

Executive Summary – Enforcement Matter – Case No. 40588
DIAMOND SHAMROCK REFINING COMPANY, L.P.
RN100542802
Docket No. 2010-1729-IHW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IHW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Diamond Shamrock Refining Valero, 301 Leroy Street, Three Rivers, Live Oak County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 29, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$103,075

Amount Deferred for Expedited Settlement: \$20,615

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$41,230

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$41,230

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.
("RC&D") – Water or Wastewater Treatment Assistance

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 15, 2010

Date(s) of NOE(s): September 22, 2010

Violation Information

1. Failed to prevent the storage of industrial solid waste without authorization. Specifically, the Respondent stored hazardous oil and oily wastewater [Environmental Protection Agency ("EPA") hazardous waste no. D018; Texas Waste Code ("TWC") 0380102H] in Pond No. 6 [Notice of Registration ("NOR") Unit No. 024] on April 17, 2010 [30 TEX. ADMIN. CODE § 335.2(a)].
2. No person may cause, suffer, allow, or permit the collection, handling, storage, processing, or disposal of industrial solid waste so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge. Specifically, hydrocarbon staining from a previous release was observed on soil at Pond No. 6. Additionally, the Facility allowed the discharge of approximately 1.7 million gallons of hazardous oil and oily wastewater/stormwater (EPA D018; TWC 0380102H) without authorization into Pond No. 6 (NOR Unit No. 024) on April 17, 2010 [30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121].
3. Failed to update the Facility's NOR regarding waste management activities. Specifically, the NOR was not updated to indicate that approximately 1.7 million gallons of hazardous oil and oily wastewater/stormwater (TWC 0380102H) was being managed in Pond No. 6 (NOR Unit No. 024) and was not being managed in NOR Unit Nos. 010 and 019 as registered [30 TEX. ADMIN. CODE § 335.6(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Immediately upon the effective date of this Agreed Order, cease to cause, suffer, allow, or permit the collection, handling, storage, processing or disposal of any additional unauthorized industrial solid waste into Pond No. 6 (NOR Unit No. 024);

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- b. Within 30 days after the effective date of this Agreed Order, update the Facility's NOR to accurately identify which wastes are managed in NOR Unit Nos. 024, 010 and 019 and where TWC 0380102H is being managed;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provisions a. and b.;
- d. Notify the TCEQ Corpus Christi Regional Office in writing at least ten working days prior to conducting any investigative, remedial, or monitoring activities to allow TCEQ personnel the opportunity to observe the activities and to split any soil, sediment, groundwater or surface water samples which may be collected;
- e. Within 180 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E; financial assurance; and Institutional Controls under Subchapter F; and
- f. Within 30 days of submittal of the Affected Property Assessment Report to the Executive Director, submit written certification demonstrating compliance with Ordering Provisions d. and e.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Ms. Elvia Maske, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0789; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
Respondent: Mr. Harry Wright, Jr., Vice President and General Manager, Diamond Shamrock Refining Company, L.P., P.O. Box 490, Three Rivers, Texas 78071-0490
Respondent's Attorney: N/A

Attachment A
Docket Number: 2010-1729-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: DIAMOND SHAMROCK REFINING COMPANY,
L.P.

Payable Penalty Amount: Eighty-Two Thousand Four Hundred Sixty Dollars (\$82,460)

SEP Amount: Forty-One Thousand Two Hundred Thirty Dollars (\$41,230)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance

Location of SEP: Live Oak County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

DIAMOND SHAMROCK REFINING COMPANY, L.P.
Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development
Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

DIAMOND SHAMROCK REFINING COMPANY, L.P.
Agreed Order – Attachment A

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Sep-2010	Screening	4-Oct-2010	EPA Due	
	PCW	4-Mar-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	DIAMOND SHAMROCK REFINING COMPANY, L.P.		
Reg. Ent. Ref. No.	RN100542802		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40588	No. of Violations	3
Docket No.	2010-1729-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Elvia Maske
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$47,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **117.0%** Enhancement **Subtotals 2, 3, & 7** **\$55,575**

Notes: Enhancement for one same/similar NOV, 14 dissimilar NOVs, three orders with denial and one court judgment with denial. Reduction for two notice of intent letters and two disclosures of 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** **\$0**

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

Total EB Amounts \$1,816
Approx. Cost of Compliance \$30,250
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$103,075**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$103,075**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$103,075**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$20,615**

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 **\$82,460**

Screening Date 4-Oct-2010

Docket No. 2010-1729-IHW-E

PCW

Respondent DIAMOND SHAMROCK REFINING COMPANY, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100542802

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Elvia Maske

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>)	1	5%
	Other written NOVs	14	28%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	1	30%
	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>)	2	-2%
	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>)	2	-4%
<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) 117%

>> 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 one same/similar NOV, 14 dissimilar NOVs, three orders with denial and one court judgment with denial. Reduction for two notice of intent letters and two disclosures of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 117%

Screening Date 4-Oct-2010

Docket No. 2010-1729-IHW-E

PCW

Respondent DIAMOND SHAMROCK REFINING COMPANY, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100542802

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Elvia Maske

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.2(a)

