

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1205-AIR-E TCEQ ID: RN100224815 CASE NO.: 40084
RESPONDENT NAME: KM Liquids Terminals LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Pasadena Terminal, 530 Witter Street, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Petroleum bulk storage plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2009-0759-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Bruce Tylock, Regional Manager - EHS, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547 Mr. Harold King, Vice President, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 31, 2010</p> <p>Date of NOV/NOE Relating to this Case: July 1, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>AIR</p> <p>Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,551.69 pounds of volatile organic compounds from Tank 150-66 during an emissions event that began on August 15, 2009 and lasted 21 hours and 48 minutes (Incident No. 136110) due to an excess fill rate while Tank 150-66 was being refilled. Since this emissions event was not caused by a sudden breakdown of equipment or process that was beyond the control of the owner or operator, the emissions event stemmed from an activity that could have been foreseen and avoided, and the amount and duration of the unauthorized emissions were not minimized; 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), TCEQ Air Permit No. 5171, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$4,550</p> <p>Total Deferred: \$910 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,640</p> <p>Compliance History Classification: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 19, 2010, the Respondent adjusted its operating practices such that for roof landings and refilling, vapors will be routed to the control device in order to prevent a reoccurrence of emissions events similar to Incident No. 136110.</p>

Additional ID No(s): HGo261J



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Jul-2010	Screening	26-Jul-2010	EPA Due	28-Mar-2011
	PCW	13-Aug-2010				

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

CASE INFORMATION			
Enf./Case ID No.	40084	No. of Violations	1
Docket No.	2010-1205-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		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** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **107.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,675**

Notes
 Penalty enhancement due to two agreed orders containing a denial of liability, two agreed orders without a denial of liability, two NOVs for same or similar violations, and four NOVs with dissimilar violations. Penalty reduction due to one notice of audit letter submitted.

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

Notes
 The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$625**

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

Total EB Amounts **\$116**
 Approx. Cost of Compliance **\$4,500**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$4,550**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$4,550**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$4,550**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$910**

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 **\$3,640**

Screening Date 26-Jul-2010

Docket No. 2010-1205-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 2 (September 2002)

Case ID No. 40084

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Kimberly Morales

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>)	2	10%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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>)	1	-1%
	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%

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) 107%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Penalty enhancement due to two agreed orders containing a denial of liability, two agreed orders without a denial of liability, two NOVs for same or similar violations, and four NOVs with dissimilar violations. Penalty reduction due to one notice of audit letter submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 107%

Screening Date 26-Jul-2010

Docket No. 2010-1205-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 2 (September 2002)

Case ID No. 40084

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), TCEQ Air Permit No. 5171, Special Condition No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,551.69 pounds of volatile organic compounds from Tank 150-66 during an emissions event that began on August 15, 2009 and lasted 21 hours and 48 minutes (Incident No. 136110) due to an excess fill rate while Tank 150-66 was being refilled. Since this emissions event was not caused by a sudden breakdown of equipment or process that was beyond the control of the owner or operator, the emissions event stemmed from an activity that could have been foreseen and avoided, and the amount and duration of the unauthorized emissions were not minimized; 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 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

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 corrective actions on February 19, 2010, prior to the July 1, 2010 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$116

Violation Final Penalty Total \$4,550

This violation Final Assessed Penalty (adjusted for limits) \$4,550

Economic Benefit Worksheet

Respondent KM Liquids Terminals LLC
Case ID No. 40084
Reg. Ent. Reference No. RN100224815
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
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)	\$4,500	15-Aug-2009	19-Feb-2010	0.52	\$116	n/a	\$116

Notes for DELAYED costs

Estimated cost to ensure the proper operational practices during refilling of Tank 150-66. The Date Required is the start date of the emissions event. The Final Date is date that 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

