

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0241-AIR-E

RN101694933

CASE NO. 39152

RESPONDENT NAME: THE KIPPUR CORPORATION

ORDER TYPE:		
<input type="checkbox"/> AGREED ORDER	<input checked="" 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 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

SITE WHERE VIOLATION(S) OCCURRED: 8770 Castner Drive, El Paso, El Paso County

TYPE OF OPERATION: Dual-chamber waste incinerator

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement action regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired January 10, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Jeffrey J. Huhn, Litigation Division, MC R-13, (210) 403-4023
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Kirk Schoppe, Air Enforcement Section, MC 149, (512) 239-0489

TCEQ Regional Contact: Mr. Kent Waggoner, El Paso Regional Office, MC R-6, (915) 834-4957

Respondent: Mr. Gary Kippur, President, The Kippur Corporation, P.O. Box 28898, Tucson, Arizona 85726-8898

Respondent's Attorney: Mr. Irvin L. Bilsky, P.O. Box 26044, Austin, Texas 78755

**RESPONDENT NAME: THE KIPPUR CORPORATION
DOCKET NO. 2010-0241-AIR-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint: N/A</p> <p>Date of Investigation: December 9, 2009</p> <p>Date of NOE: January 23, 2010</p> <p>Background Facts: The EDRP was filed on August 26, 2010. Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed on November 3, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation demonstrating compliance with the technical requirements.</p> <p>AIR: Failed to conduct Method 9 testing [TCEQ Agreed Order Docket No. 2004-0799-AIR-E, Ordering Provision No. 2.b., 30 TEX. ADMIN. CODE § 101.8(a), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$16,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$16,000</p> <p>Respondent paid the administrative penalty in full.</p> <p>Compliance History Classifications: <i>Person/CN</i> – Poor <i>Site/RN</i> – Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: Indifference to legal duty based on violation of a previous order.</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 45 days, provide written notification of the date and time that the visible emissions test referenced in Ordering Provision No. 2 will occur. 2. Within 60 days, demonstrate that emissions from the waste incinerator at the Plant meet opacity limits by conducting a visible emissions test in accordance with 40 C.F.R. Part 60, Appendix A, Test Method 9. 3. Within 90 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	25-Jan-2010	Screening	12-Feb-2010	EPA Due	
	PCW	3-Feb-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	The Kippur Corporation
Reg. Ent. Ref. No.	RN101694933
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	39152	No. of Violations	1	
Docket No.	2010-0241-AIR-E	Order Type	Findings	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Kirk Schoppe	
		EC's Team	Enforcement Team 4	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	60.0% Enhancement	Subtotals 2, 3, & 7	\$6,000
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Notes The penalty was enhanced due to two Findings Orders and poor performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$412
 Approx. Cost of Compliance \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$16,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$16,000
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Screening Date 12-Feb-2010

Docket No. 2010-0241-AIR-E

PCW

Respondent The Kippur Corporation

Policy Revision 2 (September 2002)

Case ID No. 39152

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101694933

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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	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 (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 50%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced due to two Findings Orders and poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date	12-Feb-2010	Docket No.	2010-0241-AIR-E	PCW
Respondent	The Kippur Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	39152	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101694933			
Media [Statute]	Air			
Enf. Coordinator	Kirk Schoppe			
Violation Number	1			
Rule Cite(s)	Agreed Order Docket No. 2004-0799-AIR-E Ordering Provision No. 2.b., 30 Tex. Admin. Code § 101.8(a), and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to conduct Method 9 testing. Specifically, the Respondent was required to conduct incinerator opacity testing by September 17, 2005.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential		x	
				Percent 10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%
Matrix Notes	Human health or the environment could have been 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

Violation Events

Number of Violation Events	10	1789	Number of violation days
<i>mark only one with an x</i>	daily		Violation Base Penalty \$10,000
	weekly		
	monthly		
	quarterly		
	semiannual	x	
	annual		
	single event		
Ten semi-annual events are recommended based on the effective date of the Agreed Order, March 21, 2005, to the screening date of February 12, 2010.			