Violation Description Failed to prevent the storage of industrial solid waste without authorization. Specifically, the Respondent stored hazardous oil and oily wastewater [Environmental Protection Agency (EPA) hazardous waste no. D018; Texas Waste Code (TWC) 0380102H] in Pond No. 6 [Notice of Registration (NOR) Unit No. 024] on April 17, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (25%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 6 Number of violation days 170

Table for frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$15,000

Six monthly events are recommended from the April 17, 2010 date of the unauthorized discharge to the October 4, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$33,150

This violation Final Assessed Penalty (adjusted for limits) \$33,150

Economic Benefit Worksheet

Respondent DIAMOND SHAMROCK REFINING COMPANY, L.P.
Case ID No. 40588
Reg. Ent. Reference No. RN100542802
Media Industrial and Hazardous Waste
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit incorporated into Violation No. 2.

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 \$0

TOTAL \$0

Screening Date 4-Oct-2010

Docket No. 2010-1729-IHW-E

PCW

Respondent DIAMOND SHAMROCK REFINING COMPANY, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100542802

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Elvia Maske

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.4 and Tex. Water Code § 26.121

Violation Description

No person may cause, suffer, allow, or permit the collection, handling, storage, processing, or disposal of industrial solid waste so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge. Specifically, hydrocarbon staining from a previous release was observed on soil at Pond No. 6. Additionally, the Facility allowed the discharge of approximately 1.7 million gallons of hazardous oil and oily wastewater/stormwater (EPA D018; TWC 0380102H) without authorization into Pond No. 6 (NOR Unit No. 024) on April 17, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> 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 levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 6 Number of violation days 170

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

Violation Base Penalty \$30,000

Six monthly events are recommended from the April 17, 2010 date of the unauthorized discharge to the October 4, 2010 screening date.

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 \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,808

Violation Final Penalty Total \$66,300

This violation Final Assessed Penalty (adjusted for limits) \$66,300

Economic Benefit Worksheet

Respondent DIAMOND SHAMROCK REFINING COMPANY, L.P.
Case ID No. 40588
Reg. Ent. Reference No. RN100542802
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	\$30,000	17-Apr-2010	1-Jul-2011	1.21	\$1,808	n/a	\$1,808
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove the free floating oil and apply biological treatment of the remaining wastewater/stormwater, and sampling and removal of the stained soil. The date required is the date of the unauthorized discharge and the final date is the estimated 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

\$30,000

TOTAL

\$1,808

Screening Date 4-Oct-2010

Docket No. 2010-1729-IHW-E

PCW

Respondent DIAMOND SHAMROCK REFINING COMPANY, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40588

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100542802

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Elvia Maske

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description

Failed to update the Facility's NOR regarding waste management activities, as documented during an investigation conducted on July 15, 2010. Specifically, the NOR was not updated to indicate that approximately 1.7 million gallons of hazardous oil and oily wastewater/stormwater (TWC 0380102H) was being managed in Pond No. 6 (NOR Unit No. 024) and was not being managed in NOR Unit Nos. 010 and 019 as registered.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
	x			25%
100% of the rule requirement was not met.				

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 81 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

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$5,525

This violation Final Assessed Penalty (adjusted for limits) \$5,525

Economic Benefit Worksheet

Respondent DIAMOND SHAMROCK REFINING COMPANY, L.P.
Case ID No. 40588
Reg. Ent. Reference No. RN100542802
Media Industrial and Hazardous Waste
Violation No. 3

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)	\$250	15-Jul-2010	1-Mar-2011	0.63	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to update the Facility's NOR. The date required is the investigation date and the final date is the estimated 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

\$250

TOTAL

\$8

Compliance History

Customer/Respondent/Owner-Operator:	CN600124861 Diamond Shamrock Refining Company, L.P.	Classification: AVERAGE	Rating: 5.59
Regulated Entity:	RN100542802 VALERO THREE RIVERS REFINERY	Classification: AVERAGE	Site Rating: 7.27

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	
	AIR OPERATING PERMITS	PERMIT	1450
	POLLUTION PREVENTION PLANNING	ID NUMBER	P00175
	INDUSTRIAL AND HAZARDOUS WASTE	PERMIT	50100
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD990709966
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	31553
	WASTEWATER	PERMIT	WQ0001353000
	WASTEWATER	EPA ID	TX0088331
	AIR NEW SOURCE PERMITS	AFS NUM	4829700006
	AIR NEW SOURCE PERMITS	REGISTRATION	92495
	AIR NEW SOURCE PERMITS	REGISTRATION	92214
	AIR NEW SOURCE PERMITS	REGISTRATION	92112
	AIR NEW SOURCE PERMITS	PERMIT	50607
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	LK0009T
	AIR NEW SOURCE PERMITS	PERMIT	2362B
	AIR NEW SOURCE PERMITS	PERMIT	5139A
	AIR NEW SOURCE PERMITS	REGISTRATION	9190
	AIR NEW SOURCE PERMITS	PERMIT	10815
	AIR NEW SOURCE PERMITS	REGISTRATION	16020
	AIR NEW SOURCE PERMITS	REGISTRATION	16103
	AIR NEW SOURCE PERMITS	REGISTRATION	27201
	AIR NEW SOURCE PERMITS	REGISTRATION	30363
	AIR NEW SOURCE PERMITS	REGISTRATION	40102
	AIR NEW SOURCE PERMITS	REGISTRATION	45790
	AIR NEW SOURCE PERMITS	REGISTRATION	49756
	AIR NEW SOURCE PERMITS	REGISTRATION	49489
	AIR NEW SOURCE PERMITS	REGISTRATION	49486
	AIR NEW SOURCE PERMITS	REGISTRATION	49488
	AIR NEW SOURCE PERMITS	REGISTRATION	54729
	AIR NEW SOURCE PERMITS	REGISTRATION	55285
	AIR NEW SOURCE PERMITS	REGISTRATION	55896
	AIR NEW SOURCE PERMITS	REGISTRATION	75517
	AIR NEW SOURCE PERMITS	REGISTRATION	70536

