CAPTION: Docket No. 2010-1580-MLM-E. Consideration of an Agreed Order assessing administrative penalties against Cray Valley USA, LLC in Harris County; RN102342813; for industrial and hazardous waste and used oil violations pursuant to Tex. Health & Safety Code chs. 361 and 371, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michaelle Sherlock, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1580-MLM-E **TCEQ ID:** RN102342813 **CASE NO.:** 40450

RESPONDENT NAME: Cray Valley USA, LLC

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	X MULTI-MEDIA (check all that apply)	X INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	X USED OIL

SITE WHERE VIOLATION(S) OCCURRED: Cray Valley Wallisville Road, 17335 Wallisville Road, Houston, Harris County

TYPE OF OPERATION: Resin manufacturing facility

SMALL BUSINESS: ___ Yes X No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 4, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Michaelle Sherlock, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4076; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Mohammed Dekiouk, Global Manufacturing Director, Cray Valley USA, LLC, 350 North Saint Paul Street, Suite 2900, Dallas, Texas 75201

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** July 20, 2010 through August 11, 2010 **Date of NOV/NOE Relating to this Case:** September 10, 2010 (NOE) **Background Facts:** This was a routine investigation. **WASTE** 1) Failed to comply with the requirements of 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 265, Subpart J, for tanks storing or treating hazardous waste. Specifically, the secondary containment system contained cracks and gaps making it permeable to an inflow of water from outside of the containment area through an expansion joint [30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CFR §§ 262.34(a)(1)(ii), and 265.193(e)(1)(iii)]. 2) Failed to maintain a five-year pollution prevention plan on-site that can be made available to Commission personnel upon request and failed to provide an executive summary of the pollution prevention plan to the Commission that contains all necessary information. Specifically, the Facility could not provide a copy of the five-year pollution prevention plan for review and the executive summary signed December 22, 2008 did not include all required information [30 TEX. ADMIN. CODE §§ 335.474 and 335.479]. 3) Failed to submit a manifest exception report within 45 days of the date that waste was accepted by an initial transporter. Specifically, the Facility was unable to provide copies of	**Total Assessed:** $18,213 **Total Deferred:** $3,642 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $14,571 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** _X_ Yes __ No (IHW) **Major Source:** ___ Yes _X_ No (Used Oil) **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. On August 11, 2010, the Respondent submitted photographic documentation to show that tank T-512 was labeled with the words "Hazardous Waste"; b. On August 19, 2010, the Respondent submitted documentation to demonstrate that the secondary containment system was repaired on August 19, 2010; c. On August 19, 2010, the Respondent submitted documentation to demonstrate that used oil was being transported by a registered used oil transporter; d. On August 25, 2010, the Respondent submitted documentation to demonstrate that procedures were established to ensure that manifest exception reports are submitted when required; e. On September 24, 2010, the Respondent submitted an updated five-year pollution prevention plan and executive summary; f. On September 27, 2010, the Respondent submitted a schedule for closure of tank T-512 to the TCEQ Remediation Division; and g. On November 29, 2010, the Respondent submitted a copy of the tank assessment for tank T-512.

exception reports or signed manifests for the following shipments to US Oil Recovery: Manifest Nos. 02157869JJK, 003505025JJK, and 003505158JJK [30 TEX. ADMIN. CODE § 335.13(k)]. 4) Failed to ensure that while being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste". Specifically, tank T-512 (Notice of Registration ("NOR") 001) stored hazardous waste and was not marked with the words "Hazardous Waste" [30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3)]. 5) Failed to comply with the requirements of 40 CFR Part 265, Subpart J, for tanks storing or treating hazardous waste. Specifically, tank T-512 (NOR 001) stored hazardous waste and the Facility did not provide a record of the written assessment reviewed and certified by a qualified Professional Engineer [30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CFR § 265.192(g)]. 6) Failed to ensure that used oil is transported by a registered transporter. Specifically, six drums of used oil were transported from the facility by an unregistered transporter, Fluid Reliability Service, on July 13, 2010 [30 TEX. ADMIN. CODE § 324.1 and 40 CFR § 279.24].		

Additional ID No(s).: SWR 37739

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

DATES					
Assigned	13-Sep-2010				
PCW	6-Jan-2011	Screening	22-Sep-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Cray Valley USA, LLC		
Reg. Ent. Ref. No.	RN102342813		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40450	No. of Violations	5
Docket No.	2010-1580-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Michaelle Sherlock
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum: $0 Maximum: $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$18,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 18.0% Enhancement — *Subtotals 2, 3, & 7* **$3,330**

Notes: Enhancement for nine NOVs with dissimilar violations.

