

Executive Summary – Enforcement Matter – Case No. 41158
KM Liquids Terminals LLC
RN100237452
Docket No. 2011-0250-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Galena Park Terminal, 906 Clinton Drive, Galena Park, Harris County

Type of Operation:

Bulk storage terminal

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 24, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$37,950

Amount Deferred for Expedited Settlement: \$7,590

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$15,180

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$15,180

Name of SEP: Barbers Hill Independent School District-Alternative Fueled

Vehicle and Equipment Program

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41158

KM Liquids Terminals LLC

RN100237452

Docket No. 2011-0250-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 18 to November 1, 2010

Date(s) of NOE(s): December 20, 2010

Violation Information

Failed to maintain the minimum operating temperature in the Vapor Combustion Unit (“VCU”) of 1520°F for Vapor Combustor VCU-1A, 1556°F for Vapor Combustor VCU-1B, and 1800°F for Vapor Combustor VCU-2 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TCEQ Air Permit No. 2193, Special Conditions No. 33, Federal Operating Permit No. 988, Special Terms and Conditions No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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. Within 30 days, complete VCU equipment upgrades necessary to prevent recurrence of minimum operating temperature violations due to the same causes; and
 - b. Within 45 days, submit written certification demonstrating compliance.

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: Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

TCEQ SEP Coordinator: Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

Executive Summary – Enforcement Matter – Case No. 41158
KM Liquids Terminals LLC
RN100237452
Docket No. 2011-0250-AIR-E

Respondent: W.P. Brown, Vice President – Terminals Regional, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547
Christina Harris, Manager - Permitting and Compliance, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0250-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	KM Liquids Terminals LLC
Payable Penalty Amount:	Thirty Thousand Three Hundred Sixty Dollars (\$30,360)
SEP Amount:	Fifteen Thousand One Hundred Eighty Dollars (\$15,180)
Type of SEP:	Pre-approved
Third-Party Recipient:	Barbers Hill Independent School District- Alternative Fueled Vehicle and Equipment Program
Location of SEP:	Harris 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 **Barbers Hill Independent School District** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

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:

John Johnson
Carl Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 101
Port Arthur, Texas 77642

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.

KM Liquids Terminals LLC
Agreed Order - Attachment A

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

Texas Commission on Environmental Quality
Litigation Division
Attention: Cashier, MC 175
P.O. Box 13088
Austin, Texas 78711-3087

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-Jan-2011	Screening	14-Feb-2011	EPA Due	
	PCW	23-Feb-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	KM Liquids Terminals LLC		
Reg. Ent. Ref. No.	RN100237452		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41158	No. of Violations	1
Docket No.	2011-0250-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$27,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **38.0%** Enhancement **Subtotals 2, 3, & 7** **\$10,450**

Notes: Enhancement for two NOVs with same/similar violations, five NOVs with dissimilar violations, and one order with denial of liability. Reduction for two notices of intent to conduct an audit.

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: \$3,153
 Approx. Cost of Compliance: \$20,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$37,950**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$37,950**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$37,950**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$7,590**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$30,360**

Screening Date 14-Feb-2011

Docket No. 2011-0250-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 2 (September 2002)

Case ID No. 41158

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100237452

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	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>)	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) 38%

>> 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 two NOVs with same/similar violations, five NOVs with dissimilar violations, and one order with denial of liability. Reduction for two notices of intent to conduct an audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 38%

Screening Date 14-Feb-2011

Docket No. 2011-0250-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 2 (September 2002)

Case ID No. 41158

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100237452

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), TCEQ Air Permit No. 2193, Special Conditions No. 33, Federal Operating Permit No. 988, Special Terms and Conditions No. 16, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the minimum operating temperature in the Vapor Combustion Unit ("VCU") of 1520°F for Vapor Combustor VCU-1A, 1556°F for Vapor Combustor VCU-1B, and 1800°F for Vapor Combustor VCU-2. See attachment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 11 Number of violation days 472

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

Violation Base Penalty \$27,500

Eleven quarterly events are recommended (six quarters from July 12, 2009 to October 27, 2010 for VCU-1A, four quarters from October 6, 2009 to October 1, 2010 for VCU-1B, and one quarter for May 24, 2010 for VCU-2).