AIR NEW SOURCE PERMITS	PERMIT	PSDTX1017
AIR NEW SOURCE PERMITS	REGISTRATION	55728
AIR NEW SOURCE PERMITS	EPA ID	PSDTX331M5
AIR NEW SOURCE PERMITS	EPA ID	PSDTX804
AIR NEW SOURCE PERMITS	EPA ID	PSDTX331
AIR NEW SOURCE PERMITS	REGISTRATION	71415
AIR NEW SOURCE PERMITS	REGISTRATION	50835
AIR NEW SOURCE PERMITS	REGISTRATION	71663
AIR NEW SOURCE PERMITS	REGISTRATION	76733
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1017
AIR NEW SOURCE PERMITS	REGISTRATION	78562
AIR NEW SOURCE PERMITS	REGISTRATION	79137
AIR NEW SOURCE PERMITS	REGISTRATION	78872
AIR NEW SOURCE PERMITS	REGISTRATION	79862
AIR NEW SOURCE PERMITS	REGISTRATION	81078
AIR NEW SOURCE PERMITS	REGISTRATION	82209
AIR NEW SOURCE PERMITS	REGISTRATION	81730
AIR NEW SOURCE PERMITS	REGISTRATION	81540
AIR NEW SOURCE PERMITS	REGISTRATION	83511
AIR NEW SOURCE PERMITS	REGISTRATION	94531
AIR NEW SOURCE PERMITS	REGISTRATION	94733
AIR NEW SOURCE PERMITS	REGISTRATION	94899
AIR NEW SOURCE PERMITS	REGISTRATION	86444
AIR NEW SOURCE PERMITS	REGISTRATION	84592
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1017M1
AIR NEW SOURCE PERMITS	REGISTRATION	95284
AIR NEW SOURCE PERMITS	REGISTRATION	95085
AIR NEW SOURCE PERMITS	REGISTRATION	90773
AIR NEW SOURCE PERMITS	REGISTRATION	89852
AIR NEW SOURCE PERMITS	REGISTRATION	95411
AIR NEW SOURCE PERMITS	REGISTRATION	87873
STORMWATER	PERMIT	TXR05L552
UNDERGROUND INJECTION CONTROL	PERMIT	WDW404
UNDERGROUND INJECTION CONTROL	PERMIT	WDW405
UNDERGROUND INJECTION CONTROL	PERMIT	WDW406
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31553
WASTE WATER GENERAL PERMIT	PERMIT	TXG670020

Location:

TCEQ Region:

REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared:

April 27, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period:

October 04, 2005 to October 04, 2010

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

Name: Elvia Maske

Phone: (512) 239-0789

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.

Effective Date: 11/23/2005

COURTORDER

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(b)
30 TAC Chapter 101, SubChapter A 101.6(c)

Description: Failure to create and report a final record which sufficiently identified rule-required criteria.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

Description: Failure to obtain regulatory authority for upset and shutdown emissions from the Akylation Unit.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: SC1 PERMIT

Description: Failure to obtain regulatory authority for upset, shutdown, maintenance and start-up emissions.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)

Description: Failure to limit visible emissions to no more than five minutes in any two-hour period from flare FL-003.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter B 116.116(a)

Rqmt Prov: SC1 PERMIT

Description: Failure to obtain regulatory authority for continuous emissions from the HCU Flare.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.116(a)

Rqmt Prov: Not specified PERMIT

Description: Failure to obtain regulatory authority for continuous emissions from the FCCU Flare.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure to prevent the unauthorized discharge of fire suppression water containing phase separated hydrocarbons into and adjacent to waters of the state.3

Effective Date: 10/04/2007

ADMINORDER 2005-1948-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Conditin 1 PERMIT

Description: Failed to comply with permitted emissions limits (TCEQ Incident Nos. 57793, 57796, and 57800), documented during an investigation conducted July 29, 2005 through August 2, 2005. Specifically, an emissions event that occurred May 3 - 6, 2005 had the following quantities: 5,959.15 pounds carbon monoxide, 56.51 pounds nitrogen dioxide, 1,073.76 pounds nitrogen monoxide, 35,534.85 pounds sulfur dioxide, 2,350.87 pounds butane, 179.25 pounds hydrogen sulfide, and 5,936.53 pounds propane.

