

**Executive Summary – Enforcement Matter – Case No. 41580
NuStar Terminals Partners TX L.P.
RN100218767
Docket No. 2011-0689-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 Terminal 1, 201 Dock Road, Texas City, Galveston County

Type of Operation:

Petroleum and chemical storage terminal

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 19, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$4,300

Amount Deferred for Expedited Settlement: \$860

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,720

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$1,720

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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Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: February 23, 2011
Date(s) of NOE(s): April 20, 2011

Violation Information

Failed to submit the annual Permit Compliance Certification (“PCC”) within 30 days after the end of the compliance period. Specifically, the PCC for the compliance period from August 19, 2009 to August 18, 2010, was due September 17, 2010 but was not received until April 7, 2011 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(1) and 122.146(2), Federal Operating Permit No. O983, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By April 7, 2011, the Respondent:

- a. Submitted the annual PCC for the compliance period from August 19, 2009 to August 18, 2010; and
- b. Revised procedures and completed training to ensure that the correct PCC forms are used and the PCC is submitted in a timely manner.

Technical Requirements:

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

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TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Kyle Oppliger, Vice President & General Manager, NuStar Terminals
Partners TX L.P., 3033 Marina Bay Drive, League City, Texas 77573

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0689-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	NuStar Terminals Partners TX L.P.
Payable Penalty Amount:	Three Thousand Four Hundred Forty Dollars (\$3,440)
SEP Amount:	One Thousand Seven Hundred Twenty Dollars (\$1,720)
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

NuStar Terminals Partners TX L.P.
Agreed Order - Attachment A

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

DATES

Assigned	26-Apr-2011	Screening	5-May-2011	EPA Due	15-Jan-2012
PCW	12-May-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	NuStar Terminals Partners TX L.P.		
Reg. Ent. Ref. No.	RN100218767		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41580	No. of Violations	1
Docket No.	2011-0689-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Enhancement for three orders with denial of liability, five same/similar NOVs and six dissimilar NOVs.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 5-May-2011

Docket No. 2011-0689-AIR-E

PCW

Respondent NuStar Terminals Partners TX L.P.

Policy Revision 2 (September 2002)

Case ID No. 41580

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218767

Media [Statute] Air

Enf. Coordinator Nadia Hameed

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>)	5	25%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	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) 97%

>> **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 three orders with denial of liability, five same/similar NOVs and six dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 97%

Screening Date 5-May-2011

Docket No. 2011-0689-AIR-E

PCW

Respondent NuStar Terminals Partners TX L.P.

Policy Revision 2 (September 2002)

Case ID No. 41580

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218767

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.146(1) and 122.146(2), Federal Operating Permit No. O983, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the annual Permit Compliance Certification ("PCC") within 30 days after the end of the compliance period. Specifically, the PCC for the compliance period from August 19, 2009 to August 18, 2010, was due September 17, 2010 but was not received until April 7, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes: 100 percent of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 202

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

Violation Base Penalty \$2,500

One single event is recommended for the late certification.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes: The Respondent completed the corrective actions on April 7, 2011, prior to the April 20, 2011 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$4,300

This violation Final Assessed Penalty (adjusted for limits) \$4,300

Economic Benefit Worksheet

Respondent NuStar Terminals Partners TX L.P.
Case ID No. 41580
Reg. Ent. Reference No. RN100218767
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
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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	\$500	17-Sep-2010	7-Apr-2011	0.55	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	17-Sep-2010	7-Apr-2011	0.55	\$7	n/a	\$7

Notes for DELAYED costs

Estimated expense for submitting the PCC and for implementing procedures and training to ensure that all PCCs are submitted on the correct forms and in a timely manner. The date required is the date the PCC was due. The final date is the date the 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

\$750

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator: CN603355892 NuStar Terminals Partners TX L.P. Classification: AVERAGE Rating: 7.52

Regulated Entity: RN100218767 TEXAS CITY TERMINAL 1 Classification: AVERAGE Site Rating: 15.76

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	GB0005J
AIR OPERATING PERMITS	PERMIT	983
WASTE WATER GENERAL PERMIT	PERMIT	TXG670055
POLLUTION PREVENTION PLANNING	ID NUMBER	P01280
AIR NEW SOURCE PERMITS	PERMIT	91A
AIR NEW SOURCE PERMITS	PERMIT	945
AIR NEW SOURCE PERMITS	PERMIT	1677
AIR NEW SOURCE PERMITS	PERMIT	2395
AIR NEW SOURCE PERMITS	PERMIT	3224
AIR NEW SOURCE PERMITS	PERMIT	6880
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	GB0005J
AIR NEW SOURCE PERMITS	REGISTRATION	94944
AIR NEW SOURCE PERMITS	AFS NUM	4816700011
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD096036561
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	31060
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31060
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	GB0005J

