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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-1622-AIR-E TCEQ ID: RN100224815 CASE NO.: 38485**  
**RESPONDENT NAME: KM Liquids Terminals LLC**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Pasadena Terminal, 530 Witter Street, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Liquids storage terminal</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2009-0759-AIR-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 5, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420;  Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Carlos Munguia, General Manager, KM Liquids Terminals LLC, 530 Witter Street, Pasadena, Texas 77506  Mr. Harold King, Vice President, KM Liquids Terminals LLC, 530 Witter Street, Pasadena, Texas 77506  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 3, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to properly sample the purge gas from storage tanks to determine if it is acceptable for uncontrolled venting. Specifically, Air Permit No. 5171 requires that a volume of purge gas equivalent to twice that of the vapor space must pass through the control device before sampling to determine if volatile organic compound concentrations are acceptable for uncontrolled venting. However, it was documented that from July 20, 2008 to January 20, 2009 the Respondent was unable to monitor the volume of purge gas being sent to the control device for sampling purposes [Federal Operating Permit No. O-984, Special Condition No. 14, Air Permit No. 5171, Special Condition No. 23E, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$12,000</p> <p><b>Total Deferred:</b> \$2,400  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$4,800</p> <p><b>Total Paid to General Revenue:</b> \$4,800</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent implemented a Tank Level Management Procedure on May 2, 2009 to ensure proper purge gas monitoring prior to uncontrolled venting.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): HG0261J

**Attachment A**  
**Docket Number: 2009-1622-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** KM Liquids Terminals LLC

**Payable Penalty Amount:** Nine Thousand Six Hundred Dollars (\$9,600)

**SEP Amount:** Four Thousand Eight Hundred Dollars (\$4,800)

**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 shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Houston-Galveston AERCO* for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. 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.



KM Liquids Terminals LLC  
Agreed Order - Attachment A

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

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**

<b>DATES</b>	Assigned	8-Sep-2009	Screening	5-Oct-2009	EPA Due	31-May-2010
	PCW	28-Dec-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	KM Liquids Terminals LLC
Reg. Ent. Ref. No.	RN100224815
Facility/Site Region	12-Houston
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38485	No. of Violations	1
Docket No.	2009-1622-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

### 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: Penalty enhancement due to one NOV for similar violations, five NOVs for unrelated violations, one agreed order with a denial of liability, and two agreed orders without a denial of liability.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**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

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 5-Oct-2009

Docket No. 2009-1622-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 2 (September 2002)

Case ID No. 38485

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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	2	50%
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)	0	0%
	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%
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) 85%

>> 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 NOV for similar violations, five NOVs for unrelated violations, one agreed order with a denial of liability, and two agreed orders without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

Screening Date 5-Oct-2009

Docket No. 2009-1622-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 2 (September 2002)

Case ID No. 38485

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s)

Federal Operating Permit No. O-984, Special Condition No. 14, Air Permit No. 5171, Special Condition No. 23E, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly sample the purge gas from storage tanks to determine if it is acceptable for uncontrolled venting. Specifically, Air Permit No. 5171 requires that a volume of purge gas equivalent to twice that of the vapor space must pass through the control device before sampling to determine if volatile organic compound concentrations are acceptable for uncontrolled venting. However, during the August 10, 2009 investigation it was documented that from July 20, 2008 to January 20, 2009 the Respondent was unable to monitor the volume of purge gas being sent to the control device for sampling purposes.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or environmental receptors could be exposed to a significant amount of pollutants that would not exceed protective levels as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 185 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three quarterly events are recommended based on documentation of the violation from July 20, 2008 to January 20, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes

The Respondent completed corrective actions on May 2, 2009, which was prior to the September 3, 2009 NOE.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$784

Violation Final Penalty Total \$12,000

This violation Final Assessed Penalty (adjusted for limits) \$12,000

# Economic Benefit Worksheet

**Respondent** KM Liquids Terminals LLC  
**Case ID No.** 38485  
**Reg. Ent. Reference No.** RN100224815  
**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)				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)	\$20,000	20-Jul-2008	2-May-2009	0.78	\$784	n/a	\$784

Notes for DELAYED costs

Estimated cost to implement a tank management procedure designed to ensure that the required amount of tank purge gas is routed to the control device prior to sampling. The date required is the earliest reported occurrence of the violation. 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

\$20,000

**TOTAL**

\$784

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603254707 KM Liquids Terminals LLC Classification: AVERAGE Rating: 3.25  
Regulated Entity: RN100224815 PASADENA TERMINAL Classification: AVERAGE Site Rating: 7.39

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0261J
	AIR OPERATING PERMITS	PERMIT	984
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	27315
	AIR NEW SOURCE PERMITS	PERMIT	5171
	AIR NEW SOURCE PERMITS	PERMIT	8477
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0261J
	AIR NEW SOURCE PERMITS	REGISTRATION	75933
	AIR NEW SOURCE PERMITS	REGISTRATION	75567
	AIR NEW SOURCE PERMITS	REGISTRATION	74333
	AIR NEW SOURCE PERMITS	REGISTRATION	75160
	AIR NEW SOURCE PERMITS	REGISTRATION	76487
	AIR NEW SOURCE PERMITS	AFS NUM	4820100092
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD070137161
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30772
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30772
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0261J