\$4,500

TOTAL

\$116

Compliance History Report

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

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0261J
	AIR OPERATING PERMITS	PERMIT	984
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD070137161
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	30772
	WASTEWATER	EPA ID	TX0063576
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	27315
	AIR NEW SOURCE PERMITS	PERMIT	5171
	AIR NEW SOURCE PERMITS	PERMIT	8477
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0261J
	AIR NEW SOURCE PERMITS	REGISTRATION	75933
	AIR NEW SOURCE PERMITS	REGISTRATION	75567
	AIR NEW SOURCE PERMITS	REGISTRATION	74333
	AIR NEW SOURCE PERMITS	REGISTRATION	75160
	AIR NEW SOURCE PERMITS	REGISTRATION	76487
	AIR NEW SOURCE PERMITS	AFS NUM	4820100092
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30772
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0261J

Location: 530 WITTER ST, PASADENA, TX, 77506

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 26, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 26, 2005 to July 26, 2010

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

Name: Kimberly Morales Phone: (713) 422-8938

Site Compliance History Components

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

10 08/14/2006 (457292)
 11 10/27/2006 (515175)
 12 01/04/2007 (534584)
 13 05/04/2007 (487160)
 14 08/16/2007 (512634)
 15 09/19/2007 (572769)
 16 02/15/2008 (618701)
 17 07/22/2008 (637064)
 18 08/28/2008 (681445)
 19 09/05/2008 (618338)
 20 12/18/2008 (709510)
 21 01/29/2009 (724501)
 22 02/23/2009 (704845)
 23 05/12/2009 (745342)
 24 07/24/2009 (741151)
 25 08/13/2009 (759916)
 26 08/25/2009 (749777)
 27 09/03/2009 (747016)
 28 11/19/2009 (778047)
 29 02/22/2010 (791047)
 30 06/16/2010 (827062)
 31 06/30/2010 (800166)
 32 07/01/2010 (794348)
 33 07/26/2010 (726943)

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

Date: 08/30/2005 (405934) CN603254707
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 FOP# 0984, SC17(A) OP
 NSR Permit# 5171, SC#3 PERMIT
 Description: Failure to operate without permit by rule authorization
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 FOP# 0984, SC 17(A) OP
 NSR Permit No. 49042, SC #4 PERMIT
 Description: Failure to implement the fugitive monitoring program
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(1)(ii)
 FOP# 0984, SC 1(A) OP
 Description: Failure to perform a yearly seal gap inspection for T130-8
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 FOP # 0984, General Terms and Conditions OP
 Description: Failure to include in the deviation report two spill incidents of unauthorized emissions which occurred on 8/5/04 and 1/5/05.

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

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)(9)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to maintain complete records of Scheduled Maintenance, Startup and Shutdown activities.

Date: 05/19/2006 (463933) CN603254707
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
TCEQ Permit #5171, Special Condition 1 PERMIT
Description: Failure to prevent unauthorized emissions.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)
Description: Failure to include in the final report, the preconstruction authorization number governing the facility involved in an emissions event.

Date: 08/16/2007 (512634) CN603254707
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(5)
5C THC Chapter 382, SubChapter D 382.085(b)
O-0984, Special Terms & Cond. No. 1(A) OP
Description: Failure to notify TCEQ 30 days in advance of storage tank seal gap measurement activities.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 5171, Special Conditin No. 15 PERMIT
O-0984, Special Terms & Cond. No. 15 OP
Description: Failure to limit the storage of materials to those approved by NSR Permit No. 5171, Attachment B.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(4)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 5171, Special Condition No. 11 PERMIT
O-0984, Special Terms & Cond. No. 17 OP
Description: Failure to repair a seal on Tank No. 150-23 within the required time frame.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(6)(ii)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 5171, Special Condition No. 11 PERMIT
O-0984, Special Terms & Cond. No. 17 OP
Description: Failure to submit tank refill notification to TCEQ for Tank Nos. 200-3 and 130-7.