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 \$27,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,153

Violation Final Penalty Total \$37,950

This violation Final Assessed Penalty (adjusted for limits) \$37,950

Economic Benefit Worksheet

Respondent KM Liquids Terminals LLC
Case ID No. 41158
Req. Ent. Reference No. RN100237452
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$20,000	12-Jul-2009	12-Oct-2011	2.25	\$150	\$3,003	\$3,153
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

Estimated cost to perform necessary equipment upgrades in order to maintain the minimum operating temperature for the VCU. The Date Required is the initial date of noncompliance. The Final Date is the date that corrective actions are expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$20,000	TOTAL	\$3,153
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Attachment to Penalty Calculation Worksheet
 KM Liquids Terminals LLC
 RN100237452
 Case No. 41158
 Docket No. 2011-0250-AIR-E

Date	Emission Point Number	Minimum Operating Permit Limit (°F)	Actual Operating Temperature* (°F)	Difference (°F)
July 12, 2009	TNK-VCU-1A	1520	798.8	721.2
August 21, 2009	TNK-VCU-1A	1520	124.0	1396
August 21, 2009	TNK-VCU-1A	1520	507.6	1012.4
October 6, 2009	TNK-VCU-1B	1556	767.2	788.8
October 6, 2009	TNK-VCU-1B	1556	1101.1	454.9
October 6, 2009	TNK-VCU-1B	1556	1144.9	411.1
October 6, 2009	TNK-VCU-1B	1556	1327.3	228.7
November 15, 2009	TNK-VCU-1A	1520	0.0	1520
November 17, 2009	TNK-VCU-1A	1520	0.0	1520
December 18, 2009	TNK-VCU-1B	1556	1528.0	28
December 24, 2009	TNK-VCU-1B	1556	95.63	1460.37
January 12, 2010	T100-9	**	0.0	-
February 17, 2010	TNK-VCU-1B	1556	356.14	1199.86
February 18, 2010	TNK-VCU-1B	1556	52.62	1503.38
March 22, 2010	T150-108	***	0.0	-
April 25, 2010	TNK-VCU-1A	1520	1460.95	59.05
May 24, 2010	TNK-VCU-2	1800	1297.16	502.84
July 2, 2010	TNK-VCU-1A	1520	365.96	1154.04
July 6, 2010	TNK-VCU-1A	1520	805.58	714.42
July 7, 2010	TNK-VCU-1A	1520	1518.42	1.58
July 24, 2010	TNK-VCU-1B	1556	199.79	1356.21
September 4, 2010	TNK-VCU-1A	1520	1390.80	129.2
September 23, 2010	TNK-VCU-1B	1556	1303.87	252.13
October 1, 2010	TNK-VCU-1B	1556	1499.27	56.73
October 15, 2010	TNK-VCU-1A	1520	1455.21	64.79
October 27, 2010	TNK-VCU-1A	1520	1074.44	445.56

* Actual operating temperatures are six-minute averages.

** Vapor valve failed to open and route vapor to TNK-VCU-1.

*** Vapor valve failed to open and route vapor to TNK-VCU-1 and TNK-VCU-2.

Compliance History

Customer/Respondent/Owner-Operator:	CN603254707	KM Liquids Terminals LLC	Classification: AVERAGE	Rating: 2.92
Regulated Entity:	RN100237452	GALENA PARK TERMINAL	Classification: AVERAGE	Site Rating: 4.50
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	PERMIT		50054
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID		TXD026481523
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)		30573
	AIR OPERATING PERMITS	ACCOUNT NUMBER		HG0262H
	AIR OPERATING PERMITS	PERMIT		988
	UNDERGROUND INJECTION CONTROL	PERMIT		5X2600543
	WASTEWATER	EPA ID		TX0005819
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		50343
	AIR NEW SOURCE PERMITS	REGISTRATION		91731
	AIR NEW SOURCE PERMITS	PERMIT		12956
	AIR NEW SOURCE PERMITS	REGISTRATION		24412
	AIR NEW SOURCE PERMITS	REGISTRATION		29236
	AIR NEW SOURCE PERMITS	REGISTRATION		45172
	AIR NEW SOURCE PERMITS	REGISTRATION		47921
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		HG0262H
	AIR NEW SOURCE PERMITS	PERMIT		2193
	AIR NEW SOURCE PERMITS	PERMIT		2443
	AIR NEW SOURCE PERMITS	PERMIT		2444
	AIR NEW SOURCE PERMITS	REGISTRATION		53795
	AIR NEW SOURCE PERMITS	REGISTRATION		75915
	AIR NEW SOURCE PERMITS	REGISTRATION		55782
	AIR NEW SOURCE PERMITS	REGISTRATION		76331
	AIR NEW SOURCE PERMITS	AFS NUM		4820100091
	AIR NEW SOURCE PERMITS	REGISTRATION		73983
	AIR NEW SOURCE PERMITS	REGISTRATION		74762
	AIR NEW SOURCE PERMITS	REGISTRATION		77380
	AIR NEW SOURCE PERMITS	REGISTRATION		79780
	AIR NEW SOURCE PERMITS	REGISTRATION		81751
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)		30573
	WASTE WATER GENERAL PERMIT	PERMIT		TXG670089
	POLLUTION PREVENTION PLANNING	ID NUMBER		P00264
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER		HG0262H

