

**Executive Summary – Enforcement Matter – Case No. 41444**  
**MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC**  
**RN104607833**  
**Docket No. 2011-0664-IWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

IWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Hereford Renewable Energy, located south of the intersection of United States Highway 60 and County Road 8, across United States Highway 60 from the Hereford Municipal Airport, and northeast of Hereford, Deaf Smith County

**Type of Operation:**

Ethanol fuel manufacturing facility

**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:** \$1,000

**Amount Deferred for Expedited Settlement:** \$200

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$800

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41444**  
**MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC**  
**RN104607833**  
**Docket No. 2011-0664-IWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** April 27, 2011  
**Date(s) of NOE(s):** June 7, 2011

***Violation Information***

Failed to provide a minimum total effluent evaporation pond capacity of 82.0 acre-feet. Specifically, the Respondents constructed two evaporation ponds with a total minimum combined capacity of 39.5 acre-feet [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0004822000 Special Provisions D].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that the Respondents have implemented the following corrective measures at the Facility:

- a. By December 22, 2010, submitted a permit amendment application. The permit application was declared administratively and technically complete on February 25, 2011 and April 29, 2011, respectively; and
- b. By April 1, 2011, reduced the amount of discharge of utility wastewater to the evaporation pond system to ensure adequate treatment.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
- b. Within 330 days, submit written certification of compliance that the permit amendment has been obtained or operations have ceased until such time that appropriate authorization has been obtained.

***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. 41444  
MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC  
RN104607833  
Docket No. 2011-0664-IWD-E**

***Contact Information***

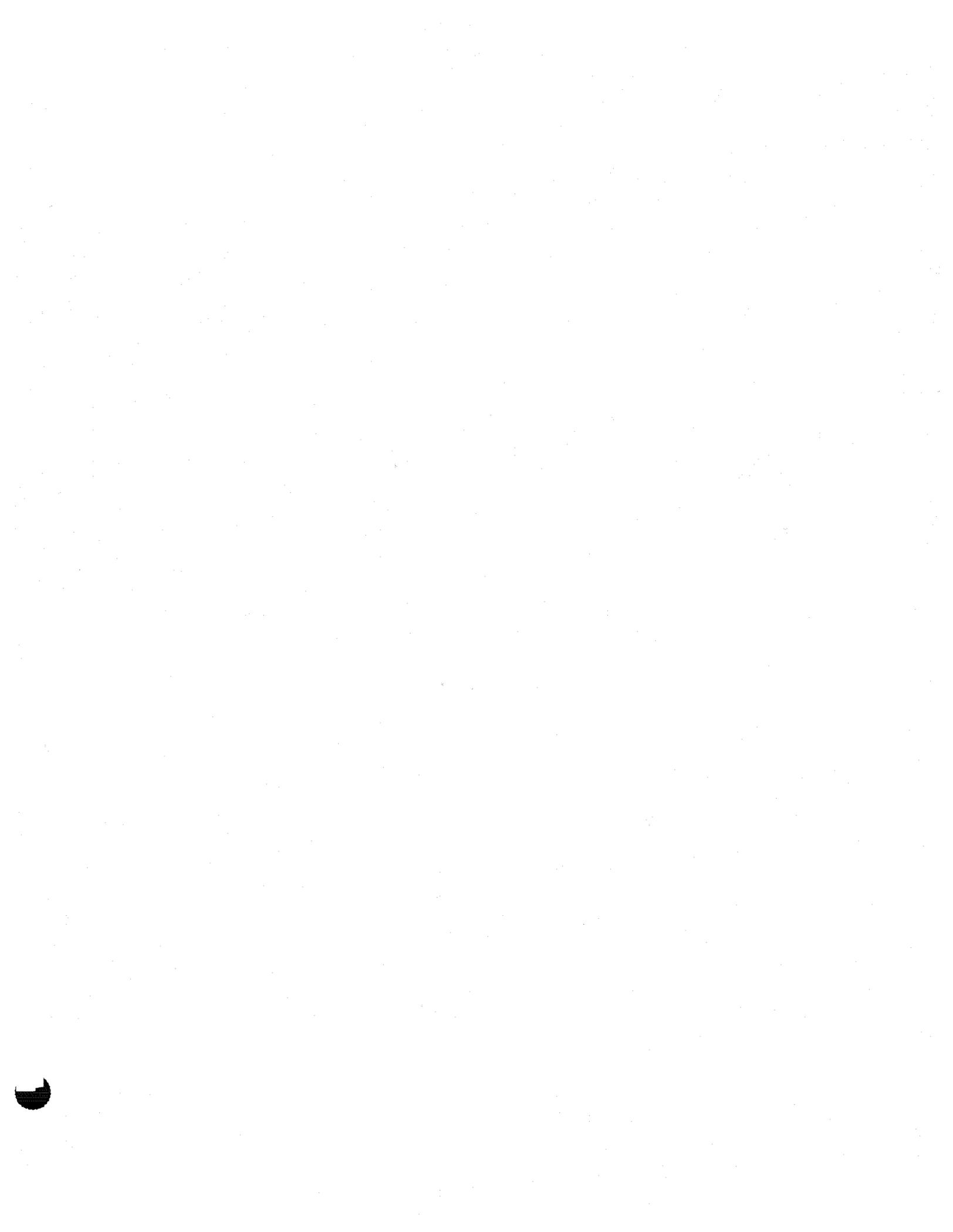
**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