Location: 530 WITTER ST, PASADENA, TX, 77506

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 07, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 06, 2004 to October 07, 2009

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

Name: Rebecca Johnson Phone: (361) 825-3420

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? KM Liquids Terminals LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ? Kinder Morgan Liquids Terminals LLC
5. When did the change(s) in owner or operator occur? 12/08/2004
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: 08/31/2007**

**ADMINORDER 2007-0072-AIR-E**

Classification: Moderate

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

Rqmt Prov: No. 5171, Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions during a September 30, 2006 emissions event.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

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

Description: Failed to submit an Initial notification for the September 30, 2006 emissions event within twenty-four hours of discovery.

**Effective Date: 01/12/2008**

**ADMINORDER 2007-0754-AIR-E**

Classification: Moderate

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

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

Rqmt Prov: No. 5171, Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, on May 31, 2006 an emissions event resulted when Tank 17-1 overflowed into a spill containment area releasing 11,221 pounds of volatile organic compounds ("VOC") to the atmosphere for a period of 8 hours. The permit allowables of VOC are 0.14 pounds per hour. Since this emissions event was avoidable, KM Liquids failed to meet the demonstrations for an affirmative defense as described in 30 Tex. Admin. Code § 101.222(a).

**Effective Date: 03/23/2009**

**ADMINORDER 2008-1588-AIR-E**

Classification: Moderate

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

5C THSC Chapter 382 382.085(b)

Rqmt Prov: No. 5171, Special Condition No. 1 PERMIT

Description: Failed to prevent an avoidable emissions event.

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	08/29/2005	(405934)
2	03/08/2006	(450115)
3	05/17/2006	(463933)
4	05/17/2006	(465626)
5	05/23/2006	(465782)
6	06/02/2006	(481256)
7	06/30/2006	(484076)
8	07/28/2006	(486975)
9	07/31/2006	(489238)
10	08/14/2006	(457292)
11	10/27/2006	(515175)
12	01/04/2007	(534584)
13	05/04/2007	(487160)
14	08/16/2007	(512634)
15	09/19/2007	(572769)
16	02/15/2008	(618701)
17	07/22/2008	(637064)
18	08/28/2008	(681445)

19 09/05/2008 (618338)  
 20 12/18/2008 (709510)  
 21 01/29/2009 (724501)  
 22 02/23/2009 (704845)  
 23 05/12/2009 (745342)  
 24 07/24/2009 (741151)  
 25 08/13/2009 (759916)  
 26 08/25/2009 (749777)  
 27 09/03/2009 (747016)

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

**Date: 08/30/2005 (405934)**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 FOP# 0984, SC17(A) OP  
 NSR Permit# 5171, SC#3 PERMIT  
 Description: Failure to operate without permit by rule authorization  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 FOP# 0984, SC 17(A) OP  
 NSR Permit No. 49042, SC #4 PERMIT  
 Description: Failure to implement the fugitive monitoring program  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(1)(ii)  
 FOP# 0984, SC 1(A) OP  
 Description: Failure to perform a yearly seal gap inspection for T130-8  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 FOP # 0984, General Terms and Conditions OP  
 Description: Failure to include in the deviation report two spill incidents of unauthorized emissions which occurred on 8/5/04 and 1/5/05.

**Date: 03/09/2006 (450115)**  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(11)  
 30 TAC Chapter 101, SubChapter F 101.201(b)(8)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to maintain complete records of emission events.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)(9)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to maintain complete records of Scheduled Maintenance, Startup and Shutdown activities.

**Date: 05/19/2006 (463933)**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 TCEQ Permit #5171, Special Condition 1 PERMIT  
 Description: Failure to prevent unauthorized emissions.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)  
 Description: Failure to include in the final report, the preconstruction authorization number governing the facility involved in an emissions event.

Date: 08/16/2007 (512634)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(5)  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-0984, Special Terms & Cond. No. 1(A) OP  
Description: Failure to notify TCEQ 30 days in advance of storage tank seal gap measurement activities.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
No. 5171, Special Condition No. 15 PERMIT  
O-0984, Special Terms & Cond. No. 15 OP  
Description: Failure to limit the storage of materials to those approved by NSR Permit No. 5171, Attachment B.

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 Kb 60.113b(b)(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
No. 5171, Special Condition No. 11 PERMIT  
O-0984, Special Terms & Cond. No. 17 OP  
Description: Failure to repair a seal on Tank No. 150-23 within the required time frame.

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 Kb 60.113b(b)(6)(ii)  
5C THC Chapter 382, SubChapter D 382.085(b)  
No. 5171, Special Condition No. 11 PERMIT  
O-0984, Special Terms & Cond. No. 17 OP  
Description: Failure to submit tank refill notification to TCEQ for Tank Nos. 200-3 and 130-7.