Classification: Minor

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

Description: Failure to submit a complete and accurate final report for Incident No. 57800.

Effective Date: 09/22/2008

ADMINORDER 2008-0276-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)
5C THSC Chapter 382 382.085(b)

Description: Failure to notify the TCEQ Corpus Christi Region Office within 24 hours after the discovery of an emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(2)(i)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SCs 1 and 2 PERMIT

Special Condition 2B PERMIT

Description: Failure prevent an unauthorized emission event and to limit the sulfur dioxide ppm by volume (dry basis) at zero percent excess air to 250 ppmv.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 111, SubChapter A 111.111(a)(4)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT

TCEQ Air Permjt 50607/PSD-TX331M1, PSD- PERMIT

Description: failed to meet the special conditions of TCEQ Flex Permit Number 50607, PSD-TX-331M1, PSD-TX-804, and PSD-TX-1017. Specifically, Diamond Shamrock Refining Company LP failed to meet the affirmative defense of 30 TAC §101.222(b)(2) and (b)(3) by failing to prevent unauthorized visible emissions from the FCCU Flare (EPN FL-003) and the HCU Flare (EPN FL-004) as reported on or about November 20, 2007 in emissions event incident number 100299, which was due to an operator error and was avoidable.

Effective Date: 08/09/2010

ADMINORDER 2009-1705-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(7)(D)
30 TAC Chapter 106, SubChapter S 106.433(9)
30 TAC Chapter 106, SubChapter T 106.452(2)(D)
30 TAC Chapter 106, SubChapter T 106.452(2)(E)

5C THSC Chapter 382 382.085(b)

Description: Failure to register dry abrasive sandblasting and surface coating operations. Specifically, during an on-site investigation on June 16, 2009, dry abrasive sandblasting and surface coating operations were observed, however, during a subsequent record review investigation on July 2, 2009, it was documented that the Respondent had not submitted a registration to authorize such operations.

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	10/20/2005	(406740)
2	10/08/2005	(432627)
3	11/16/2005	(435723)
4	12/01/2005	(438319)
5	01/02/2006	(449804)
6	12/22/2005	(449864)
7	03/28/2006	(452750)
8	02/12/2006	(452941)
9	02/22/2006	(455828)
10	03/14/2006	(457720)
11	03/10/2006	(458400)
12	04/20/2006	(463009)
13	06/30/2006	(483518)
14	08/17/2006	(486707)
15	11/15/2006	(519601)
16	11/17/2006	(531209)
17	04/05/2007	(534570)
18	02/02/2007	(536186)
19	01/29/2007	(538086)

20 02/16/2007 (539013)
21 02/20/2007 (539328)
22 02/23/2007 (540422)
23 03/23/2007 (540495)
24 01/28/2008 (540527)
25 03/22/2007 (541719)
26 03/19/2007 (543755)
27 05/08/2007 (555030)
28 05/02/2007 (556217)
29 07/11/2007 (566548)
30 08/31/2007 (573673)
31 09/05/2007 (574266)
32 04/06/2006 (586809)
33 02/22/2007 (586810)
34 03/17/2006 (586811)
35 03/20/2007 (586812)
36 04/17/2006 (586814)
37 05/18/2006 (586816)
38 05/21/2007 (586817)

39 06/15/2006 (586819)
40 06/22/2007 (586820)
41 07/24/2006 (586822)
42 07/23/2007 (586823)
43 08/17/2006 (586825)
44 09/18/2006 (586827)
45 03/17/2006 (586828)
46 10/16/2006 (586829)
47 11/17/2005 (586830)
48 11/15/2006 (586831)
49 12/19/2005 (586832)

50 12/18/2006 (586833)
51 01/19/2006 (586834)
52 01/17/2007 (586835)
53 01/14/2008 (595864)
54 08/20/2007 (608555)
55 12/17/2007 (609417)
56 01/16/2008 (614747)
57 03/20/2008 (619180)
58 03/12/2008 (636452)
59 04/29/2008 (639525)
60 05/23/2008 (654332)
61 05/27/2008 (680195)
62 06/20/2008 (680240)
63 08/12/2008 (684817)
64 08/25/2008 (688634)
65 08/22/2008 (699621)
66 10/08/2008 (702189)
67 10/24/2008 (705244)
68 12/08/2008 (709472)
69 02/02/2009 (720964)
70 02/16/2009 (725813)
71 03/17/2009 (737654)
72 06/18/2009 (743155)
73 05/26/2009 (746797)
74 05/26/2009 (746799)
75 06/17/2009 (746858)
76 08/20/2009 (749401)
77 02/08/2008 (754253)
78 02/13/2009 (754254)
79 03/24/2009 (754255)

80 03/20/2008 (754256)
81 04/20/2007 (754257)
82 04/21/2008 (754258)
83 05/20/2008 (754259)
84 06/23/2008 (754260)
85 07/21/2008 (754261)
86 08/21/2008 (754262)