**TCEQ SEP Coordinator:** N/A

**Respondent:** Michael Johnson, Vice President, Renewable Energy, MURPHY OIL USA, INC., P.O. Box 7000, El Dorado, Arkansas 71731-7000  
Regan K. Howell, General Manager, Hereford Renewable Energy, LLC, 4300 County Road 8, Hereford, Texas 79045

**Respondent's Attorney:** Sara M. Burgin, Baker Botts L.L.P., 98 San Jacinto Boulevard, Suite 1500, Austin, Texas 78701-4078





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	28-Apr-2011	Screening	29-Apr-2011	EPA Due	
	PCW	2-May-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC
Reg. Ent. Ref. No.	RN104607833
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	41444	No. of Violations	1
Docket No.	2011-0664-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
---	-------------------	----------------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>0.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
---------------------------	-------------------------	--------------------------------	------------

Notes: No adjustment for compliance history.

<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	----	-------------------------	-------------------	------------

Notes: The Respondents do not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
--	-------------------	------------

<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
-------------------------	--------------------------	-------------------	------------

Total EB Amounts	\$268
Approx. Cost of Compliance	\$5,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,000</b>
-----------------------------	-----------------------	----------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
---	-------------	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,000</b>
-----------------------------	----------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,000</b>
-----------------------------------	-------------------------------	----------------

<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$200</b>
-----------------	------------------------	-------------------	---------------

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

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$800</b>
------------------------	--------------

Screening Date 29-Apr-2011

Docket No. 2011-0664-IWD-E

PCW

MURPHY OIL USA, INC. and Hereford Renewable

Respondent Energy, LLC

Policy Revision 2 (September 2002)

Case ID No. 41444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104607833

Media [Statute] Water Quality

Enf. Coordinator JR Cao

### 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 ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

>> 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

No adjustment for compliance history.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

Screening Date 29-Apr-2011

Docket No. 2011-0664-IWD-E

PCW

Respondent MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC

Policy Revision 2 (September 2002)

Case ID No. 41444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104607833

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0004822000 Special Provisions D

Violation Description Failed to provide a minimum total effluent evaporation pond capacity of 82.0 acre-feet. Specifically, the Respondents constructed two evaporation ponds with a minimum total combined capacity of 39.5 acre-feet.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 28

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the violation start date (April 01, 2011) to the screening date (April 29, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$268

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

## Economic Benefit Worksheet

**Respondent** MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC

**Case ID No.** 41444

**Reg. Ent. Reference No.** RN104607833

**Media** Water Quality

**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	\$5,000	1-Apr-2011	26-Apr-2012	1.07	\$268	n/a	\$268
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit modification. Date required is the date of the violation. Final date is the anticipated date of compliance.

### 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

\$5,000

**TOTAL**

\$268

# Compliance History

Customer/Respondent/Owner-Operator: CN603725417 Hereford Renewable Energy, LLC Classification: AVERAGE Rating: 1.50

Regulated Entity: RN104607833 HEREFORD RENEWABLE ENERGY Classification: HIGH Site Rating: 0.00

ID Number(s):

STORMWATER	PERMIT	TXR150L71
AIR NEW SOURCE PERMITS	PERMIT	75818
AIR NEW SOURCE PERMITS	AFS NUM	4811700024
WASTEWATER	PERMIT	WQ0004822000
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	DDA001A

Location: LOCATED SOUTH OF THE INTERSECTION OF UNITED STATES HIGHWAY 60 AND COUNTY ROAD 8, ACROSS UNITED STATES HIGHWAY 60 FROM THE HEREFORD MUNICIPAL AIRPORT, AND NORTHEAST OF HEREFORD IN DEAF SMITH COUNTY, TEXAS

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: April 29, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 29, 2006 to April 29, 2011

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

Name: JR Cao Phone: (512) 239-2543

## 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?
 

OWNOPR	Hereford Renewable Energy, LLC
OWN	Murphy Oil USA, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)?
 

OWNOPR	Ethanol Acquisition, LLC
OWNOPR	Panda Hereford Ethanol, L.P.
OWNOPR	Ethanol Acquisition, LLC
OWN	Panda Hereford Ethanol, L.P.
5. When did the change(s) in owner or operator occur?
 

