

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-1161-AIR-E **TCEQ ID:** RN100237452 **CASE NO.:** 38010
RESPONDENT NAME: Kinder Morgan Liquids Terminals LLC

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: Galena Park Terminal, 906 Clinton Drive, Galena Park, Harris County</p> <p>TYPE OF OPERATION: Storage tank terminal</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 January 18, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Christina Harris, Manager - Environmental Permitting and Compliance, Kinder Morgan Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547 Mr. Harold King, Vice President, Kinder Morgan Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547 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: May 17, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 10, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to maintain a permit required destruction efficiency of 99.8% for the East Plant Roof Landing Vapor Combustion Unit. Specifically, a reference method stack test conducted on June 4, 2008 determined that the destruction efficiency of the East Plant Roof Landing Vapor Combustor 1A (EPN TNK VCU-1A) was 99.11% [30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 2193 Special Condition 30C, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to represent equipment in the permitting process. Specifically, a permit was obtained for one vapor combustion unit (EPN TNK VCU-1), however, two vapor combustors were installed (EPN TNK VCU-1A and EPN TNK VCU-1B) [30 TEX. ADMIN. CODE § 116.116(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$13,480</p> <p>Total Deferred: \$2,696 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,392</p> <p>Total Paid to General Revenue: \$5,392</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On July 6, 2009, an amendment was issued for New Source Review Permit No. 2193 which included an alternate compliance demonstration parameter of less than 10 parts per million by volume ("ppmv") exit stream concentration from the East Plant Roof Landing Vapor Combustor 1A (EPN TNK VCU-1). The results of the stack test conducted June 4, 2008 demonstrated an exit stream concentration of 2.23 ppmv; and</p> <p>b. On July 17, 2009, a permit amendment application was submitted for New Source Review Permit No. 2193 to accurately represent the two vapor combustors that were installed (EPN TNK VCU-1A and EPN TNK VCU-1B) at the Plant.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for New Source Review Permit No. 2193 within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>b. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization for the East Plant Roof Landing Vapor Combustor 1B (EPN TNK VCU-1B) has been obtained or all unauthorized use of the East Plant Roof Landing Vapor Combustor 1B (EPN TNK VCU-1B) has ceased until such time that appropriate authorization is obtained. The certification</p>

		shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance.
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Additional ID No(s): HG0262H

Attachment A
Docket Number: 2009-1161-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kinder Morgan Liquids Terminals LLC
Payable Penalty Amount:	Ten Thousand Seven Hundred Eighty-Four Dollars (\$10,784)
SEP Amount:	Five Thousand Three Hundred Ninety-Two Dollars (\$5,392)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Texas Air Quality Control Region 216 – Houston-Galveston

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

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

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

2. Performance Schedule

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

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Kinder Morgan Liquid Terminals LLC
Agreed Order - Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Jul-2009	Screening	20-Jul-2009	EPA Due	6-Apr-2010
	PCW	25-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Kinder Morgan Liquids Terminals LLC		
Reg. Ent. Ref. No.	RN100237452		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38010	No. of Violations	2
Docket No.	2009-1161-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 20-Jul-2009

Docket No. 2009-1161-AIR-E

PCW

Respondent Kinder Morgan Liquids Terminals LLC

Policy Revision 2 (September 2002)

Case ID No. 38010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100237452

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%
	Other written NOVs	2	4%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 23%

>> 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 four previous similar NOVs and two previous non-similar NOVs. Penalty reduction due to one previous NOI.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 23%