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* **$3,850**

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

Total EB Amounts: $73
Approx. Cost of Compliance: $2,216

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$17,980**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$17,980**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$17,980**

DEFERRAL — 20.0% Reduction — *Adjustment* **-$3,596**

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 **$14,384**

Screening Date 22-Sep-2010 **Docket No.** 2010-1580-MLM-E **PCW**

Respondent Cray Valley USA, LLC

Policy Revision 2 (September 2002)

Case ID No. 40450

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342813

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michaelle Sherlock

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	9	18%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 18%

>> 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 nine NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 18%

Screening Date 22-Sep-2010 **Docket No.** 2010-1580-MLM-E **PCW**

Respondent Cray Valley USA, LLC *Policy Revision 2 (September 2002)*

Case ID No. 40450 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342813

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(1)(B) and 40 Code of Federal Regulations ("CFR") §§ 262.34(a)(1)(ii) and 265.193(e)(1)(iii)

Violation Description Failed to comply with the requirements of 40 CFR Part 265, Subpart J, for tanks storing or treating hazardous waste. Specifically, the secondary containment system contained cracks and gaps making it permeable to an inflow of water from outside of the containment area through an expansion joint.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed the levels that are protective of human health or environmental receptors.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events 1 — 30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

One monthly event is recommended from the investigation date of July 20, 2010, to the compliance date of August 19, 2010.

Good Faith Efforts to Comply

25.0% Reduction — $1,250

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

Notes: The Respondent achieved compliance on August 19, 2010.

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $4,650

This violation Final Assessed Penalty (adjusted for limits) $4,650

Economic Benefit Worksheet

Respondent Cray Valley USA, LLC
Case ID No. 40450
Reg. Ent. Reference No. RN102342813
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$1,066	20-Jul-2010	19-Aug-2010	0.08	$0	$6	$6
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)				0.00	$0	n/a	$0

Notes for DELAYED costs: Other costs include the actual amount to repair the secondary containment system, calculated from the initial investigation date to the compliance date.

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 $1,066

TOTAL $6

Screening Date	22-Sep-2010	**Docket No.** 2010-1580-MLM-E	**PCW**
Respondent	Cray Valley USA, LLC		*Policy Revision 2 (September 2002)*
Case ID No.	40450		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102342813		
Media [Statute]	Industrial and Hazardous Waste		
Enf. Coordinator	Michaelle Sherlock		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 335.474 and 335.479

Violation Description Failed to maintain a five-year pollution prevention plan on-site that can be made available to Commission personnel upon request and failed to provide an executive summary of the pollution prevention plan to the Commission that contains all necessary information. Specifically, the Facility could not provide a copy of the five-year pollution prevention plan for review and the executive summary signed December 22, 2008 did not include all required information.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 10%

Matrix Notes: Between 30% and 70% of the rule requirement was met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

74 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction — $100

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

Notes: The Respondent achieved compliance on September 24, 2010.

Violation Subtotal $900

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $1,080

This violation Final Assessed Penalty (adjusted for limits) $1,080

Economic Benefit Worksheet

Respondent Cray Valley USA, LLC
Case ID No. 40450
Reg. Ent. Reference No. RN102342813
Media Industrial and Hazardous Waste
Violation No. 2

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)	$500	20-Jul-2010	24-Sep-2010	0.18	$5	n/a	$5

Notes for DELAYED costs Estimated cost to prepare and submit a five-year pollution prevention plan and the executive summary. Date required is the investigation date and the final date is the compliance date.

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 $500

TOTAL $5

Screening Date 22-Sep-2010 **Docket No.** 2010-1580-MLM-E **PCW**

Respondent Cray Valley USA, LLC *Policy Revision 2 (September 2002)*

Case ID No. 40450 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342813

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michaelle Sherlock

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.13(k)

Violation Description Failed to submit a manifest exception report within 45 days of the date that waste was accepted by an initial transporter. Specifically, the Facility was unable to provide copies of exception reports or signed manifests for the following shipments to US Oil Recovery: Manifest Nos. 002157869JJK, 003505025JJK, and 003505158JJK.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 3 | 36 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $7,500

Three single events are recommended.

Good Faith Efforts to Comply

25.0% Reduction $1,875

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

Notes: The Respondent achieved compliance on August 25, 2010.

