Executive Summary – Enforcement Matter – Case No. 41471
NuStar Logistics, L.P.
RN104248141
Docket No. 2011-0569-AIR-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
AIR
Small Business:
No
Location(s) Where Violation(s) Occurred:
Texas City Crude Tank Farm, 1301 Loop 197 South, Texas City, Galveston County
Type of Operation:
Tank farm
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: August 5, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $6,100
Amount Deferred for Expedited Settlement: $1,220
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $2,440
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $2,440
Name of SEP: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

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Docket No. 2011-0569-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: February 17, 2011
Date(s) of NOE(s): April 5, 2011

Violation Information

Failed to prevent unauthorized emissions. Specifically, the Respondent released 11,031.22 pounds ("lbs") of volatile organic compounds during an avoidable emissions event (Incident No. 149375) that began on January 12, 2011 and lasted 48 hours. This emissions event was caused by overfilling Tank 91, Emission Point No. T-091. The overfilling occurred when the initial maximum fill amount was miscalculated by operations and the tank gauge operated abnormally. Since this emissions event could have been avoided through better operational practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 54985, Special Conditions No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

2. The Order will also require the Respondent to:

a. Within 30 days, develop and implement measures and procedures in order to prevent the recurrence of an emissions event due to the same cause as Incident No. 149375; and

b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision No. 2.a.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 41471
NuStar Logistics, L.P.
RN104248141
Docket No. 2011-0569-AIR-E

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Todd Huddleson, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2541; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.
TCEQ SEP Coordinator: Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
Respondent: Miguel Martinez, Regional Environmental Manager, NuStar Logistics, L.P., 2330 North Loop 1604 West, San Antonio, Texas 78248
Kyle D. Oppliger, Vice President and General Manager, NuStar Logistics, L.P., 2330 North Loop 1604 West, San Antonio, Texas 78248
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0569-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Nustar Logistics, L.P.**
Payable Penalty Amount:	**Four Thousand Eight Hundred Eighty Dollars ($4,880)**
SEP Amount:	**Two Thousand Four Hundred Forty Dollars ($2,440)**
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 Enforcement Division 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:

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 Enforcement Division 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	11-Apr-2011				
PCW	15-Apr-2011	**Screening**	14-Apr-2011	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	NuStar Logistics, L.P.		
Reg. Ent. Ref. No.	RN104248141		
Facility/Site Region	12-Houston	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	41471	**No. of Violations**	1
Docket No.	2011-0569-AIR-E	**Order Type**	1660
Media Program(s)	Air	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Todd Huddleson
		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*: $5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 22.0% Enhancement — *Subtotals 2, 3, & 7*: $1,100

Notes: Enhancement for one NOV with dissimilar violations and one order with denial of liability.

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*: $0

Economic Benefit — 0.0% Enhancement* — *Subtotal 6*: $0

Total EB Amounts $74
Approx. Cost of Compliance $1,500
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $6,100

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: $6,100

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $6,100

DEFERRAL — 20.0% Reduction — *Adjustment*: -$1,220

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: $4,880

Screening Date 14-Apr-2011 **Docket No.** 2011-0569-AIR-E **PCW**

Respondent NuStar Logistics, L.P.

Policy Revision 2 (September 2002)

Case ID No. 41471

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104248141

Media [Statute] Air

Enf. Coordinator Todd Huddleson

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
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	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 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) 22%

>> 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

Enhancement for one NOV with dissimilar violations and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 14-Apr-2011 **Docket No.** 2011-0569-AIR-E **PCW**

Respondent NuStar Logistics, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 41471 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN104248141

Media [Statute] Air

Enf. Coordinator Todd Huddleson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 54985, Special Conditions No. 1

Violation Description Failed to prevent unauthorized emissions as documented during an investigation conducted on February 17, 2011. Specifically, the Respondent released 11,031.22 pounds of volatile organic compounds during an avoidable emissions event (Incident No. 149375) that began on January 12, 2011 and lasted 48 hours. This emissions event was caused by overfilling Tank 91, Emission Point No. T-091. The overfilling occurred when the initial maximum fill amount was miscalculated by operations and the tank gauge operated abnormally. Since this emissions event could have been avoided through better operational practices, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual		x	
	Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to a significant amount of pollutants that do not exceed levels protective of human or environmental receptors.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events: 1 — 2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

One monthly event is recommended based on the event that began January 12, 2011.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal $5,000