Location: 906 CLINTON DR, GALENA PARK, TX, 77547

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 18, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 18, 2006 to February 18, 2011

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

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

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWNOPR	Kinder Morgan Liquids Terminals LLC
OWNOPR	KM Liquids Terminals, L. P.
OWNOPR	KM Liquids Terminals LLC
4. If Yes, who was/were the prior owner(s)/operator(s)?

OWN	American Commercial Barge Line Company
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5. When did the change(s) in owner or operator occur? 03/18/2008
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: 04/25/2010 ADMINORDER 2009-1161-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: S.C. 30C PERMIT
Description: Failed to maintain a permit required destruction efficiency of 99.8% for the East Plant Roof Landing Vapor Combustion Unit.
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)
5C THSC Chapter 382 382.085(b)
Description: Failed to represent equipment in the permitting process, as documented during an investigation conducted on May 17, 2009. Specifically, a permit was obtained for one vapor combustion unit (EPN TNK VCU-1), however, two vapor combustors were installed (EPN TNK VCU-1A and EPN TNK VCU-1B).

- 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 02/27/2006(407328)
- 2 02/01/2007 (457519)
- 3 03/23/2006 (457617)
- 4 10/30/2006 (515361)

5	01/07/2008	(559884)
6	05/23/2008	(615583)
7	05/23/2008	(615606)
8	07/07/2008	(646214)
9	07/01/2008	(684365)
10	08/14/2008	(686709)
11	08/28/2008	(699906)
12	04/17/2009	(738168)
13	07/10/2009	(745053)
14	08/17/2009	(759252)
15	07/28/2009	(761573)
16	08/06/2009	(764785)
17	10/21/2009	(767489)
18	07/02/2010	(767491)
19	10/23/2009	(780057)
20	12/01/2009	(781847)
21	01/13/2010	(786574)
22	01/19/2010	(786707)
23	04/16/2010	(791141)
24	05/26/2010	(802429)
25	08/30/2010	(850256)
26	01/03/2011	(858181)
27	11/18/2010	(864139)
28	08/23/2010	(869776)
29	09/20/2010	(876714)
30	10/20/2010	(884240)
31	01/27/2011	(887372)
32	10/04/2010	(890609)
33	02/01/2011	(893002)
34	12/30/2010	(898995)

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

Date: 03/14/2006 (457617) CN603254707
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
Description: Failure to create a final record for a non-reportable emissions event.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
NSR Air Permit No. 2193, SC #1 PA
Description: Failure to prevent an avoidable emissions event.

Date: 01/31/2007 (457519) CN603254707
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)
O-00988, Special Condition 1A OP
Description: Failure to record flare observations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT R 63.428(g)
5C THC Chapter 382, SubChapter A 382.085(b)
O-00988, Special Condition 1A OP
Description: Failure to submit the semiannual reports during the period, 7/03 through 12/31/05.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567(e)
5C THC Chapter 382, SubChapter A 382.085(b)
O-00988, Special Condition 1A OP
Description: Failure to submit semiannual reports.
Self Report? NO Classification: Moderate
Citation: 2193, Special Condition 2 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.112(a)
5C THC Chapter 382, SubChapter A 382.085(b)
O-0988, Special Conditions 1A and 16 OP
Description: Failure to maintain the required vapor pressure.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)
O-0988, Special Condition 1A OP
Description: Failure to control emissions.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)
O-0988, Special Condition 1A OP
Description: Failure to maintain the required vapor pressure for truck rack TR-10.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ka 60.112a(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)
PERMIT 2193, Special Condition 2C PERMIT
Special Condition 1A OP
Description: Failure to have the floating roof resting on the liquid surface.

Date: 08/28/2008 (699906) Classification: Minor
Self Report? NO
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
Description: During the investigation and records review, it was noted that the NOR, last computer update April 29, 2008, contained inaccuracies that required updates.