87 09/24/2007 (754263)
88 09/18/2008 (754264)
89 10/22/2007 (754265)
90 10/17/2008 (754266)
91 11/15/2007 (754267)
92 11/18/2008 (754268)
93 12/13/2007 (754269)
94 12/22/2008 (754270)
95 01/22/2008 (754271)
96 01/20/2009 (754272)
97 06/29/2009 (759527)
98 08/17/2009 (761551)
99 04/28/2010 (763494)
100 08/28/2009 (766976)
101 10/06/2009 (775650)
102 03/24/2010 (778911)
103 01/29/2010 (789485)
104 08/31/2010 (796462)
105 09/22/2010 (798031)
106 05/27/2010 (798946)
107 02/11/2010 (814767)
108 10/23/2009 (814768)
109 11/17/2009 (814769)

110 12/21/2009 (814770)
 111 01/21/2010 (814771)
 112 06/07/2010 (824791)
 113 06/10/2010 (825607)
 114 08/14/2009 (827910)
 115 08/04/2010 (829613)
 116 03/22/2010 (834382)
 117 04/20/2010 (834383)
 118 05/20/2010 (834384)
 119 07/29/2010 (842063)
 120 07/30/2010 (843263)
 121 06/22/2010 (847346)
 122 08/31/2010 (850617)
 123 07/22/2010 (868198)
 124 08/20/2010 (868199)
 125 09/17/2010 (875117)

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

Date: 03/19/2007 (543755)CN600124861

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

Description: Failure to comply with all terms and conditions codified in the permit and any provisional terms and conditions required to be included with the permit. Specifically, the Regulated Entity failed to conduct a quarterly observation for visible emissions for stationary vents for the period of 01/01/06 through 03/31/06.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.120

Description: Failure to comply with required standards for storage vessels as required by 40 CFR Part 63 (Subpart G). Specifically, the RE failed to inspect storage tank S-119 and submit a 30 day advanced notification per the HON standards prior to filling the tank.

Date: 05/31/2007 (586820) CN600124861

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: 06/30/2007 (586823) CN600124861

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: 07/31/2007 (608555) CN600124861
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: 08/31/2007 (573673) CN600124861
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Effluent Limitations No. 1, Pg. PERMIT
Description: Failure to comply with the permitted effluent limitations.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements No. 6 (C), Pg. 13 PERMIT
Description: Failure to comply with the effluents limitations for wastewater used for irrigation.

Date: 09/30/2007 (754265) CN600124861
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: 10/31/2007 (754267) CN600124861
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: 08/22/2008 (699621) CN600124861
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 331, SubChapter D 331.63
Provision Number XII.E.2. PERMIT
Description: Failure to test and calibrate on a quarterly basis, all gauges, pressure sensing devices, and recording devices associated with underground injection well number WDW-404, as required by 30 TAC 331.63(g).

Date: 02/02/2009 (720964) CN600124861
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0001353-000 PERMIT
Description: Failure to maintain compliance with the 1.6 million gallon (MG) permitted total volume discharge during a 24-hour period.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0001353-001 PERMIT
Description: Failure to meet permit limitations for total mercury for Outfall 001.

Date: 08/14/2009 (827910) CN600124861
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/18/2009 (749401) CN600124861
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
30 TAC Chapter 335, SubChapter A 335.6(c)(1)
30 TAC Chapter 335, SubChapter A 335.6(c)(2)
30 TAC Chapter 335, SubChapter A 335.6(c)(3)
30 TAC Chapter 335, SubChapter A 335.6(c)(4)

30 TAC Chapter 335, SubChapter A 335.6(c)(5)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(A)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(B)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(C)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(D)

Description: Failure to provide written notification for all municipal hazardous waste streams, industrial solid waste streams and associated waste management units.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4
TWC Chapter 26 26.121

Description: No person may cause, suffer, allow, or permit the collection, handling, storage, processing, or disposal of industrial solid waste so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge.

Date: 03/31/2010 (834383) CN600124861

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: 04/30/2010 (834384) CN600124861

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: 05/27/2010 (798946) CN600124861

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0001353-001 PERMIT

Description: Failure to maintain compliance with permitted effluent limit for dissolved oxygen (DO) of 4.0 mg/l minimum.

Date: 08/31/2010 (796462) CN600124861

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 113, SubChapter C 113.340
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.644(a)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.114(a)(2)
40 CFR Part 63, Subpart A 63.11(b)(1)
5C THSC Chapter 382 382.085(b)
SC 7 B PA
ST & C 1A OP

Description: Failure to maintain a sensing device capable of continuously and properly detecting the presence of a pilot flame at the Three Rivers Refinery's five flares. Additionally, the Special Condition (SC) 7B of the flexible permit requires a monitor or other sensing device that will detect the presence of a pilot flame at all times.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.340
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.643(a)(1)
5C THSC Chapter 382 382.085(b)
SC 7A PA
SC 7D PA
ST & C 1A OP

Description: Failure to meet the 40 CFR § 60.18 specifications of minimum heating value at the DOT Flare (EPN FL-006).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.128(f)
5C THSC Chapter 382 382.085(b)
SC 25 PA
ST & C 1A OP