Violation Subtotal $5,625

Economic Benefit (EB) for this violation

Estimated EB Amount $60

Statutory Limit Test

Violation Final Penalty Total $6,975

This violation Final Assessed Penalty (adjusted for limits) $6,975

Economic Benefit Worksheet

Respondent Cray Valley USA, LLC
Case ID No. 40450
Reg. Ent. Reference No. RN102342813
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	29-Mar-2008	25-Aug-2010	2.41	$60	n/a	$60
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 develop a manifest guide and train employees. The date required is 45 days after the initial transporter acceptance date of February 13, 2008, and the final date is the compliance date.

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 $500

TOTAL $60

Screening Date 22-Sep-2010 **Docket No.** 2010-1580-MLM-E **PCW**

Respondent Cray Valley USA, LLC *Policy Revision 2 (September 2002)*

Case ID No. 40450 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342813

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michaelle Sherlock

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(3) and 40 CFR § 262.34(a)(3)

Violation Description Failed to ensure that while being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste". Specifically, tank T-512 (NOR 001) stored hazardous waste and was not marked with the words "Hazardous Waste".

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the requirement was not met.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 | 22 Number of violation days

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.

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 achieved compliance on August 11, 2010.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $2,325

This violation Final Assessed Penalty (adjusted for limits) $2,325

Economic Benefit Worksheet

Respondent Cray Valley USA, LLC
Case ID No. 40450
Reg. Ent. Reference No. RN102342813
Media Industrial and Hazardous Waste
Violation No. 4

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)	$50	20-Jul-2010	11-Aug-2010	0.06	$0	n/a	$0

Notes for DELAYED costs Estimated cost to label the tank with the words "Hazardous Waste". Date required is the investigation date and final date is the 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 $50

TOTAL $0

Screening Date	22-Sep-2010	**Docket No.** 2010-1580-MLM-E	**PCW**
Respondent	Cray Valley USA, LLC		*Policy Revision 2 (September 2002)*
Case ID No.	40450		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102342813		
Media [Statute]	Industrial and Hazardous Waste		
Enf. Coordinator	Michaelle Sherlock		

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(1)(B) and 40 CFR § 265.192(g)

Violation Description Failed to comply with the requirements of 40 CFR Part 265, Subpart J, for tanks storing or treating hazardous waste. Specifically, tank T-512 (NOR 001) stored hazardous waste and the Facility did not provide a record of the written assessment reviewed and certified by a qualified Professional Engineer.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 1

132 Number of violation days

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.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $2,950

This violation Final Assessed Penalty (adjusted for limits) $2,950

Economic Benefit Worksheet

Respondent Cray Valley USA, LLC
Case ID No. 40450
Reg. Ent. Reference No. RN102342813
Media Industrial and Hazardous Waste
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$100	20-Jul-2010	29-Nov-2010	0.36	$2	n/a	$2

Notes for DELAYED costs Delayed costs include the estimated amount to maintain the tank assessment records, calculated from the investigation date to the 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 $100

TOTAL $2

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	13-Sep-2010				
PCW	6-Jan-2011	Screening	22-Sep-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Cray Valley USA, LLC		
Reg. Ent. Ref. No.	RN102342813		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40450	No. of Violations	1
Docket No.	2010-1580-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous Waste	Enf. Coordinator	Michaelle Sherlock
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum $0 **Maximum** $2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **18.0%** Enhancement *Subtotals 2, 3, & 7* **$45**

Notes: Enhancement for nine NOVs with dissimilar violations.

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* **$62**

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

Total EB Amounts $59
Approx. Cost of Compliance $1,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$233**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$233**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$233**

DEFERRAL **20.0%** Reduction *Adjustment* **-$46**

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 **$187**

Screening Date 22-Sep-2010 **Docket No.** 2010-1580-MLM-E **PCW**

Respondent Cray Valley USA, LLC

Case ID No. 40450

Reg. Ent. Reference No. RN102342813

Media [Statute] Used Oil

Enf. Coordinator Michaelle Sherlock

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	9	18%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 18%

>> 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 nine NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 18%

Screening Date 22-Sep-2010 **Docket No.** 2010-1580-MLM-E **PCW**

Respondent Cray Valley USA, LLC *Policy Revision 2 (September 2002)*

Case ID No. 40450 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342813

Media [Statute] Used Oil

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 324.1 and 40 CFR § 279.24

Violation Description Failed to ensure that used oil is transported by a registered transporter. Specifically, six drums of used oil were transported from the facility by an unregistered transporter, Fluid Reliability Service, on July 13, 2010.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment $2,250

$250

Violation Events

Number of Violation Events 1 — 30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction — $62

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

Notes: The respondent achieved compliance on August 19, 2010.