Date: 05/29/2009 (742759) CN603254707 Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
NSR Permit 2193, SC 29 PERMIT
Description: Failure to maintain temperature for the VCU's during tank degassing operations above the minimum one hour average temperature maintained during the stack test

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter F 115.545
5C THSC Chapter 382 382.085(b)
Description: Failure to use the test methods required by 30 TAC 115.545 to demonstrate compliance with 30 TAC 115.541 during the performance test of Portable Oxidizer EMTOS-2000 conducted by Best Environmental on July 21, 2008 and during the performance test of Portable Oxidizer EMTOS-3500 conducted by Best Environmental on June 16, 2008

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
NSR Permit 2193, SC 24E PERMIT
Description: Failure to pass through the control device a volume of purge gas equivalent to twice that of the vapor space before the vent stream may be sampled to determine whether VOC concentrations are acceptable for uncontrolled venting

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
NSR Permit 2193, SC 24E PERMIT

Description: Failure to use an instrument with a flame ionization detector (FID)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
NSR Permit 2193, SC 24I PERMIT

Description: Failure to monitor tank vent stream concentration for at least a five-minute period
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.542(a)
5C THSC Chapter 382 382.085(b)
Description: Failure to take continuous measurements until five consecutive readings of VOC concentrations collected at 12 hour intervals are measured to be less than 34,000 ppmv or less than 50% of the LEL

Date: 10/21/2009 (767489) CN603254707 Classification: Minor
Self Report? NO
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
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)
Special Condition 27E PERMIT
Special Terms & Condition 16 OP
Description: Failure to seal open ended lines in VOC service.

Self Report? NO Classification: Minor
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)
Special Condition 22 PERMIT
Special Terms & Condition 16 OP

Description: Failure to operate floating roof tanks properly during the compliance period.
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)
Special Condition 29 PERMIT
Special Terms & Condition 16 OP

Description: Failure to maintain permitted operating temperatures on vapor control units

Date: 04/16/2010 (791141)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15
Permit Provision III.D. PERMIT

Description: Failure to conduct weekly inspections of the Corrective Action Management Unit

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(5)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT G 264.113(b)
Permit Provision VII.C. PERMIT

Description: Failure to follow closure plan when closing permitted unit.

Date: 12/20/2010 (858181)

CN603254707

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)
GENERAL TERMS AND CONDITIONS OP

Description: Kinder Morgan failed to report a deviation. [Category C3]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 31E PERMIT
STC 1A OP

Description: Kinder Morgan failed to cap open-ended lines. [Category C10]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SPECIAL CONDITION 30A PERMIT
STC 1A and 16 OP

Description: Kinder Morgan failed to route tank vapors to the Vapor Combustor Unit during tank degassing operations. [Category B18]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SPECIAL CONDITION 33 PERMIT
STC 16 OP

Description: Kinder Morgan failed to maintain the required destruction efficiency in the Vapor Combustor Units. [Category C4]

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SPECIAL CONDITION 33 PERMIT
STC 16 OP

Description: Kinder Morgan failed to maintain a constant pilot flame on the Vapor Combustor

Units. [Category C4]

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)
 5C THSC Chapter 382 382.085(b)
 SPECIAL CONDITION 2D PERMIT
 STC 16 OP

Description: Kinder Morgan failed to submit the tank fill notification 30 days prior to filling.
 [Category C3]

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT BB 61.305(f)
 5C THSC Chapter 382 382.085(b)
 SPECIAL CONDITION 3D PERMIT
 STC 16 OP

Description: Kinder Morgan failed to submit the benzene quarterly report within 90 days.
 [Category C3]

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.7(b)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.563(b)(1)
 5C THSC Chapter 382 382.085(b)
 SPECIAL CONDITION 3C PERMIT
 STC 16 OP

Description: Kinder Morgan failed to submit a notification of intent to conduct an initial performance test within 60 days. [Category C3]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2342(a)(2)
 5C THSC Chapter 382 382.085(b)
 SPECIAL CONDITION 4 PERMIT
 STC 16 OP

Description: Kinder Morgan failed to confirm that tank components were gasketed and fastened as required. [Category C1]

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(A)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 SPECIAL CONDITION 30D PERMIT
 STC 16 OP

Description: Kinder Morgan failed to prevent the VCU from shutting down, resulting in unauthorized emissions. [Category B18]

F. Environmental audits.

Notice of Intent Date: 12/08/2008 (721352)

No DOV Associated

Notice of Intent Date: 02/03/2010 (796679)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KM LIQUIDS TERMINALS LLC
RN100237452**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0250-AIR-E**