Description: Failure to load benzene and toluene onto railcars that have been Vapor Tightness Tested (VTT) within the preceding 12 months utilizing Method 27 of 40 CFR 60 appendix A.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.105(a)
ST & C1A OP

Description: Failure to install, calibrate, maintain, and operate a continuous monitoring system (CMS) to measure and record the concentration of either sulfur dioxide (SO₂) or hydrogen sulfide (H₂S) emissions into the atmosphere at its Loading Rack Vapor Combustor (EPN VCU-1).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.780
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1564(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1572(c)(1)
5C THSC Chapter 382 382.085(b)
ST & C 1A OP

Description: Failure to determine and record each day the Fluid Catalytic Cracking Unit's (FCCU) average coke burn-off rate (R_c) in the manner required by rule. Additionally, the Three Rivers refinery has failed to install and operate instrumentation sufficient to continuously measure and record the FCCU regenerator's air flow rate (Q_a) and exhaust gases (Q_r) as directed by the applicable regulations in 40 CFR 63 Subpart UUU.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.780
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT UUU 63.1569
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1574(a)(3)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1575(c)
5C THSC Chapter 382 382.085(b)
ST & C 1A OP

Description: Failure to identify, record, and report as required the operation of a second bypass line at its Sulfur Recovery Unit (SRU) No. 1. Additionally, regarding the second bypass line, the facility failed to demonstrate and report, as required by § 63.1569 and 63.1575(c), respectively, that it was in compliance with the applicable work standard initially and continuously as of its compliance date of April 11, 2005.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.345(b)
5C THSC Chapter 382 382.085(b)
ST & C 11A OP

Description: Failure to conduct quarterly visual inspections of containers considered to be in benzene waste service.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.345(a)(1)(i)
5C THSC Chapter 382 382.085(b)
ST & C 11A OP

Description: Failure to conduct an annual compliance test for fugitive emissions leaks on

containers in benzene waste service in accordance with the requirements of 40 CFR 61 Subpart FF.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.349(f)
5C THSC Chapter 382 382.085(b)
ST & C 1A OP

Description: Failure to visually inspect eight control devices and 487 components (valves and connectors) for evidence of visible defects initially and at least quarterly thereafter.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 22 PA
ST & C 18 OP

Description: Failure to monitor monthly (November and December 2008) the volatile organic compounds (VOC) associated with cooling tower water at its three cooling towers (CTs). Additionally, in accordance with the requirement in SC 22, the company has failed to gain approval for leak detection limits consistent with BACT for each of its three cooling tower systems.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 113, SubChapter C 113.120
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.122(a)(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.122(d)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(c)
5C THSC Chapter 382 382.085(b)
ST & C 1A OP

Description: Failure to submit accurate and complete 40 CFR 63 Subpart G semiannual periodic reports (PRs).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 113, SubChapter C 113.340
40 CFR Chapter 60, SubChapter C, PT 60, SubPT GGG 60.592(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(d)
5C THSC Chapter 382 382.085(b)
ST & C 1A OP

Description: Failure to monitor, inspect, and attempt to repair components (connectors, pumps and valves) in a fugitive monitoring program within the time allotted by the applicable rule. Additionally, in the same time frame, a total of 5 components did not undergo a "first attempt at repair" no later than five calendar days after each leak was detected.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 113, SubChapter C 113.340
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT GGG 60.592(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
SC13E PA
ST & C 1A OP

Description: Failure to equip each open-ended valve or line with a cap, blind flange, plug, or second valve.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.20(1) 30 TAC Chapter 113, SubChapter C 113.130 30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Part 60, Subpart VV 60.482-7 40 CFR Part 60, Subpart VV 60.482-8 40 CFR Part 63, Subpart H 63.168 40 CFR Part 63, Subpart H 63.169 40 CFR Part 63, Subpart H 63.174 5C THSC Chapter 382 382.085(b) SC 13F PA SC13E PA ST & C 18 OP ST & C 1A OP		
Description:	Failure to fugitive monitor applicable components (existing valves) in VOC service as required by the state permit. Also per the state permit, the facility failed to demonstrate that audio, visual, and olfactory inspections were conducted at affected and existing connectors on a weekly basis. Additionally, the facility failed to monitor, inspect for defects or leaks, repair, record, and report, as applicable, the aforementioned components in Subpart VV and Subpart H service.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter A 101.20(2) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.357(d)(6) 5C THSC Chapter 382 382.085(b) ST & C 1A OP		
Description:	Failure to submit accurate quarterly benzene wastewater reports as required by rule. Quarterly Subpart FF reports submitted prior to the affected period were inaccurate, since existing equipment subject to the rule failed to be inspected as required.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 113, SubChapter C 113.780 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1575(d) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1575(e)(1) 5C THSC Chapter 382 382.085(b) ST & C 1A OP		
Description:	Failure to submit accurate and complete semiannual Periodic Reports (PR) in accordance with the reporting requirements of 40 CFR 63 Subpart UUU. Additionally, in accordance with § 63.1575(e)(1), the company failed to report the date and time that each malfunction started and stopped at each affected unit.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b)(2) 30 TAC Chapter 101, SubChapter F 101.211(b)(2) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) ST & C 2F & G OP		
Description:	Failure to identify in the final record all contaminants, correct total quantities emitted, and actual durations for each emissions event or scheduled activity. Additionally, the company failed to demonstrate that the each incident's final record was completed with two weeks after the end of an emissions event or scheduled activity.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC 27 PA ST & C 18 OP		
Description:	Failure to operate without visible liquid leaks or spills. Additionally, the company failed to clean immediately those spills observed at the North Truck Rack and the Railcar Loading Rack.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 122, SubChapter B 122.143(4)		