Violation Subtotal $188

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $233

This violation Final Assessed Penalty (adjusted for limits) $233

Economic Benefit Worksheet

Respondent Cray Valley USA, LLC
Case ID No. 40450
Reg. Ent. Reference No. RN102342813
Media Used Oil
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	$500	13-Jul-2010	19-Aug-2010	0.10	$3	n/a	$3
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 train employees to ensure used oil is removed by a registered transporter. The date required is the shipment date and the final date is the compliance date.

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 $500

TOTAL $3

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603612516	Cray Valley USA, LLC	Classification: AVERAGE	Rating: 1.38
Regulated Entity:	RN102342813	CRAY VALLEY WALLISVILLE ROAD	Classification: AVERAGE	Site Rating: 0.46

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD981901713
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	37739
	AIR NEW SOURCE PERMITS	PERMIT	9759
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1434S
	AIR NEW SOURCE PERMITS	AFS NUM	4820100556
	AIR NEW SOURCE PERMITS	PERMIT	83844
	WASTEWATER	PERMIT	WQ0003207000
	WASTEWATER	EPA ID	TX0106062
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	37739
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG1434S

Location: 17335 WALLISVILLE ROAD, HOUSTON, HARRIS COUNTY, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 13, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 13, 2005 to September 13, 2010

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

Name: Michaelle Sherlock Phone: (210) 403-4076

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	11/07/2005	(479591)
2	11/07/2005	(479592)
3	11/07/2005	(479593)
4	11/21/2005	(479594)
5	12/21/2005	(479595)
6	01/19/2006	(479596)
7	02/27/2006	(479590)
8	03/20/2006	(452678)
9	04/14/2006	(505280)
10	04/14/2006	(505281)
11	05/11/2006	(462403)
12	06/05/2006	(505282)
13	06/28/2006	(505283)
14	07/24/2006	(527555)

15	10/30/2006	(551267)
16	10/30/2006	(551268)
17	12/08/2006	(512474)
18	12/15/2006	(551269)
19	12/15/2006	(551270)
20	01/31/2007	(587956)
21	02/22/2007	(551266)
22	04/09/2007	(587951)
23	04/09/2007	(587952)
24	05/04/2007	(587953)
25	06/14/2007	(587954)
26	06/14/2007	(587955)
27	06/21/2007	(563943)
28	06/22/2007	(564447)
29	08/06/2007	(605273)
30	08/24/2007	(605274)
31	10/09/2007	(628930)
32	12/13/2007	(628931)
33	12/13/2007	(628932)
34	12/27/2007	(628933)
35	02/04/2008	(676561)
36	03/03/2008	(695058)
37	04/14/2008	(695059)
38	04/14/2008	(695060)
39	06/26/2008	(716553)
40	06/26/2008	(716554)
41	08/18/2008	(716555)
42	08/18/2008	(716556)
43	08/31/2008	(732027)
44	09/30/2008	(732029)
45	10/24/2008	(732028)
46	10/24/2008	(732030)
47	11/19/2008	(732031)
48	12/30/2008	(732032)
49	02/24/2009	(755396)
50	02/24/2009	(755397)
51	04/13/2009	(772466)
52	06/01/2009	(817441)
53	06/01/2009	(817442)
54	06/26/2009	(817443)
55	07/24/2009	(817444)
56	09/14/2009	(817445)
57	09/14/2009	(817446)
58	11/23/2009	(817447)
59	12/28/2009	(817448)
60	02/12/2010	(817449)
61	03/08/2010	(817440)
62	03/08/2010	(817450)
63	04/02/2010	(835355)
64	04/19/2010	(835356)
65	05/12/2010	(835357)
66	05/19/2010	(796935)
67	06/18/2010	(847638)
68	07/16/2010	(862045)
69	09/10/2010	(840998)

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

Date: 03/20/2006 (452678)

Self Report? NO Classification: Moderate
Citation: 03207-000 PERMIT
30 TAC Chapter 319, SubChapter A 319.5(b)
Description: Failure to collect the pH sample at the time of discharge.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to properly collect the oil & grease samples.

Date: 05/12/2006 (462403) CN603612516
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Permit No. 9759, Special Condition No. 1 OP
Description: The Regulated Entity (RE) exceeded the maximum Carbon Monoxide (CO) mass emission rate.