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a bulk storage terminal at 906 Clinton Drive in Galena Park, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 25, 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 Thirty-Seven Thousand Nine Hundred Fifty Dollars (\$37,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand One Hundred

Eighty Dollars (\$15,180) of the administrative penalty and Seven Thousand Five Hundred Ninety Dollars (\$7,590) 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. Fifteen Thousand One Hundred Eighty Dollars (\$15,180) 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 Plant, the Respondent is alleged to have failed to maintain the minimum operating temperature in the Vapor Combustion Unit ("VCU") of 1520°F for Vapor Combustor VCU-1A, 1556°F for Vapor Combustor VCU-1B, and 1800°F for Vapor Combustor VCU-2, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TCEQ Air Permit No. 2193, Special Conditions No. 33, Federal Operating Permit No. 988, Special Terms and Conditions No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted from October 18 to November 1, 2010 and detailed in the table below:

Date	Emission Point Number	Minimum Operating Permit Limit (°F)	Actual Operating Temperature* (°F)	Difference (°F)
July 12, 2009	TNK-VCU-1A	1520	798.8	721.2
August 21, 2009	TNK-VCU-1A	1520	124.0	1396
August 21, 2009	TNK-VCU-1A	1520	507.6	1012.4
October 6, 2009	TNK-VCU-1B	1556	767.2	788.8
October 6, 2009	TNK-VCU-1B	1556	1101.1	454.9
October 6, 2009	TNK-VCU-1B	1556	1144.9	411.1
October 6, 2009	TNK-VCU-1B	1556	1327.3	228.7
November 15, 2009	TNK-VCU-1A	1520	0.0	1520
November 17, 2009	TNK-VCU-1A	1520	0.0	1520
December 18, 2009	TNK-VCU-1B	1556	1528.0	28
December 24, 2009	TNK-VCU-1B	1556	95.63	1460.37
January 12, 2010	T100-9	**	0.0	-
February 17, 2010	TNK-VCU-1B	1556	356.14	1199.86
February 18, 2010	TNK-VCU-1B	1556	52.62	1503.38
March 22, 2010	T150-108	***	0.0	-
April 25, 2010	TNK-VCU-1A	1520	1460.95	59.05
May 24, 2010	TNK-VCU-2	1800	1297.16	502.84
July 2, 2010	TNK-VCU-1A	1520	365.96	1154.04
July 6, 2010	TNK-VCU-1A	1520	805.58	714.42
July 7, 2010	TNK-VCU-1A	1520	1518.42	1.58
July 24, 2010	TNK-VCU-1B	1556	199.79	1356.21
September 4, 2010	TNK-VCU-1A	1520	1390.80	129.2
September 23, 2010	TNK-VCU-1B	1556	1303.87	252.13
October 1, 2010	TNK-VCU-1B	1556	1499.27	56.73
October 15, 2010	TNK-VCU-1A	1520	1455.21	64.79
October 27, 2010	TNK-VCU-1A	1520	1074.44	445.56

* Actual operating temperatures are six-minute averages.

** Vapor valve failed to open and route vapor to TNK-VCU-1.

*** Vapor valve failed to open and route vapor to TNK-VCU-1 and TNK-VCU-2.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KM Liquids Terminals LLC, Docket No. 2011-0250-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Fifteen Thousand One Hundred Eighty Dollars (\$15,180) 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. Within 30 days after the effective date of this Agreed order, complete VCU equipment upgrades necessary to prevent recurrence of minimum operating temperature violations due to the same causes; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

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:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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 Plant 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.

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



For the Executive Director

7/6/2011

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.

W. P. Thoun

Signature

May 19, 2011

Date

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

Vice President - Terminals Regional

Title

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

Attachment A
Docket Number: 2011-0250-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: KM Liquids Terminals LLC

Payable Penalty Amount: Thirty Thousand Three Hundred Sixty Dollars (\$30,360)

SEP Amount: Fifteen Thousand One Hundred Eighty Dollars (\$15,180)

Type of SEP: Pre-approved

Third-Party Recipient: Barbers Hill Independent School District-
Alternative Fueled Vehicle and Equipment Program

Location of SEP: Harris 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 **Barbers Hill Independent School District** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

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:

John Johnson
Carl Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 101
Port Arthur, Texas 77642

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.

KM Liquids Terminals LLC
Agreed Order - Attachment A

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

Texas Commission on Environmental Quality
Litigation Division
Attention: Cashier, MC 175
P.O. Box 13088
Austin, Texas 78711-3087

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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