Screening Date 20-Jul-2009	Docket No. 2009-1161-AIR-E	PCW	
Respondent Kinder Morgan Liquids Terminals LLC	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 38010	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN100237452			
Media [Statute] Air			
Enf. Coordinator James Nolan			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 116.115(c), New Source Review Permit No. 2193 Special Condition 30C, and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to maintain a permit required destruction efficiency of 99.8% for the East Plant Roof Landing Vapor Combustion Unit. Specifically, a reference method stack test conducted on June 4, 2008 determined that the destruction efficiency of the East Plant Roof Landing Vapor Combustor (EPN TNK VCU-1A) was 99.11%.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/> <input type="text"/> <input checked="" type="text" value="X"/>	Percent <input type="text" value="25%"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>	
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
	<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
Adjustment		<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>	
Violation Events			
Number of Violation Events <input type="text" value="5"/>		<input type="text" value="397"/> Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$12,500"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="text" value="X"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
Five quarterly events are recommended to represent the period of time between the stack test (June 4, 2008) and date of compliance (July 6, 2009).			
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$3,125"/>
		Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="text" value="X"/>	<input type="text"/>	
N/A	<input type="text"/>	<input type="text"/> (mark with x)	
Notes	On July 6, 2009, an amendment was issued for the permit including an alternate compliance demonstration parameter of less than 10 parts per million by volume exit stream concentration from the East Plant Roof Landing Vapor Combustor (EPN TNK VCU-1A).		
Violation Subtotal		<input type="text" value="\$9,375"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount: <input type="text" value="\$30"/>		Violation Final Penalty Total <input type="text" value="\$12,250"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$12,250"/>	

Economic Benefit Worksheet

Respondent Kinder Morgan Liquids Terminals LLC
Case ID No. 38010
Reg. Ent. Reference No. RN100237452
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$550	4-Jun-2008	6-Jul-2009	1.09	\$30	n/a	\$30

Notes for DELAYED costs
 Estimated cost for an amendment to include an alternate compliance demonstration parameter of less than 10 parts per million by volume exit stream concentration from the East Plant Roof Landing Vapor Combustor (EPN TNK VCU-1A). The date required is the date of the stack test and the final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance TOTAL

\$550	\$30
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Screening Date 20-Jul-2009	Docket No. 2009-1161-AIR-E	PCW		
Respondent Kinder Morgan Liquids Terminals LLC	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 38010	<i>PCW Revision October 30, 2009</i>			
Reg. Ent. Reference No. RN100237452				
Media [Statute] Air				
Inf. Coordinator James Nolan				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 116.116(a)(1) and Tex. Health & Safety Code § 382.085(b)"/>			
Violation Description	<input type="text" value="Failed to represent equipment in the permitting process. Specifically, a permit was obtained for one vapor combustion unit (EPN TNK VCU-1), however, two vapor combustors were installed (EPN TNK VCU-1A and EPN TNK VCU-1B)."/>			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	X	<input type="text"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	<input type="text" value="50% of the rule requirement was not met."/>			
Adjustment				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="511"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
				Violation Base Penalty <input type="text" value="\$1,000"/>
<input type="text" value="One single event is recommended."/>				
Good Faith Efforts to Comply				
		0.0% Reduction	<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	X	(mark with x)		
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$1,000"/>
Economic Benefit (EB) for this violation				
Estimated EB Amount		<input type="text" value="\$74"/>	Statutory Limit Test	
Violation Final Penalty Total				<input type="text" value="\$1,230"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$1,230"/>

Economic Benefit Worksheet

Respondent Kinder Morgan Liquids Terminals LLC
Case ID No. 38010
Reg. Ent. Reference No. RN100237452
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$750	26-Feb-2008	10-Feb-2010	1.96	\$74	n/a	\$74
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The estimated cost to amend New Source Review Permit No. 2193 to include both vapor combustion units. The date required is the date the vapor combustion units began operations and the final date is the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance TOTAL

\$750	\$74
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Compliance History Report

Customer/Respondent/Owner-Operator: CN601545940 Kinder Morgan Liquids Terminals LLC Classification: AVERAGE Rating: 1.53
 Regulated Entity: RN100237452 GALENA PARK TERMINAL Classification: AVERAGE Site Rating: 1.53