Date: 08/25/2009 (749777)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(B)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 24A PERMIT  
Special Condition 24C PERMIT  
Description: Failure to demonstrate a VOC destruction efficiency of 90% for the portable thermal oxidizer used in degassing operations (Category B18 violation)

Date: 09/03/2009 (747016)

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 THSC Chapter 382 382.085(b)  
SC 1A OP

Description: failure to maintain the permitted True Vapor Pressure  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
SC 14 OP  
SC 2 PERMIT

Description: failure to meet the withdrawal rate for VAM  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
SC 16 PERMIT  
Special Condition 14 OP

Description: failure to refloat or degas tank (T150-33) within 72 hour  
Self Report? NO Classification: Moderate

**Citation:** 30 TAC Chapter 115, SubChapter B 115.114(a)(1)  
 30 TAC Chapter 115, SubChapter B 115.114(a)(2)  
 30 TAC Chapter 115, SubChapter B 115.114(a)(4)  
 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 Kb 60.113b(a)(2)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(1)  
 5C THSC Chapter 382 382.085(b)  
 SC 11D PERMIT  
 SC 14 OP  
 SC 1A OP  
 SC 9 PERMIT

**Description:** failed to conduct visual tank inspection  
**Self Report?** NO **Classification:** Minor

**Citation:** 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(6)  
 5C THSC Chapter 382 382.085(b)  
 SC 11D PERMIT  
 SC 14 OP  
 SC 1A OP  
 SC 9 PERMIT

**Description:** failed to conduct visual inspection after tank (T150-56) is emptied and degassed.  
**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 63, SubChapter C, PT 63, SubPT Q 63.424(a)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.424(b)  
 5C THSC Chapter 382 382.085(b)  
 SC 10 PERMIT  
 SC 12E PERMIT  
 SC 14 OP  
  
 SC 19A PERMIT  
 SC 1A OP

**Description:** failure to conduct monthly Audio/ Visual / Olfactory (AVO) inspections.  
**Self Report?** NO **Classification:** Moderate

**Citation:** 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)  
 5C THSC Chapter 382 382.085(b)  
 SC 11 D PERMIT  
 SC 14 OP  
 SC 1A OP  
 SC 7 OP  
 SC 9 PERMIT

**Description:** failure to notify the TCEQ 30 days In advance of tank inspections.  
**Self Report?** NO **Classification:** Minor

**Citation:** 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 SC 14A OP  
 SC 20 PERMIT

**Description:** failed to record the temperature for the vapor combustors unit (TKVCU-1 and TKVCU-2)  
**Self Report?** NO **Classification:** Moderate

**Citation:** 1A OP  
 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 Kb 60.112b(a)(1)(iv)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(2)(ii)  
 5C THSC Chapter 382 382.085(b)  
 SC 14A OP  
 SC 24G PERMIT  
 SC 9 PERMIT

**Description:** failed to maintain that sample ports are vapor-tight for tanks (T75-1, T55-5,

T27-3, T150-7, T150-69, T150-71, T150-72, T150-73, T150-56, T150-57, T150-66, T150-65, T150-59, and T150-58).

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP

Description: failure to submit a deviation

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  
KM LIQUIDS TERMINALS LLC  
RN100224815**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1622-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 KM 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 liquids storage terminal at 530 Witter Street in Pasadena, 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 September 8, 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 Twelve Thousand Dollars (\$12,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Eight Hundred Dollars (\$4,800) of the administrative penalty and Two Thousand Four Hundred Dollars (\$2,400) 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. Four Thousand Eight Hundred Dollars (\$4,800) 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 implemented a Tank Level Management Procedure on May 2, 2009 to ensure proper purge gas monitoring prior to uncontrolled venting.
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 properly sample the purge gas from storage tanks to determine if it is acceptable for uncontrolled venting, in violation of Federal Operating Permit No. O-984, Special Condition No. 14, Air Permit No. 5171, Special Condition No. 23E, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 10, 2009. Specifically, Air Permit No. 5171 requires that a volume of purge gas equivalent to twice that of the vapor space must pass through the control device before sampling to determine if volatile organic compound concentrations are acceptable for uncontrolled venting. However, it was documented that from July 20, 2008 to January 20, 2009 the Respondent was unable to monitor the volume of purge gas being sent to the control device for sampling purposes.

## 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: KM Liquids Terminals LLC, Docket No. 2009-1622-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, Four Thousand Eight Hundred Dollars (\$4,800) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Szollosi  
For the Executive Director

3/9/2010  
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.

Harold King  
Signature

JANUARY 21, 2010  
Date

HAROLD KING  
Name (Printed or typed)  
Authorized Representative of  
KM 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: 2009-1622-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

<b>Respondent:</b>	<b>KM Liquids Terminals LLC</b>
<b>Payable Penalty Amount:</b>	<b>Nine Thousand Six Hundred Dollars (\$9,600)</b>
<b>SEP Amount:</b>	<b>Four Thousand Eight Hundred Dollars (\$4,800)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program</b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 216 – Houston-Galveston</b>

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 shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Houston-Galveston AERCO* for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. 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.

KM Liquids Terminals LLC  
Agreed Order - Attachment A

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

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.

