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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1705-AIR-E **TCEQ ID:** RN100542802 **CASE NO.:** 38563
RESPONDENT NAME: Diamond Shamrock Refining Company, L.P.

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: Diamond Shamrock Refining Valero, 301 Le Roy Street, Three Rivers, Live Oak County</p> <p>TYPE OF OPERATION: Petroleum refinery with dry abrasive sandblasting and surface coating operations</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 June 14, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Harry Wright, Jr., Vice President and General Manager, Diamond Shamrock Refining Company, L.P., Post Office Box 490, Three Rivers, Texas 78071-0490 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 2, 2009</p> <p>Date of NOE Relating to this Case: October 6, 2009</p> <p>Background Facts: This was a records review.</p> <p>AIR</p> <p>Failure to register dry abrasive sandblasting and surface coating operations. Specifically, during an on-site investigation on June 16, 2009, dry abrasive sandblasting and surface coating operations were observed, however, during a subsequent record review investigation on July 2, 2009, it was documented that the Respondent had not submitted a registration to authorize such operations [30 TEX. ADMIN. CODE §§ 106.452(2)(D) and (2)(E), 106.433(7)(D) and (9), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$53,235</p> <p>Total Deferred: \$10,647 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$42,588</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 obtained permit-by-rule authorization for the dry abrasive sandblasting and surface coating operations on September 2, 2009.</p>

Additional ID(s): Air Account No. LK0009T



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Oct-2009	Screening	16-Oct-2009	EPA Due	3-Jul-2010
	PCW	16-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Diamond Shamrock Refining Company, L.P.
Reg. Ent. Ref. No.	RN100542802
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38663	No. of Violations	1
Docket No.	2009-1705-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* **\$52,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 94.0% Enhancement *Subtotals 2, 3, & 7* **\$49,350**

Notes: Penalty enhancement due to 13 NOVs issued for unrelated violations, two agreed orders with a denial of liability, and one court order with a denial of liability. Penalty reduction due to two Notices of Intended Audits submitted.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$13,125**

Economic Benefit 0.0% Enhancement* *Subtotal 6* **\$0**

Total EB Amounts \$51
Approx. Cost of Compliance \$200
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$88,725**

OTHER FACTORS AS JUSTICE MAY REQUIRE -40.0% *Adjustment* **-\$35,490**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Penalty reduction recommended for Violation No. 1 to make the penalty commensurate with the situation since this was a one time registration violation and the Respondent was compliant with related emissions limits during the duration of the violation.

Final Penalty Amount **\$53,235**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$53,235**

DEFERRAL 20.0% Reduction *Adjustment* **-\$10,647**

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 **\$42,588**

Screening Date 16-Oct-2009

Docket No. 2009-1705-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38563

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100542802

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component Number of... Enter Number Here Adjust.

NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	13	26%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	1	30%
	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)	2	-2%
	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) 94%

>> 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 13 NOVs issued for unrelated violations, two agreed orders with a denial of liability, and one court order with a denial of liability. Penalty reduction due to two Notices of Intended Audits submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 94%

Screening Date 16-Oct-2009

Docket No: 2009-1705-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38563

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100542802

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 106.452(2)(D) and (E), 106.433(7)(D) and (9), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to register dry abrasive sandblasting and surface coating operations. Specifically, during an on-site investigation on June 16, 2009, dry abrasive sandblasting and surface coating operations were observed, however, during a subsequent record review investigation on July 2, 2009, it was documented that the Respondent had not submitted a registration to authorize such operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 21

1864 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$52,500

Twenty-one quarterly events are recommended based on the earliest documentation of the violation on July 26, 2004 to the September 2, 2009 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$13,125

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

Notes The Respondent completed corrective actions on September 2, 2009, which was prior to the NOE issuance on October 6, 2009.

Violation Subtotal \$39,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$51

Violation Final Penalty Total \$53,235

This violation Final Assessed Penalty (adjusted for limits) \$53,235

Economic Benefit Worksheet

Respondent: Diamond Shamrock Refining Company, L.P.