Date: 05/31/2006 (505283) CN603612516
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2006 (551269) CN603612516
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (695058) CN603612516
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2009 (817441) CN603612516
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2010 (835356) CN603612516
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/19/2010 (796935)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
Other Requirements, P. 12, No. 6 PERMIT
Description: Failure to collect and analyze effluent samples at the required frequency.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to adequately calibrate the pH meter each day that samples are analyzed.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
M&RR, P. 5, No. 7c PERMIT
Other Requirements, P. 12, No. 1 PERMIT

Description: Failure to provide effluent violation notification letters in accordance with the permit requirements and applicable State regulations.

Date: 06/30/2010 (862045)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
CRAY VALLEY USA, LLC	**§**	
RN102342813	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1580-MLM-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 Cray Valley USA, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 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 resin manufacturing facility at 17335 Wallisville Road in Houston, Harris County, Texas (the "Facility").

2. The Facility involves or involved the management of industrial solid waste and hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361 and the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.

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 September 14, 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 Eighteen Thousand Two Hundred Thirteen Dollars ($18,213) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Fourteen Thousand Five Hundred Seventy-One Dollars ($14,571) of the administrative penalty and Three Thousand Six Hundred Forty-Two Dollars ($3,642) 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 the Respondent has implemented the following corrective measures at the Facility:

   a. On August 11, 2010, the Respondent submitted photographic documentation to show that tank T-512 was labeled with the words "Hazardous Waste";

   b. On August 19, 2010, the Respondent submitted documentation to demonstrate that the secondary containment system was repaired on August 19, 2010;

   c. On August 19, 2010, the Respondent submitted documentation to demonstrate that used oil was being transported by a registered used oil transporter;

   d. On August 25, 2010, the Respondent submitted documentation to demonstrate that procedures were established to ensure that manifest exception reports are submitted when required;

   e. On September 24, 2010, the Respondent submitted an updated five-year pollution prevention plan and executive summary;

   f. On September 27, 2010, the Respondent submitted a schedule for closure of tank T-512 to the TCEQ Remediation Division; and

   g. On November 29, 2010, the Respondent submitted a copy of the tank assessment for tank T-512.

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 Facility, the Respondent is alleged to have:

1. Failed to comply with the requirements of 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 265, Subpart J, for tanks storing or treating hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CFR §§ 262.34(a)(1)(ii), and 265.193(e)(1)(iii), as documented during an investigation conducted July 20, 2010 through August 11, 2010. Specifically, the secondary containment system contained cracks and gaps making it permeable to an inflow of water from outside of the containment area through an expansion joint.

2. Failed to maintain a five-year pollution prevention plan on-site that can be made available to Commission personnel upon request and failed to provide an executive summary of the pollution prevention plan to the Commission that contains all necessary information, in violation of 30 TEX. ADMIN. CODE §§ 335.474 and 335.479, as documented during an investigation conducted July 20, 2010 through August 11, 2010. Specifically, the Facility could not provide a copy of the five-year pollution prevention plan for review and the executive summary signed December 22, 2008 did not include all required information.

3. Failed to submit a manifest exception report within 45 days of the date that waste was accepted by an initial transporter, in violation of 30 TEX. ADMIN. CODE § 335.13(k), as documented during an investigation conducted July 20, 2010 through August 11, 2010. Specifically, the Facility was unable to provide copies of exception reports or signed manifests for the following shipments to US Oil Recovery: Manifest Nos. 002157869JJK, 003505025JJK, and 003505158JJK.

4. Failed to ensure that while being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste", in violation of 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3), as documented during an investigation conducted July 20, 2010 through August 11, 2010. Specifically, tank T-512 (NOR 001) stored hazardous waste and was not marked with the words "Hazardous Waste".

5. Failed to comply with the requirements of 40 CFR Part 265, Subpart J, for tanks storing or treating hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CFR § 265.192(g), as documented during an investigation conducted July 20, 2010 through August 11, 2010. Specifically, tank T-512 (NOR 001) stored hazardous waste and the Facility did not provide a record of the written assessment reviewed and certified by a qualified Professional Engineer.

6. Failed to ensure that used oil is transported by a registered transporter, in violation of 30 TEX. ADMIN. CODE § 324.1 and 40 CFR § 279.24, as documented during an investigation conducted July 20, 2010 through August 11, 2010. Specifically, six drums of used oil were

transported from the facility by an unregistered transporter, Fluid Reliability Service, on July 13, 2010.

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: Cray Valley USA, LLC, Docket No. 2010-1580-MLM-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 Facility 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 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.

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

_____ 4/4/2011
For the Executive Director 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.

_____ 11/7/11
Signature Date

DEKIOUK Global Manufacturing Director
Name (Printed or typed) Title
Authorized Representative of
Cray Valley USA, LLC

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.