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0262H
	AIR OPERATING PERMITS	PERMIT	988
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD026481523
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30573
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	50343
	AIR NEW SOURCE PERMITS	PERMIT	12956
	AIR NEW SOURCE PERMITS	PERMIT	24412
	AIR NEW SOURCE PERMITS	PERMIT	29236
	AIR NEW SOURCE PERMITS	PERMIT	45172
	AIR NEW SOURCE PERMITS	PERMIT	47921
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0262H
	AIR NEW SOURCE PERMITS	PERMIT	2193
	AIR NEW SOURCE PERMITS	PERMIT	2443
	AIR NEW SOURCE PERMITS	PERMIT	2444
	AIR NEW SOURCE PERMITS	PERMIT	53795
	AIR NEW SOURCE PERMITS	REGISTRATION	75915
	AIR NEW SOURCE PERMITS	REGISTRATION	55782
	AIR NEW SOURCE PERMITS	REGISTRATION	76331
	AIR NEW SOURCE PERMITS	AFS NUM	4820100091
	AIR NEW SOURCE PERMITS	REGISTRATION	73983
	AIR NEW SOURCE PERMITS	REGISTRATION	74762
	AIR NEW SOURCE PERMITS	REGISTRATION	77380
	AIR NEW SOURCE PERMITS	REGISTRATION	79780
	AIR NEW SOURCE PERMITS	REGISTRATION	81751
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50054
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30573
	WASTE WATER GENERAL PERMIT	PERMIT	TXG670089
	INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50054

Location: 906 CLINTON DR, GALENA PARK, TX, 77547

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 20, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 20, 2004 to July 20, 2009

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

Name: James Nolan Phone: (512) 239-6634

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? Yes
3. If Yes, who is the current owner/operator?
 - Kinder Morgan Liquids Terminals LLC
 - KM Liquids Terminals, L. P.
 - KM Liquids Terminals LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ? American Commercial Barge Line Company
5. When did the change(s) in owner or operator occur? 03/18/2008

Components (Multimedia) for the Site :

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

N/A

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	08/13/2004	(273990)
2	05/19/2005	(374724)
3	06/23/2005	(396310)
4	08/02/2005	(400693)
5	10/05/2005	(433087)
6	12/08/2005	(437147)
7	01/17/2006	(437687)
8	02/27/2006	(407328)
9	03/23/2006	(457617)
10	10/30/2006	(515361)
11	02/01/2007	(457519)
12	05/23/2008	(615583)
13	05/23/2008	(615608)
14	07/01/2008	(684365)
15	08/14/2008	(686709)
16	08/28/2008	(699906)
17	04/17/2009	(738168)
18	07/10/2009	(745053)

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

Date: 05/19/2005 (374724)

Self NO Classification: Minor

Citation: VI.A.B.1 IHWPERMTCP

30 TAC Chapter 335, SubChapter F 335.163(4)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT F 264.97(d)

Description: Failure to follow all requirements of the sample and analysis plan.

Self NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter F 335.163(3)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT F 264.97(c)

Attachment B, #16 IHWPERMTCP

Description: The wells have not been resurveyed in the past five years as specified in the compliance plan.

Date: 08/02/2005 (400693)

Self NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.112(a)(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ka 60.112a(a)(2)

No. 2193, Special Condition 2 PERMIT

No. O-00988, Special Condition 1C OP

Description: failure to maintain true vapor pressure of petroleum compounds in storage tanks below 11.1 psia.

Date: 10/05/2005 (433087)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter A 37.21

Description: Failure to provide acceptable financial assurance mechanisms for closure, post closure, corrective action and third party liability.

Date: 03/14/2006 (457617)

Self NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
 Description: Failure to create a final record for a non-reportable emissions event.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 NSR Air Permit No. 2193, SC #1 PA
 Description: Failure to prevent an avoidable emissions event.
 Date: 01/31/2007 (457519)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-00988, Special Condition 1A OP
 Description: Failure to record flare observations.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT R 63.428(g)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-00988, Special Condition 1A OP
 Description: Failure to submit the semiannual reports during the period, 7/03 through 12/31/05.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567(e)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-00988, Special Condition 1A OP
 Description: Failure to submit semiannual reports.
 Self Report? NO Classification: Moderate