Economic Benefit (EB) for this violation

Estimated EB Amount $74

Statutory Limit Test

Violation Final Penalty Total $6,100

This violation Final Assessed Penalty (adjusted for limits) $6,100

Economic Benefit Worksheet

Respondent NuStar Logistics, L.P.
Case ID No. 41471
Reg. Ent. Reference No. RN104248141
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							
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)	$1,500	12-Jan-2011	9-Jan-2012	0.99	$74	n/a	$74
Notes for DELAYED costs	Estimated cost to implement measures and procedures to prevent a reccurence of similar events. The Date Required is the date of the emissions event. The Final Date is the projected date that corrective measures are estimated to be 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 $1,500

TOTAL $74

Compliance History

Customer/Respondent/Owner-Operator: CN603180662 NuStar Logistics, L.P. Classification: AVERAGE Rating: 1.87

Regulated Entity: RN104248141 TEXAS CITY CRUDE TANK FARM Classification: AVERAGE Site Rating: 9.17

ID Number(s):

AIR OPERATING PERMITS	PERMIT	2599
AIR NEW SOURCE PERMITS	PERMIT	54985
AIR NEW SOURCE PERMITS	AFS NUM	4816700161
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	87210
WASTE WATER GENERAL PERMIT	PERMIT	TXG670114
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	GBA008H

Location: 1301 LOOP 197 S, TEXAS CITY, TX, 77590

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 13, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 13, 2006 to April 13, 2011

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

Name: Todd Huddleson Phone: (512) 239 - 2541

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: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 10/18/2009 ADMINORDER 2009-0791-AIR-E

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 AA 63.646(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(b)(8)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC3 PERMIT
ST&C5 OP

Description: Failure to repair the seal gap on T-084 within 45 calendar days after the initial seal gap measurement inspection performed on March 25, 2008 discovered a seal gap width larger than the 1.5 inch limit, or to empty/degas, or to submit for an 30-day extension from the TCEQ.

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.)

N/A

1 08/30/2007 (574151)
2 04/30/2009 (709786)
3 12/21/2009 (784140)
4 04/16/2010 (797084)

5 08/27/2010 (803065)

6 12/21/2010 (878702)

7 04/05/2011 (900567)

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

Date: 08/20/2010 (803065) CN603180662

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit the semi-annual deviation report dated March 31, 2009, within the required 30-day timeframe (Category B3).

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit the PCC report dated March 31, 2009, within the required 30-day timeframe (Category B3).

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 NUSTAR LOGISTICS, L.P. RN104248141	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0569-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 NuStar Logistics, 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 tank farm at 1301 Loop 197 South in Texas City, Galveston County, Texas (the "Tank Farm").

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 April 10, 2011.

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 Six Thousand One Hundred Dollars ($6,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Four Hundred Forty Dollars ($2,440) of the administrative penalty and One Thousand Two Hundred Twenty

Dollars ($1,220) 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. Two Thousand Four Hundred Forty Dollars ($2,440) 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 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.

10. 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.

11. 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 Tank Farm, the Respondent is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 54985, Special Conditions No. 1, as documented during an investigation conducted on February 17, 2011. Specifically, the Respondent released 11,031.22 pounds ("lbs") of volatile organic compounds during an avoidable emissions event (Incident No. 149375) that began on January 12, 2011 and lasted 48 hours. This emissions event was caused by overfilling Tank 91, Emission Point No. T-091. The overfilling occurred when the initial maximum fill amount was miscalculated by operations and the tank gauge operated abnormally. Since this emissions event could have been avoided through better operational practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: NuStar Logistics, L.P., Docket No. 2011-0569-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, Two Thousand Four Hundred Forty Dollars ($2,440) 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. Within 30 days after the effective date of this Agreed Order, develop and implement measures and procedures in order to prevent the recurrence of an emissions event due to the same cause as Incident No. 149375; and

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall 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 Tank Farm 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or

authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

For the Executive Director

8/31/11
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

07.06.2011
Date

KYLE D. OPPLIGER
Name (Printed or typed)
Authorized Representative of
NuStar Logistics, 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.

Attachment A
Docket Number: 2011-0569-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Nustar Logistics, L.P.**
Payable Penalty Amount:	**Four Thousand Eight Hundred Eighty Dollars ($4,880)**
SEP Amount:	**Two Thousand Four Hundred Forty Dollars ($2,440)**
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 Enforcement Division 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:

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 Enforcement Division 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.