Case ID No.: 38563

Reg. Ent. Reference No.: RN100542802

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
<small>No commas or \$</small>							

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	\$200	26-Jul-2004	2-Sep-2009	5.11	\$51	n/a	\$51
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete and submit a PI-7 form to register and authorize the dry abrasive sandblasting and surface coating operations. The date required is the earliest documented occurrence of dry abrasive sandblasting and surface coating operations at the Plant based on waste manifests. 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)

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

\$200

TOTAL

\$51

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600124861 Diamond Shamrock Refining Company, L.P.	Classification: AVERAGE	Rating: 4.00
Regulated Entity:	RN100542802 DIAMOND SHAMROCK REFINING VALERO	Classification: AVERAGE	Site Rating: 5.97

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	LK0009T
	AIR OPERATING PERMITS	PERMIT	1450
	WASTEWATER	PERMIT	WQ0001353000
	WASTEWATER	PERMIT	TPDES0088331
	WASTEWATER	PERMIT	TX0088331
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD990709966
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31553
	AIR NEW SOURCE PERMITS	AFS NUM	4829700006
	AIR NEW SOURCE PERMITS	PERMIT	50607
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	LK0009T
	AIR NEW SOURCE PERMITS	PERMIT	9968
	AIR NEW SOURCE PERMITS	PERMIT	2362B
	AIR NEW SOURCE PERMITS	PERMIT	5139A
	AIR NEW SOURCE PERMITS	PERMIT	6328
	AIR NEW SOURCE PERMITS	PERMIT	9190
	AIR NEW SOURCE PERMITS	PERMIT	10815
	AIR NEW SOURCE PERMITS	PERMIT	15000
	AIR NEW SOURCE PERMITS	PERMIT	15404
	AIR NEW SOURCE PERMITS	PERMIT	16020
	AIR NEW SOURCE PERMITS	PERMIT	16103
	AIR NEW SOURCE PERMITS	PERMIT	27201
	AIR NEW SOURCE PERMITS	PERMIT	30363
	AIR NEW SOURCE PERMITS	PERMIT	40102
	AIR NEW SOURCE PERMITS	PERMIT	45790
	AIR NEW SOURCE PERMITS	PERMIT	49756
	AIR NEW SOURCE PERMITS	PERMIT	49489
	AIR NEW SOURCE PERMITS	PERMIT	49486
	AIR NEW SOURCE PERMITS	PERMIT	49488
	AIR NEW SOURCE PERMITS	REGISTRATION	54729
	AIR NEW SOURCE PERMITS	REGISTRATION	55285
	AIR NEW SOURCE PERMITS	REGISTRATION	55896
	AIR NEW SOURCE PERMITS	REGISTRATION	75517
	AIR NEW SOURCE PERMITS	REGISTRATION	70536

AIR NEW SOURCE PERMITS	PERMIT	PSDTX1017
AIR NEW SOURCE PERMITS	PERMIT	55728
AIR NEW SOURCE PERMITS	EPA ID	PSDTX331M5
AIR NEW SOURCE PERMITS	EPA ID	PSDTX804
AIR NEW SOURCE PERMITS	EPA ID	PSDTX331
AIR NEW SOURCE PERMITS	REGISTRATION	71415
AIR NEW SOURCE PERMITS	PERMIT	50835
AIR NEW SOURCE PERMITS	REGISTRATION	71663
AIR NEW SOURCE PERMITS	REGISTRATION	76733
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1017
AIR NEW SOURCE PERMITS	REGISTRATION	78562
AIR NEW SOURCE PERMITS	REGISTRATION	79137
AIR NEW SOURCE PERMITS	REGISTRATION	78872
AIR NEW SOURCE PERMITS	REGISTRATION	79862
AIR NEW SOURCE PERMITS	REGISTRATION	81078
AIR NEW SOURCE PERMITS	REGISTRATION	82209
AIR NEW SOURCE PERMITS	REGISTRATION	81730
AIR NEW SOURCE PERMITS	REGISTRATION	81540
AIR NEW SOURCE PERMITS	REGISTRATION	83511
AIR NEW SOURCE PERMITS	REGISTRATION	82663
AIR NEW SOURCE PERMITS	REGISTRATION	86444
AIR NEW SOURCE PERMITS	REGISTRATION	84592
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1017M1
AIR NEW SOURCE PERMITS	REGISTRATION	90773
AIR NEW SOURCE PERMITS	REGISTRATION	89852
AIR NEW SOURCE PERMITS	REGISTRATION	87873
STORMWATER	PERMIT	TXR05L552
UNDERGROUND INJECTION CONTROL	PERMIT	WDW404
UNDERGROUND INJECTION CONTROL	PERMIT	WDW405
UNDERGROUND INJECTION CONTROL	PERMIT	WDW406
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50100
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50100
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31553
INDUSTRIAL AND HAZARDOUS WASTE DISPOSAL	PERMIT	50100
WASTE WATER GENERAL PERMIT	PERMIT	TXG670020
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50100