Date: 08/25/2009 (749777) CN603254707
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition 24A PERMIT

Special Condition 24C PERMIT

Description: Failure to demonstrate a VOC destruction efficiency of 90% for the portable thermal oxidizer used in degassing operations (Category B18 violation)

Date: 09/03/2009 (747016)

CN603254707

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 1A OP

Description: failure to maintain the permitted True Vapor Pressure

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 14 OP
SC 2 PERMIT

Description: failure to meet the withdrawal rate for VAM

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 16 PERMIT
Special Condition 14 OP

Description: failure to refloat or degas tank (T150-33) within 72 hour

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(1)
30 TAC Chapter 115, SubChapter B 115.114(a)(2)
30 TAC Chapter 115, SubChapter B 115.114(a)(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(1)
5C THSC Chapter 382 382.085(b)
SC 11D PERMIT
SC 14 OP
SC 1A OP
SC 9 PERMIT

Description: failed to conduct visual tank inspection

Self Report? NO Classification: Minor

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

Description: failed to conduct visual inspection after tank (T150-56) is emptied and degassed.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.424(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.424(b)
5C THSC Chapter 382 382.085(b)
SC 10 PERMIT
SC 12E PERMIT
SC 14 OP

SC 19A PERMIT
 SC 1A OP
 Description: failure to conduct monthly Audio/ Visual / Olfactory (AVO) inspections.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)
 5C THSC Chapter 382 382.085(b)
 SC 11 D PERMIT
 SC 14 OP
 SC 1A OP
 SC 7 OP
 SC 9 PERMIT
 Description: failure to notify the TCEQ 30 days in advance of tank inspections.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 SC 14A OP
 SC 20 PERMIT
 Description: failed to record the temperature for the vapor combustors unit (TKVCU-1 and TKVCU-2)
 Self Report? NO Classification: Moderate
 Citation: 1A OP
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)(iv)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(2)(ii)
 5C THSC Chapter 382 382.085(b)
 SC 14A OP
 SC 24G PERMIT
 SC 9 PERMIT
 Description: failed to maintain that sample ports are vapor-tight for tanks (T75-1, T55-5, T27-3, T150-7, T150-69, T150-71, T150-72, T150-73, T150-56, T150-57, T150-66, T150-65, T150-59, and T150-58).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.143
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Description: failure to submit a deviation

F. Environmental audits.

Notice of Intent Date: 10/12/2009 (784663)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KM LIQUIDS TERMINALS LLC
RN100224815**

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

AGREED ORDER DOCKET NO. 2010-1205-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KM Liquids Terminals LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a petroleum bulk storage plant at 530 Witter Street in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 6, 2010.
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 Five Hundred Fifty Dollars (\$4,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Six Hundred Forty Dollars

(\$3,640) of the administrative penalty and Nine Hundred Ten Dollars (\$910) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on February 19, 2010, the Respondent adjusted its operating practices such that for roof landings and refilling, vapors will be routed to the control device in order to prevent a reoccurrence of emissions events similar to Incident No. 136110.
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 prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TCEQ Air Permit No. 5171, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 31, 2010. Specifically, the Respondent released 1,551.69 pounds of volatile organic compounds from Tank 150-66 during an emissions event that began on August 15, 2009 and lasted 21 hours and 48 minutes (Incident No. 136110) due to an excess fill rate while Tank 150-66 was being refilled. Since this emissions event was not caused by a sudden breakdown of equipment or process that was beyond the control of the owner or operator, the emissions event stemmed from an activity that could have been foreseen and avoided, and the amount and duration of the unauthorized emissions were not minimized; 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: KM Liquids Terminals LLC, Docket No. 2010-1205-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolter

For the Executive Director

11/10/2010

Date

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

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

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

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

Harold King

Signature

Sept 30, 2010

Date

Harold King

Name (Printed or typed)
Authorized Representative of
KM Liquids Terminals LLC

Vice President

Title

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