06/11/2009	OWN	Panda Hereford Ethanol, L.P.
08/04/2009	OWNOPR	Ethanol Acquisition, LLC
10/29/2009	OWNOPR	Panda Hereford Ethanol, L.P.
08/27/2010	OWNOPR	Ethanol Acquisition, LLC
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.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/12/2008	(709952)		3	04/04/2011	(908575)
	2	08/02/2009	(764101)		4	04/28/2011 (914542)

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

N/A

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

# Compliance History

Customer/Respondent/Owner-Operator: CN601187875 MURPHY OIL USA, INC. Classification: AVERAGE Rating: 2.92

Regulated Entity: RN104607833 HEREFORD RENEWABLE ENERGY, LLC Classification: HIGH Site Rating: 0.00

ID Number(s):  
 STORMWATER PERMIT TXR150L71  
 AIR NEW SOURCE PERMITS PERMIT 75818  
 AIR NEW SOURCE PERMITS AFS NUM 4811700024  
 WASTEWATER PERMIT WQ0004822000  
 AIR EMISSIONS INVENTORY ACCOUNT NUMBER DDA001A

Location: LOCATED SOUTH OF THE INTERSECTION OF UNITED STATES HIGHWAY 60 AND COUNTY ROAD 8, ACROSS UNITED STATES HIGHWAY 60 FROM THE HEREFORD MUNICIPAL AIRPORT, AND NORTHEAST OF HEREFORD IN DEAF SMITH COUNTY, TEXAS

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: August 10, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 10, 2006 to August 10, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: JR Cao Phone: (512) 239-2543

## 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?
 

OWNOPR	Hereford Renewable Energy, LLC
OWN	Murphy Oil USA, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)?
 

OWNOPR	Ethanol Acquisition, LLC
OWNOPR	Panda Hereford Ethanol, L.P.
OWNOPR	Ethanol Acquisition, LLC
OWN	Panda Hereford Ethanol, L.P.
5. When did the change(s) in owner or operator occur?
 

06/11/2009	OWN	Panda Hereford Ethanol, L.P.
08/04/2009	OWNOPR	Ethanol Acquisition, LLC
10/29/2009	OWNOPR	Panda Hereford Ethanol, L.P.
08/27/2010	OWNOPR	Ethanol Acquisition, LLC
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.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/02/2009 (764101)

2 04/04/2011 (908575)

3 04/28/2011 (914542)

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

N/A

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  
MURPHY OIL USA, INC. AND  
HEREFORD RENEWABLE  
ENERGY, LLC  
RN104607833**

**§  
§  
§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0664-IWD-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 MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents, represented by Sara M. Burgin of the law firm of Baker Botts L.L.P., appear before the Commission and together stipulate that:

1. MURPHY OIL USA, INC. owns and Hereford Renewable Energy, LLC operates an ethanol fuel manufacturing facility located south of the intersection of United States Highway 60 and County Road 8, across United States Highway 60 from the Hereford Municipal Airport, and northeast of Hereford, in Deaf Smith County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about June 7, 2011.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Dollars (\$1,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Eight Hundred Dollars (\$800) of the administrative penalty and Two Hundred Dollars (\$200) is deferred contingent upon the Respondents' 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 Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents 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 Respondents 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 Respondents have implemented the following corrective measures at the Facility:
  - a. By December 22, 2010, submitted a permit amendment application to reduce effluent flow and reduce the minimum surface area and total capacity of the evaporation ponds. The permit application was declared administratively and technically complete on February 25, 2011 and April 29, 2011, respectively; and
  - b. By April 1, 2011, reduced the amount of discharge of utility wastewater to the evaporation pond system to ensure adequate treatment.
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 Respondents have 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 Facility, the Respondents are alleged to have failed to provide a minimum total effluent evaporation pond capacity of 82.0 acre-feet, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0004822000 Special Provisions D, as documented during a record review conducted on April 27, 2011. Specifically, the Respondents constructed two evaporation ponds with a total minimum combined capacity of 39.5 acre-feet.

## III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' 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: MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC, Docket No. 2011-0664-IWD-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. MURPHY OIL USA, INC. and Hereford Renewable Energy, LLC are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the Respondents shall undertake the following technical requirements:
  - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
  - b. Within 330 days after the effective date of this Agreed Order, submit written certification of compliance that the permit amendment has been obtained or operations have ceased until such time that appropriate authorization has been obtained, in accordance with Ordering Provision No. 3.c below; and

- c. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Water Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondents fail 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive 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 Respondents 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 Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, 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

DDU for R. Hyde  
For the Executive Director

10-25-11  
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.

Michael Johnson  
Signature

6/24/11  
Date

MICHAEL JOHNSON  
Name (Printed or typed)  
Authorized Representative of  
MURPHY OIL USA, INC.

Vice President, Renewable Energy  
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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*D. Hyde* for R. Hyde  
For the Executive Director

10-25-11  
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.

*Regan K. Howell*  
Signature

6/27/2011  
Date

REGAN K. HOWELL  
Name (Printed or typed)  
Authorized Representative of  
Hereford Renewable Energy, LLC

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.