AIR EMISSIONS INVENTORY
301 LE ROY ST, THREE RIVERS, TX, 78071

ACCOUNT NUMBER

LK0009T

Location:

TCEQ Region:

REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared:

October 16, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period:

October 16, 2004 to October 16, 2009

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

Name: Rebecca Johnson

Phone: (361) 825-3420

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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: 11/23/2005

COURTORDER

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(b)

30 TAC Chapter 101, SubChapter A 101.6(c)

Description: Failure to create and report a final record which sufficiently identified rule-required criteria.

Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

Description: Failure to obtain regulatory authority for upset and shutdown emissions from the Akylation Unit.

Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: SC1 PERMIT

Description: Failure to obtain regulatory authority for upset, shutdown, maintenance and start-up emissions.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)

Description: Failure to limit visible emissions to no more than five minutes in any two-hour period from flare FL-003.

Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.110(a)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 116, SubChapter B 116.116(a)

Rqmt Prov: SC1 PERMIT

Description: Failure to obtain regulatory authority for continuous emissions from the HCU Flare.

Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.116(a)

Rqmt Prov: Not specified PERMIT

Description: Failure to obtain regulatory authority for continuous emissions from the FCCU Flare.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure to prevent the unauthorized discharge of fire suppression water containing phase separated hydrocarbons into and adjacent to waters of the state.3

Effective Date: 10/04/2007

ADMINORDER 2005-1948-AIR-E

Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Special Conditin 1 PERMIT

Description: Failed to comply with permitted emissions limits (TCEQ Incident Nos. 57793, 57796, and 57800), documented during an investigation conducted July 29, 2005 through August 2, 2005.

Specifically, an emissions event that occurred May 3 - 6, 2005 had the following quantities: 5,959.15 pounds carbon monoxide, 56.51 pounds nitrogen dioxide, 1,073.76 pounds nitrogen monoxide, 35,534.85 pounds sulfur dioxide, 2,350.87 pounds butane, 179.25 pounds hydrogen sulfide, and 5,936.53 pounds propane.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)

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

Description: Failure to submit a complete and accurate final report for Incident No. 57800.

Effective Date: 09/22/2008

ADMINORDER 2008-0276-AIR-E

Classification: Minor

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

5C THSC Chapter 382 382.085(b)

Description: Failure to notify the TCEQ Corpus Christi Region Office within 24 hours after the discovery of an emissions event.

Classification: Moderate

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

30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(c)(7)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(2)(i)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SCs 1 and 2 PERMIT

Special Condition 2B PERMIT

Description: Failure prevent an unauthorized emission event and to limit the sulfur dioxide ppm by volume (dry basis) at zero percent excess air to 250 ppmv.

Classification: Moderate

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

30 TAC Chapter 111, SubChapter A 111.111(a)(4)

30 TAC Chapter 116, SubChapter G 116.715(c)(7)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT

TCEQ Air Permit 50607/PSD-TX331M1, PSD- PERMIT

Description: failed to meet the special conditions of TCEQ Flex Permit Number 50607, PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017. Specifically, Diamond Shamrock Refining Company LP failed to meet the affirmative defense of 30 TAC §101.222(b)(2) and (b)(3) by failing to prevent unauthorized visible emissions from the FCCU Flare (EPN FL-003) and the HCU Flare (EPN FL-004) as reported on or about November 20, 2007 in emissions event incident number 100299, which was due to an operator error and was avoidable.

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. (CEEDS Inv. Track. No.)