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal \$10,000		

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount	\$412	Violation Final Penalty Total	\$16,000
This violation Final Assessed Penalty (adjusted for limits)			\$16,000

Economic Benefit Worksheet

Respondent The Kippur Corporation
Case ID No. 39152
Reg. Ent. Reference No. RN101694933
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	\$1,500	21-Mar-2005	18-Sep-2010	5.50	\$412	n/a	\$412
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to perform a Method 9 test. The date required is the effective date of the agreed order and the final date is the expected 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

\$1,500

TOTAL

\$412

Compliance History Report

Customer/Respondent/Owner-Operator: CN600916209 The Kippur Corporation Classification: POOR Rating: 85.00
Regulated Entity: RN101694933 KIPPUR Classification: POOR Site Rating: 85.00
ID Number(s): AIR NEW SOURCE PERMITS PERMIT 91547
AIR NEW SOURCE PERMITS REGISTRATION 50074
AIR NEW SOURCE PERMITS ACCOUNT NUMBER 950074P
AIR NEW SOURCE PERMITS AFS NUM 4877701780
AIR NEW SOURCE PERMITS AFS NUM 4877701780
AIR EMISSIONS INVENTORY ACCOUNT NUMBER 950074P
Location: 8770 CASTNER DR, EL PASO, TX, 79907
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: January 28, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 28, 2005 to January 28, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Kirk Schoppe Phone: 239 - 0489

Site Compliance History Components

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

Components (Multimedia) for the Site:

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

Effective Date: 03/21/2005 ADMINORDER 2004-0799-AIR-E
Classification: Major

Citation: 30 TAC Chapter 111, SubChapter A 111.121(5)

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

Description: Failure to comply with the 5% opacity requirement.

Classification: Moderate

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

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

Description: Failure to comply with Emission Events reporting requirements.

Effective Date: 03/23/2006 ADMINORDER 2005-1203-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

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

Description: Failure to control odors resulting in a nuisance condition.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter V 106.491(b)(3)(B)

30 TAC Chapter 116, SubChapter B 116.115(c)

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

Description: Failure to comply with PBR requirement that requires compliance with stack height design requirements referenced in the Permit by Rule 106.491(1)(D).

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(3)
30 TAC Chapter 106, SubChapter V 106.491(d)(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to comply with PBR requirement that requires compliance with the recording keeping referenced in the Permit by Rule 106.491(2)(E) and 106.6 (c)(3).

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A	1	08/30/2005	(418611)
	2	11/21/2007	(600269)
	3	06/04/2009	(747055)
	4	01/11/2010	(786949)
	5	01/22/2010	(785522)

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
THE KIPPUR CORPORATION;
RN101694933**

**§
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§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-0241-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding The Kippur Corporation ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation, and Respondent, represented by Irvin L. Bilsky, presented this agreement to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates a dual-chamber waste incinerator located at 8770 Castner Drive, El Paso, El Paso County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on December 9, 2009, a TCEQ El Paso Regional Office investigator documented that Respondent failed to conduct Method 9 testing. Specifically, Respondent was required to conduct incinerator opacity testing by September 17, 2005.

3. Respondent received notice of the violations on or about January 28, 2010.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent violated TCEQ Agreed Order Docket No. 2004-0799-AIR-E Ordering Provision No. 2.b., 30 TEX. ADMIN. CODE § 101.8(a), and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to conduct Method 9 testing.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of sixteen thousand dollars (\$16,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid sixteen thousand dollars (\$16,000.00) of the administrative penalty.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the violations listed in Conclusions of Law No. 2. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Within 45 days after the effective date of this Agreed Order, Respondent shall provide written notification of the date and time that the visible emissions test will occur, as referenced in Ordering Provision 2.b. to:

Air Quality Program, Code Compliance Supervisor
City of El Paso's Environmental Services
7968 San Paulo Drive
El Paso, Texas 79907

with a copy to:

Kent Waggoner
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

- b. Within 60 days after the effective date of this Agreed Order, Respondent shall demonstrate that emissions from the waste incinerator at the Plant meet the opacity limit in 30 TEX. ADMIN. CODE § 111.121(5) by conducting a visible emissions test in accordance with 40 CODE OF FEDERAL REGULATIONS, Part 60, Appendix A, Test Method 9; and
- c. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Kent Waggoner
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

3. All relief not expressly granted in this Agreed Order is denied.

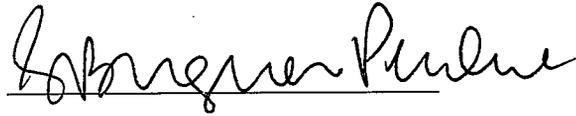
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



11/7/2011

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of The Kippur Corporation. I represent that I am authorized to agree to the attached Agreed Order on behalf of The Kippur Corporation, and do agree to the specified terms and conditions. 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature

11/3/10

Date

GARY KIPPUR

Name (printed or typed)
Authorized Representative
The Kippur Corporation

Pres

Title