Location: 201 DOCK RD, TEXAS CITY, TX, 77592

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 04, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 04, 2006 to May 04, 2011

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

Name: Nadia Hameed Phone: 713-767-3629

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	Wayne E. Glenn Associates, Inc.
OWNOPR	Air Products, L.P.
OWNOPR	Air Products LLC
OWNOPR	NuStar Terminals Partners TX L.P.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR NuStar Terminals Texas, Inc.
5. When did the change(s) in owner or operator occur? 02/13/2009 OWNOPR NuStar Terminals Texas, Inc.
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: 10/19/2006

ADMINORDER 2006-0449-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THC Chapter 382, SubChapter D 382.085(a)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: StanTrans is alleged to have emitted into the atmosphere fumes of ethyl acrylate in such concentration and duration as to adversely affect human health or welfare or interfere with the normal use and enjoyment of property.

Effective Date: 12/20/2008

ADMINORDER 2008-0905-AIR-E

Classification: Major

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

Description: Failed to timely submit a compliance certification. Specifically, the compliance certification for the period August 19, 2006 through August 18, 2007 was not submitted until March 10, 2008, while the due date was September 18, 2007.

Effective Date: 05/03/2009

ADMINORDER 2008-1799-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: TCEQ Air Permit #1677, SC# 1 PA

Description: Failure to prevent unauthorized emissions, specifically Nustar failed to open the vent line block valve during the loading of tank 1017.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(f)
5C THSC Chapter 382 382.085(b)

Description: Nustar failed to provided the additional information to TCEQ within the time established in the request.

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	06/22/2006	(462108)
2	07/11/2006	(466002)
3	11/27/2006	(515178)
4	12/29/2006	(535501)
5	07/05/2007	(554968)
6	05/10/2007	(559919)
7	07/30/2007	(568454)
8	10/05/2007	(572065)
9	10/05/2007	(595105)
10	04/16/2008	(597486)

11 02/13/2008 (613547)
 12 05/30/2008 (654708)
 13 10/31/2008 (688229)
 14 11/26/2008 (689622)
 15 06/10/2009 (703408)
 16 09/02/2009 (741211)
 17 04/28/2010 (759762)
 18 08/28/2009 (765506)
 19 02/16/2010 (781359)
 20 01/28/2010 (785002)
 21 04/27/2010 (794648)
 22 10/19/2010 (857921)
 23 10/04/2010 (864787)
 24 02/14/2011 (894525)
 25 04/20/2011 (901484)
 26 04/06/2011 (906918)

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

Date: 06/22/2006(462108)
 Self Report? NO Classification: Moderate
 Citation: 1677, SC No. 1 PA
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Exceeded permit limits during an avoidable emissions event.

Date: 07/11/2006 (466002)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 Description: Failure to report deviations.

Self Report? NO Classification: Moderate
 Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(a)(3)(i)
 Description: Failure to provide inspection notification.

Self Report? NO Classification: Moderate
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
 Description: Failure to properly design and operate flares

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
 Description: Failure to record flare observations

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)
 Description: Failure to comply with control requirements.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(1)
 Description: Failure to conduct inspections.

Date: 07/05/2007 (554968) CN603355892
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(3)(B)
Description: 30 Tex. Admin. Code 115.212(a)(3)(B), which states that all land-based VOC transfer to or from transport vessels shall be conducted such that there are no VOC leaks, as defined in §101.1 of this title (relating to Definitions)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(2)(E)
Description: 30Tex. Admin. Code 115.112(a)(2)(E), which states that there must be no visible holes, tears, or other openings in any seal or seal fabric.

Date: 08/01/2007 (568454)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)
5C THC Chapter 382, SubChapter A 382.014
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to submit a 2006 Emission Inventory, Category B19(g)(3)

Date: 11/28/2007 (597053)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
Description: During the investigation that was conducted on October 1, 2007, it was determined by the investigators that NuStar Energy had created a "nuisance" odor.