Citation: 2193, Special Condition 2 PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.112(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-0988, Special Conditions 1A and 16 OP
 Description: Failure to maintain the required vapor pressure.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-0988, Special Condition 1A OP
 Description: Failure to control emissions.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.085(b)
 O-0988, Special Condition 1A OP
 Description: Failure to maintain the required vapor pressure for truck rack TR-10.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ka 60.112a(a)(1)
 5C THC Chapter 382, SubChapter A 382.085(b)
 PERMIT 2193, Special Condition 2C PERMIT
 Special Condition 1A OP
 Description: Failure to have the floating roof resting on the liquid surface.
 Date: 08/28/2008 (699906)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
 Description: During the investigation and records review, it was noted that the NOR, last computer update April 29, 2008, contained inaccuracies that required updates.

F. Environmental audits.

Notice of Intent Date: 12/08/2008 (721352)
 No DOV Associated

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
KINDER MORGAN LIQUIDS
TERMINALS LLC
RN100237452

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1161-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 Kinder Morgan Liquids Terminals LLC ("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 storage tank terminal at 906 Clinton Drive in Galena Park, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 15, 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 Thirteen Thousand Four Hundred Eighty Dollars (\$13,480) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Five Thousand Three Hundred Ninety-Two Dollars (\$5,392) of the administrative penalty and Two Thousand Six Hundred Ninety-Six Dollars (\$2,696) 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. Five Thousand Three Hundred Ninety-Two Dollars (\$5,392) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On July 6, 2009, an amendment was issued for New Source Review Permit No. 2193 which included an alternate compliance demonstration parameter of less than 10 parts per million by volume ("ppmv") exit stream concentration from the East Plant Roof Landing Vapor Combustor 1A (EPN TNK VCU-1). The results of the stack test conducted June 4, 2008 demonstrated an exit stream concentration of 2.23 ppmv; and
 - b. On July 17, 2009, a permit amendment application was submitted for New Source Review Permit No. 2193 to accurately represent the two vapor combustors that were installed (EPN TNK VCU-1A and EPN TNK VCU-1B) at the Plant.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to maintain a permit required destruction efficiency of 99.8% for the East Plant Roof Landing Vapor Combustion Unit, in violation of 30 TEX. ADMIN. CODE § 116.115(c), New Source Review Permit No. 2193 Special Condition 30C, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 17, 2009. Specifically, a

reference method stack test conducted on June 4, 2008 determined that the destruction efficiency of the East Plant Roof Landing Vapor Combustor 1A (EPN TNK VCU-1A) was 99.11%.

2. Failed to represent equipment in the permitting process, in violation of 30 TEX. ADMIN. CODE § 116.116(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 17, 2009. Specifically, a permit was obtained for one vapor combustion unit (EPN TNK VCU-1), however, two vapor combustors were installed (EPN TNK VCU-1A and EPN TNK VCU-1B).

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: Kinder Morgan Liquids Terminals LLC, Docket No. 2009-1161-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Three Hundred Ninety-Two Dollars (\$5,392) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for New Source Review Permit No. 2193 within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - b. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization for the East Plant Roof Landing Vapor Combustor 1B (EPN TNK VCU-1B) has been obtained or all unauthorized use of the East Plant Roof Landing Vapor Combustor 1B (EPN TNK VCU-1B) has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be

notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. 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.
5. 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.
6. 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.
7. 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.

8. 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.
9. 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

John Szollier
For the Executive Director

Date 1/29/2010

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.

Harold King
Signature

November 6, 2009
Date

Harold King
Name (Printed or typed)
Authorized Representative of
Kinder Morgan Liquids Terminals LLC

Vice President
Title

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

Attachment A

Docket Number: 2009-1161-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Kinder Morgan Liquids Terminals LLC

Payable Penalty Amount: Ten Thousand Seven Hundred Eighty-Four Dollars (\$10,784)

SEP Amount: Five Thousand Three Hundred Ninety-Two Dollars (\$5,392)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

Location of SEP: Texas Air Quality Control Region 216 -- Houston-Galveston

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

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

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

2. Performance Schedule

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

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Kinder Morgan Liquid Terminals LLC
Agreed Order - Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