1	11/15/2004	(361459)
2	12/17/2004	(361460)
3	01/19/2005	(387174)
4	02/11/2005	(387172)
5	02/17/2005	(344711)
6	02/17/2005	(344732)
7	03/14/2005	(387173)
8	03/30/2005	(334416)
9	04/01/2005	(375671)
10	04/20/2005	(586813)
11	05/20/2005	(586815)
12	05/25/2005	(335530)
13	06/17/2005	(586818)
14	06/20/2005	(395663)
15	06/20/2005	(396550)
16	06/22/2005	(397091)
17	06/24/2005	(395367)
18	06/28/2005	(397649)
19	06/29/2005	(380012)
20	07/19/2005	(586821)
21	08/18/2005	(404621)
22	08/19/2005	(404722)
23	08/22/2005	(401088)
24	08/22/2005	(404888)
25	08/22/2005	(586824)
26	08/29/2005	(404949)
27	08/30/2005	(404952)
28	08/30/2005	(405011)
29	08/31/2005	(418747)
30	08/31/2005	(418864)
31	09/21/2005	(586826)
32	10/08/2005	(432627)
33	10/20/2005	(406740)
34	11/16/2005	(435723)
35	11/17/2005	(586830)
36	12/01/2005	(438319)
37	12/19/2005	(586832)
38	12/22/2005	(449864)
39	01/02/2006	(449804)
40	01/19/2006	(586834)
41	02/12/2006	(452941)
42	02/22/2006	(455828)
43	03/10/2006	(458400)
44	03/14/2006	(457720)
45	03/17/2006	(586811)
46	03/17/2006	(586828)
47	03/28/2006	(452750)
48	04/06/2006	(586809)
49	04/17/2006	(586814)
50	04/20/2006	(463009)
51	05/18/2006	(586816)
52	06/15/2006	(586819)
53	06/30/2006	(483518)
54	07/24/2006	(586822)
55	08/17/2006	(486707)
56	08/17/2006	(586825)
57	09/18/2006	(586827)
58	10/16/2006	(586829)

59 11/15/2006 (519601)
60 11/15/2006 (586831)
61 11/17/2006 (531209)
62 12/18/2006 (586833)
63 01/17/2007 (586835)
64 01/29/2007 (538086)
65 02/02/2007 (536186)
66 02/16/2007 (539013)
67 02/20/2007 (539328)
68 02/22/2007 (586810)
69 02/23/2007 (540422)
70 03/19/2007 (543755)
71 03/20/2007 (586812)
72 03/22/2007 (541719)
73 03/23/2007 (540495)
74 04/05/2007 (534570)
75 04/20/2007 (754257)
76 05/02/2007 (556217)
77 05/08/2007 (555030)
78 05/21/2007 (586817)
79 06/22/2007 (586820)
80 07/11/2007 (566548)
81 07/23/2007 (586823)
82 08/20/2007 (608555)
83 08/31/2007 (573673)
84 09/05/2007 (574266)
85 09/24/2007 (754263)
86 10/22/2007 (754265)
87 11/15/2007 (754267)
88 12/13/2007 (754269)
89 12/17/2007 (609417)
90 01/14/2008 (595864)
91 01/16/2008 (614747)
92 01/22/2008 (754271)
93 01/28/2008 (540527)
94 02/08/2008 (754253)
95 03/12/2008 (636452)
96 03/20/2008 (619180)
97 03/20/2008 (754256)
98 04/21/2008 (754258)
99 04/29/2008 (639525)
100 05/20/2008 (754259)
101 05/23/2008 (654332)
102 05/27/2008 (680195)
103 06/20/2008 (680240)
104 06/23/2008 (754260)
105 07/12/2008 (754261)
106 08/12/2008 (684817)
107 08/21/2008 (754262)
108 08/22/2008 (699621)
109 08/25/2008 (688634)
110 09/18/2008 (754264)
111 10/08/2008 (702189)
112 10/17/2008 (754266)
113 10/24/2008 (705244)
114 11/18/2008 (754268)
115 12/08/2008 (709472)
116 12/22/2008 (754270)
117 01/20/2009 (754272)

118 02/02/2009 (720964)
 119 02/13/2009 (754254)
 120 02/16/2009 (725813)
 121 03/17/2009 (737654)
 122 03/24/2009 (754255)
 123 05/26/2009 (746797)
 124 05/26/2009 (746799)
 125 06/17/2009 (746858)
 126 06/18/2009 (743155)
 127 06/29/2009 (759527)
 128 08/17/2009 (761551)
 129 08/20/2009 (749401)
 130 08/28/2009 (766976)
 131 10/06/2009 (775650)

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

Date: 02/18/2005 (344732)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0001353-000 PERMIT

Description: Failure to comply with self monitored effluent limitations for biochemical oxygen demand (BOD), chemical oxygen demand (COD) and Zinc(Zn)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 TPDES Permit No. WQ0001353-000 PERMIT

Description: Failure to comply with proper analytical method and techniques used for total suspended solids (TSS) sample analysis. Duplicate samples for TSS analysis are not being conducted.

Date: 06/24/2005 (395367)

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)
 HW-50100 & CP-50100 OP

Description: Failure to maintain lids/covers on groundwater recovery wells.

