97) and West Flare (Emission Point Number FL-27) when no visible emissions were detected.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.20(3) 30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Flexible Permit 6308/PSD-TX-137M2, SC 33 PERMIT FOP No. O-01445, SC No. 26 OP		
Description:	Failure to monitor monthly, with an approved air stripping system, the VOC associated with cooling tower water. Specifically, on October 4, 2007, Flint Hills Resources, LP discovered that an eight inch diameter cooling water return line at the Crude II cooling tower (E23H110A) and an eighteen inch diameter cooling water return line at the Sulfolane cooling tower (E310F101) were tied in downstream of their respective VOC air strippers and subsequently were not being monitored for VOC.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) FOP No. O-01445, SC No. 2.F. OP		
Description:	Failure to generate a final record for an emissions event no later than two weeks after the end of the emissions event. Specifically, Flint Hills Resources, LP failed to generate complete final records for non-reportable emissions events that occurred on April 18, 2007 (one hour duration) and May 17, 2007 (two minute duration) no later than two weeks after the events ended.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.20(1) 30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.105(a)(5) 5C THSC Chapter 382 382.085(b) Flexible Pmt 6308/PSD-TX137M2, SC 19 PERMIT Flexible Pmt 6308/PSD-TX-137M2, SC 5B PERMIT FOP No. O-01445, SC 1A & 29A OP		
Description:	Failure to comply with permit special conditions. Specifically, on March 11, 2008, Flint Hills Resources, LP failed to route sulfur pit vapors to the Tail Gas Incinerator due to a malfunction of the Sulfur Pit Educator. Additionally, the sulfur pit vapors were not monitored for sulfur dioxide as they were not routed to the incinerator.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.20(3) 30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Flexible Pmt 6308/PSD-TX-137M2, SC 30I. PERMIT FOP No. O-01445, SC 29A OP		
Description:	Failure to comply with permit special conditions. Specifically, on February 10, 2008 and February 24, 2008, Flint Hills Resources, LP failed to operate without visible leaks or spills during vacuum truck loading activities. On February 10, 2008, rinse solution was spilled due to an improperly aligned vacuum truck exhaust to a carbon canister and on February 24, 2008, cleaning solution was spilled through the vacuum truck scrubber vent line due to material foaming.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.20(3) 30 TAC Chapter 115, SubChapter D 115.324(1)(B) 30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(c) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(b) 5C THSC Chapter 382 382.085(b) Flexible Pmt 6308/PSD-TX-137M2, SC 27F PERMIT FOP No. O-01445, SC 1A & 29A OP		
Description:	Failure to monitor components, in light liquid service, at intervals specified in applicable requirements. Specifically, Flint Hills Resources, LP failed to monitor three valves during one quarterly monitoring schedule and one annual monitoring schedule. Additionally, Flint Hills Resources, LP failed to monitor eight connectors		

during one annual monitoring schedule.

Date: 08/28/2009 (760288) CN600879712
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(2)
Description: Failure to mark the date upon which each period of accumulation begins and the words "Hazardous Waste" on each container.

F. Environmental audits.

Notice of Intent Date: 07/10/2006 (488055)

No DOV Associated

Notice of Intent Date: 08/03/2007 (572673)

No DOV Associated

Notice of Intent Date: 01/11/2008 (616212)

No DOV Associated

Notice of Intent Date: 07/15/2008 (688097)

No DOV Associated

Notice of Intent Date: 08/18/2008 (703347)

Disclosure Date: 02/04/2009
Viol. Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
Description: Failure to keep automatic bleeder (vacuum breaker vents) closed at all times except when roof is being floated off or landed on leg supports. Instances were observed where breakers opened prematurely as a result of improper settings.

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
FLINT HILLS RESOURCES, LP
RN102534138**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1603-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 Flint Hills Resources, LP ("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 an oil refining facility at 1700 Nueces Bay Boulevard in Corpus Christi, Nueces 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 September 29, 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 Five Thousand Seven Hundred Dollars (\$5,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Five Hundred Sixty Dollars (\$4,560) of the administrative penalty and One Thousand One Hundred Forty Dollars (\$1,140) is deferred

contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on May 20, 2009, the Respondent completed fire remediation of the unit, repaired the faulty sight glass inlet pipe of the chemical bulk tank, and revised procedures on the delivery of material to the tank.
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 prevent unauthorized emissions during Incident No. 124475, in violation of 30 TEX. ADMIN. CODE § 116.715(a), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Flexible Permit No. 6308/PSDTX137M21, as documented during an investigation conducted on July 31, 2009. Specifically, the May 19, 2009 emissions event resulted from fibrous material lodged in the sight glass inlet pipe, the overflow of the chemical bulk tank and subsequent fire at the Fluidized Catalytic Cracking Unit II ("FCCU2"), emission point number ("EPN") F-112, which injured one contractor with non-life threatening injuries. The FCCU2 was shut down and the 36-inch Main Flare, EPN FL-97, released 597.5 pounds ("lbs") of volatile organic compounds, 249.6 lbs of sulfur dioxide, 22.1 lbs of nitrogen oxides, 21 lbs of particulate matter, 15.9 lbs of carbon monoxide and had a 70% opacity that lasted one hour and one minute. Since the emissions event could have been avoided through better operational and/or maintenance practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

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: Flint Hills Resources, LP, Docket No. 2009-1603-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 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.
3. 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.
4. 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.
5. 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

1/19/2010
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

12-1-09
Date

Richard Harris

Name (Printed or typed)
Authorized Representative of
Flint Hills Resources, LP

VP/Manufacturing Mgr

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.