Date: 06/10/2009 (703408)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: failed to report recordable events as deviations in the semiannual deviation report and annual permit compliance certification report for the period of August 19, 2007 to August 18, 2008. (Category C3 violation)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(2)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition #15 OP
Special Terms and Condition #1A OP
TCEQ NSR Permit No. 1677, SC#15D PA

Description: Failure to perform an annual tank seal inspection on Tank 4004 at least once every 12 months. (Category C3 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.115b(a)(3)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition #1A OP

Description: Failure to submit tank notifications for the Group Tank 8 Kb storage tanks within 30 days of when construction commenced. (Category B3 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms & Conditions #14 OP

Description: Failure to maintain and record monitoring data which indicates the presence of a pilot flame, alarm events, and duration of alarm events once per hour GRP Tank 1, GRP Tank 2, GRP Tank 3, GRP Tank 4, GRP Tank 5, GRP Tank 6, GRP Tank 9 and TK 705. The monitoring data for periods between August 19, 2007 to August 18, 2008 were not available. (Category B1 violation)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions #14 OP

Description: Failure to monitor flare 3 visible emissions with adequate daylight for the period of August 19, 2007 through August 18, 2008. (Category B1 violation)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(1)(A)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions #1A OP
Description: Failure to monitor sixteen (16) valves at 500 ppm rather than 10,000 ppm for fugitives. The regulated entity indicated that the fugitive emissions monitoring program has been changed to reflect a 500 ppm leak level for all valves.
(Category C3 violation)

Date: 01/28/2010 (785002) CN603355892
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(1)
5C THSC Chapter 382 382.085(b)
Permit O-0983, GT&C OP
Description: Failure to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance.

Date: 02/16/2010 (781359)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4
30 TAC Chapter 350, SubChapter A 350.2(h)
TWC Chapter 26 26.121
TWC Chapter 26 26.266
Description: Failure to prevent and clean-up spills/discharges of hazardous materials.

Date: 10/19/2010 (857921)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4
30 TAC Chapter 350, SubChapter A 350.2(h)
TWC Chapter 26 26.121
TWC Chapter 26 26.266
Description: Failure to prevent and clean-up spills/discharges of hazardous materials.

Date: 04/06/2011 (906918)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4
30 TAC Chapter 350, SubChapter A 350.2(h)
TWC Chapter 26 26.121
TWC Chapter 26 26.266
Description: Failure to prevent and clean-up spills/discharges of hazardous materials.

Date: 04/20/2011 (901484) CN603355892
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
Permit 983, GT&C OP
Description: Failure to comply with 30 TAC 122 by not including all recordable emissions events as deviations.

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 TERMINALS
PARTNERS TX L.P.
RN100218767

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0689-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 Terminals Partners TX 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 and chemical storage terminal at 201 Dock Road in Texas City, Galveston 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 April 25, 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 Four Thousand Three Hundred Dollars (\$4,300) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid One Thousand Seven Hundred Twenty Dollars (\$1,720) of the administrative penalty and Eight Hundred Sixty Dollars (\$860) 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. One Thousand Seven Hundred Twenty Dollars (\$1,720) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by April 7, 2011, the Respondent has implemented the following corrective measures at the Plant:
 - a. Submitted the annual Permit Compliance Certification ("PCC") for the compliance period from August 19, 2009 to August 18, 2010; and
 - b. Revised procedures and completed training to ensure that the correct PCC forms are used and the PCC is submitted in a timely manner.
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 submit the annual PCC within 30 days after the end of the compliance period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(1) and 122.146(2), Federal Operating Permit No. O983, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 23, 2011. Specifically, the PCC for the compliance period from August 19, 2009 to August 18, 2010, was due September 17, 2010 but was not received until April 7, 2011.

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 Terminals Partners TX L.P., Docket No. 2011-0689-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, One Thousand Seven Hundred Twenty Dollars (\$1,720) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/27/11

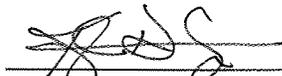
Date

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

07.12.2011

Date

Kyle Oppiger
Name (Printed or typed)
Authorized Representative of
NuStar Terminals Partners TX L.P.

VP & 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: 2011-0689-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: NuStar Terminals Partners TX L.P.

Payable Penalty Amount: Three Thousand Four Hundred Forty Dollars (\$3,440)

SEP Amount: One Thousand Seven Hundred Twenty Dollars (\$1,720)

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

NuStar Terminals Partners TX L.P.
Agreed Order - Attachment A

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.