Date: 03/19/2007 (543755)

Self Report? NO Classification: Moderate

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

Description: Failure to comply with all terms and conditions codified in the permit and any provisional terms and conditions required to be included with the permit. Specifically, the Regulated Entity failed to conduct a quarterly observation for visible emissions for stationary vents for the period of 01/01/06 through 03/31/06.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120

Description: Failure to comply with required standards for storage vessels as required by 40 CFR Part 63 (Subpart G). Specifically, the RE failed to inspect storage tank S-119 and submit a 30 day advanced notification per the HON standards prior to filling the tank.

Date: 05/31/2007 (586820)

Self Report? YES Classification: Moderate

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

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

Date: 06/30/2007 (586823)

Self Report? YES Classification: Moderate

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

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

Date: 07/31/2007 (608555)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 08/31/2007 (573673)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Effluent Limitations No. 1, Pg. PERMIT

Description: Failure to comply with the permitted effluent limitations.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements No. 6 (C), Pg. 13 PERMIT

Description: Failure to comply with the effluents limitations for wastewater used for irrigation.

Date: 09/05/2007 (574266)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120

Description: Failure to comply with required standards for storage vessels as required by 40 CFR Part 63 (Subpart G). Specifically, the RE failed to inspect storage tank S-119 and submit a 30 day advanced notification per the HON standards prior to filling the tank.

Date: 09/30/2007 (754265)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 10/31/2007 (754267)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 08/22/2008 (699621)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 331, SubChapter D 331.63
Provision Number XII.E.2. PERMIT

Description: Failure to test and calibrate on a quarterly basis, all gauges, pressure sensing devices, and recording devices associated with underground injection well number WDW-404, as required by 30 TAC 331.63(g).

Date: 02/02/2009 (720964)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0001353-000 PERMIT

Description: Failure to maintain compliance with the 1.6 million gallon (MG) permitted total volume discharge during a 24-hour period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0001353-001 PERMIT

Description: Failure to meet permit limitations for total mercury for Outfall 001.

Date: 08/18/2009 (749401)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

30 TAC Chapter 335, SubChapter A 335.6(c)(1)
30 TAC Chapter 335, SubChapter A 335.6(c)(2)
30 TAC Chapter 335, SubChapter A 335.6(c)(3)
30 TAC Chapter 335, SubChapter A 335.6(c)(4)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(A)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(B)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(C)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(D)

Description: Failure to provide written notification for all municipal hazardous waste streams, industrial solid waste streams and associated waste management units.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4
30 TAC Chapter 335, SubChapter A 335.4(1)

Description: No person may cause, suffer, allow, or permit the collection, handling, storage, processing, or disposal of industrial solid waste so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge.

F. Environmental audits.

Notice of Intent Date: 03/31/2008 (654049)

No DOV Associated

Notice of Intent Date: 07/07/2008 (687858)

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
DIAMOND SHAMROCK REFINING
COMPANY, L.P.
RN100542802**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1705-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 Diamond Shamrock Refining Company, L.P. ("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 petroleum refinery, with dry abrasive sandblasting and surface coating operations, at 301 Le Roy Street in Three Rivers, Live Oak 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 October 11, 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 Fifty-Three Thousand Two Hundred Thirty-Five Dollars (\$53,235) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Forty-Two Thousand Five Hundred Eighty-Eight Dollars (\$42,588) of the administrative penalty and Ten Thousand Six Hundred Forty-Seven Dollars (\$10,647) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent obtained permit-by-rule authorization for the dry abrasive sandblasting and surface coating operations on September 2, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to register dry abrasive sandblasting and surface coating operations, in violation of 30 TEX. ADMIN. CODE §§ 106.452(2)(D) and (2)(E), 106.433(7)(D) and (9), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 2, 2009. Specifically, during an on-site investigation on June 16, 2009, dry abrasive sandblasting and surface coating operations were observed, however, during a subsequent record review investigation on July 2, 2009, it was documented that the Respondent had not submitted a registration to authorize such operations.

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: Diamond Shamrock Refining Company, L.P., Docket No. 2009-1705-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Rollins
For the Executive Director

5/14/2010
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.

Harry Wright, Jr.
Signature

April 8, 2010
Date

HARRY WRIGHT, JR.
Name (Printed or typed)
Authorized Representative of
Diamond Shamrock Refining Company, L.P.

Vice President & General Manager.
Title

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