5C THSC Chapter 382 382.085(b)
SC 35 PA
ST & C 18 OP

Description: Failure to demonstrate that the Emergency Response to HF Acid Leaks plan (revised August 2007) and a Safety and Health Guidelines document contain and describe procedures sufficient to respond and curtail potential off-site impacts of a hydrofluoric acid release.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 113, SubChapter C 113.340
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT GGG 60.592(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648(a)
40 CFR Part 60, Subpart VV 60.482-5
40 CFR Part 63, Subpart H 63.166
5C THSC Chapter 382 382.085(b)
ST & C 1A OP

Description: Failure to equip each process sampling point with a sampling connection system equipped with a closed-purged, closed-loop, or closed-vent system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms & Conditions OP

Description: Failure to include all instances of deviations in their respective Deviation Reports (DRs). Additionally, the company failed to report certain deviations in the correct reporting period and failed to include a corrective action in at least one reported deviation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)
ST & C 20 OP

Description: Failure to include or reference in the permit compliance certification (PCC) the identification of all other terms and conditions of the permit for which compliance was not achieved.

F. Environmental audits.

03/31/2008
(654049)

Notice of Intent Date:

Disclosure Date: 09/01/2010

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110

Description: Failure to include untagged components in the fugitive equipment database.

Viol. Classification: Moderate

Citation: 40 CFR Part 60, Subpart VV 60.482-6

Description: Open-ended lines were observed in process units.

Viol. Classification: Minor

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)(2)

Description: Failure to follow-up on repaired valve monitoring for two months after the repair.

Viol. Classification: Minor

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(2)

Rqmt Prov: PERMIT NSR Permit # 50607, Special Cond. 13.1
PERMIT NSR Permit No. 50607, Special Cond. 14.1
PERMIT NSR PSD-TX-1017
PERMIT NSR PSD-TX-33 1M1

PERMIT NSR PSD-TX-804

- Description: Failed to repair valve and pump leaks within 5 days - records indicated that initial repair attempts for forty-five (45) identified valve and pump leaks and re-tests for sixty-nine (69) identified valve leaks were not performed within 5 days.
Viol. Classification: Moderate
Citation: 40 CFR Part 60, Subpart VV 60.482-8
- Description: Failed to properly maintain the AVO Program - There were observed instances of ongoing visible stains below fugitive piping components that were not accounted for in the AVO Program.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.485(b)
- Description: During observations of technician monitoring techniques, one technician failed to monitor the pump housing leak interface.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.485(b)(1)
- Description: Failed to keep a leak rate of 500-ppm for a random sample of valves - Comparative monitoring results for a random sample of valves measured a leak rate of 3.5 times the refinery's valve leak at a 500-ppm leak definition during the previous four calendar quarters in the #1 Crude Unit, a margin that was statistically significant based on a 95% confidence interval. The three other units comparatively monitored had a leak rate multiple less than 3.0.

07/07/2008
(687858)

- Notice of Intent Date:
Disclosure Date: 09/08/2010
Viol. Classification: Minor
Citation: 40 CFR Chapter 68, SubChapter C, PT 68, SubPT A 68.12(b)(4)
- Description: Failure to sign and include a certification statement for the Risk Management Plan (RMP).
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115
- Description: Failure to list on the Risk Management Plan (RMP), the names of two personnel (including a safety manager) who no longer work at the refinery.
Viol. Classification: Major
Citation: 30 TAC Chapter 116, SubChapter G 116.721(d)(1)
- Description: Failed to roll the authorization for two lube oil tanks (S03201 & S03202) into a flex permit. The lube oil tanks were authorized by a Permit By Rule in February 2004.
Viol. Classification: Moderate
Rqmt Prov: PERMIT TPDES Permit WQ0001353000, M & R #5
- Description: Failed to accompany Annual Outfall 001 flowmeter calibrations with verification statements.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.346(b)(1)
- Description: Failed to properly maintain drains - several drains at the South Merox unit were either dry or lacking a water seal control.
Viol. Classification: Major
Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.346(b)(2)(i)
- Description: Failed to properly maintain the vacuum truck and CCR sumps - both the vacuum truck and CCR sumps had areas of torn and missing seals.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.10(c)
- Description: Failed to provide an EPA ID# for the transporter on several 2007 manifests for Class I petroleum-contaminated soils. It was later determined that the transporter was a subcontractor.
Viol. Classification: Minor
Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(ii)
- Description: Failed to properly label a waste paint aerosol can drum at the warehouse (it was missing a hazardous waste label).
Viol. Classification: Minor
Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(ii)
- Description: Failed to properly label hazardous waste roll off boxes. Two hazardous waste roll off boxes were missing start dates, and the hazardous waste labels on two other roll off boxes were missing the waste codes.
Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT F 63.104(b)(5)
- Description: Failed to provide SOCM I HON cooling water leak determination results from the BTX heat exchange system

supply line (downstream from the cooling tower).

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.644(d)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.654(f)(3)

Description: Failed to specify an operating range for any of the flare pilot monitors in the Refinery MACT Notification of Compliance Status and subsequent semi-annual reports.

Viol. Classification: Minor

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.107(d)

Description: Failed to include a signed statement, in the NSPS J semi-annual report, that indicated whether changes were made in the operation of the FCCU wet gas scrubber during periods of SO2 CEMS data unavailability.

Viol. Classification: Major

Rqmt Prov: PERMIT Flex Permit 50607, Special Condition

Description: Failed to keep hatches closed on tank trucks during liquid sulfur loading.

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
DIAMOND SHAMROCK
REFINING COMPANY, L.P
RN100542802**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1729-IHW-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 DIAMOND SHAMROCK REFINING COMPANY, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. 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 refinery at 301 Leroy Street in Three Rivers, Live Oak County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 September 27, 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 One Hundred Three Thousand Seventy-Five Dollars (\$103,075) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Forty-One Thousand Two Hundred Thirty Dollars (\$41,230) of the administrative penalty and Twenty Thousand Six Hundred Fifteen Dollars (\$20,615) 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. Forty-One Thousand Two Hundred Thirty Dollars (\$41,230) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director 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.
10. 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.
11. 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 prevent the storage of industrial solid waste without authorization, in violation of 30 TEX. ADMIN. CODE § 335.2(a), as documented during an investigation conducted on July 15, 2010. Specifically, the Respondent stored hazardous oil and oily wastewater [Environmental Protection Agency ("EPA") hazardous waste no. D018; Texas Waste Code ("TWC") 0380102H] in Pond No. 6 [Notice of Registration ("NOR") Unit No. 024] on April 17, 2010.
2. No person may cause, suffer, allow, or permit the collection, handling, storage, processing, or disposal of industrial solid waste so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge, in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121, as documented during an investigation conducted on July 15, 2010. Specifically, hydrocarbon staining from a

previous release was observed on soil at Pond No. 6. Additionally, the Facility allowed the discharge of approximately 1.7 million gallons of hazardous oil and oily wastewater/stormwater (EPA D018; TWC 0380102H) without authorization into Pond No. 6 (NOR Unit No. 024) on April 17, 2010.

3. Failed to update the Facility's NOR regarding waste management activities, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on July 15, 2010. Specifically, the NOR was not updated to indicate that approximately 1.7 million gallons of hazardous oil and oily wastewater/stormwater (TWC 0380102H) was being managed in Pond No. 6 (NOR Unit No. 024) and was not being managed in NOR Unit Nos. 010 and 019 as registered.

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: DIAMOND SHAMROCK REFINING COMPANY, L.P., Docket No. 2010-1729-IHW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 [Jurisdiction and Stipulations section that describes the penalty and SEP] above, Forty-One Thousand Two Hundred Thirty Dollars (\$41,230) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease to cause, suffer, allow, or permit the collection, handling, storage, processing or disposal of any

additional unauthorized industrial solid waste into Pond No. 6 (NOR Unit No. 024) in violation of 30 TEX. ADMIN. CODE § 335.4;

- b. Within 30 days after the effective date of this Agreed Order, update the Facility's NOR to accurately identify which wastes are managed in NOR Unit Nos. 024, 010 and 019 and where TWC 0380102H is being managed;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.;
- d. Notify the TCEQ Corpus Christi Regional Office in writing at least ten working days prior to conducting any investigative, remedial, or monitoring activities to allow TCEQ personnel the opportunity to observe the activities and to split any soil, sediment, groundwater or surface water samples which may be collected;
- e. Within 180 days after the effective date of this Agreed Order, submit an **Affected Property Assessment Report**, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(I)); and Institutional Controls under Subchapter F; and
- f. Within 30 days of submittal of the Affected Property Assessment Report to the Executive Director, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.d. and 3.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Waste Section
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

4. 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.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

DIAMOND SHAMROCK REFINING COMPANY, L.P.

DOCKET NO. 2010-1729-IHW-E

Page 6

9. 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 Sullivan

For the Executive Director

Date 6/30/2011

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.

Harry Wright Jr.

Signature

Date 03/23/11

Harry Wright Jr.

Name (Printed or typed)
Authorized Representative of
DIAMOND SHAMROCK REFINING COMPANY, L.P.

Vice President and General Manager

Title

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

Attachment A
Docket Number: 2010-1729-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: DIAMOND SHAMROCK REFINING COMPANY,
L.P.

Payable Penalty Amount: Eighty-Two Thousand Four Hundred Sixty Dollars (\$82,460)

SEP Amount: Forty-One Thousand Two Hundred Thirty Dollars (\$41,230)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance

Location of SEP: Live Oak County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development
Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

DIAMOND SHAMROCK REFINING COMPANY, L.P.
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.