

Executive Summary – Enforcement Matter – Case No. 46245

KM Liquids Terminals LLC

RN100224815

Docket No. 2013-0369-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Pasadena Terminal, 530 Witter Street, Pasadena, Harris County

Type of Operation:

Petroleum 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: July 26, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$100,000

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$50,000

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$50,000

Name of SEP: Barbers Hill Independent School District

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: \$100,000

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 46245
KM Liquids Terminals LLC
RN100224815
Docket No. 2013-0369-AIR-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 7, 2012
Date(s) of NOE(s): January 25, 2013

Violation Information

Failed to prevent unauthorized emissions during an event that began on October 2, 2012 (Incident No. 174672), lasting 95 hours and 23 minutes [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 5171, Special Conditions No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By October 9, 2012, completed the cleanup and remediation of the 20 gallon gasoline spill;
- b. By October 12, 2012, completed a root cause analysis of the incident;
- c. On October 15, 2012, revised the written operating procedures and trained the operators on the revised written procedures. The revised written procedures now require confirmation that the butane blending system is running prior to off-loading butane trucks;
- d. On February 11, 2013, completed a study of the gasoline/butane blending system. The study focused on adding hardware and process control software logic permissive to prevent off-loading of a butane truck if the butane blending system is not operating as designed; and
- e. On March 22, 2013, submitted a corrective action plan ("CAP") to address the excessive emissions event (Incident No. 174672) that occurred on October 2, 2012.

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to:

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- a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by any other deadline specified in writing;
- b. Upon Commission approval, implement the CAP in accordance with the approved schedule; and
- c. Within 15 days upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provision 2.b.

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: Heather Podlipny, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2603; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: W.P. Brown, Vice President of Operations, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547
Bruce Tylock, Regional Manager - EHS, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0369-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|-------------------------------|---|
| Respondent: | KM Liquids Terminals LLC |
| Penalty Amount: | One Hundred Thousand Dollars (\$100,000) |
| SEP Offset Amount: | Fifty Thousand Dollars (\$50,000) |
| Type of SEP: | Contribution to a Third-Party Pre-Approved SEP |
| Third-Party Recipient: | Barbers Hill Independent School District |
| Project Name: | <i>Barbers Hill Vehicle and Equipment Program</i> |
| Location of SEP: | Chambers and Harris Counties |

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset 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

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Barbers Hill Independent School District** for the *Barbers Hill Vehicle and Equipment Program*. The contribution will be used in accordance with the SEP agreement between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to 1) retire current diesel-powered or gasoline-powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled or low-emission vehicles/equipment; 2) convert current vehicles and equipment to alternative-fueled vehicles/equipment; or 3) retrofit current gasoline-powered and diesel-powered vehicles and equipment to decrease emissions from those sources.

The SEP Offset Amount may only be used for: 1) the incremental costs of purchase of alternative-fueled or lower-emission vehicles/equipment or retrofit of existing vehicles/equipment; 2) the incremental cost of purchase of alternative fuels versus regular gasoline or diesel fuels; or 3) other direct expenses authorized in advance and in writing by TCEQ.

Retirement of Vehicles: the Third-Party Recipient shall ensure that equipment and vehicles being retired are operational and that vehicles have current registration stickers. The retired vehicles and equipment must not be resold for any use except scrap value.

KM Liquids Terminals LLC
Agreed Order - Attachment A

The Third-Party Recipient shall submit proof of registration, decommissioning, and disposables for all retired vehicles and equipment.

Retrofits and Conversions: the Third-Party Recipient shall submit proof that all conversions or retrofits meet current Environmental Protection Agency low-emission standards. When purchasing alternative-fueled vehicles or equipment, the Third-Party Recipient shall purchase only those types of equipment that use fuels that are available for purchase within 15 miles of its fleet operation area. Alternative-fueled technologies may include propane or electric-powered lawn mowers, propane-powered light duty vehicles and heavy equipment, and other technologies or alternative fuels as described below. The Third-Party Recipient may utilize any of the following fuel technologies if the fuel is available for purchase within 15 miles of its fleet operation area.

Alternative fuel usage is limited to this list which is defined by the Energy Policy Act of 1992 and is currently, or has been, commercially available for vehicles:

Biodiesel (if used in an area not designated as ozone non-attainment or near non-attainment)

Electricity

Ethanol

Hydrogen

Methanol

Natural Gas

Propane

Other fuels that are currently under development may be approved for use at the discretion of the TCEQ. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Replacement of gasoline and diesel powered lawnmowers, heavy equipment, and vehicles with lower-emission items will reduce air pollution emissions of particulate matter, volatile organic carbon compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by the older

replaced item. Use of alternative fuels combined with energy efficiency modifications results in a direct reduction in the amount of emissions that contribute to air pollution in this state.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset 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, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Barbers Hill Independent SEP** and shall mail the contribution with a copy of the Agreed Order to:

John Johnson, Esquire
Carl R. Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 445
Port Arthur, Texas 77642

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset

KM Liquids Terminals LLC
Agreed Order - Attachment A

Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of 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

Respondent shall not include this SEP in any application made to the TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for 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 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 28-Jan-2013 | Screening | 11-Feb-2013 | EPA Due | |
| | PCW | 8-May-2013 | | | | |

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

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 46245 | No. of Violations | 1 |
| Docket No. | 2013-0369-AIR-E | Order Type | Findings |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Heather Podlipny |
| | | EC's Team | Enforcement Team 4 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|------------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$100,000 |
|---|-------------------|------------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|---------------------------|--------------------------------|------------------|
| Compliance History | 100.0% Enhancement | Subtotals 2, 3, & 7 | \$100,000 |
|---------------------------|---------------------------|--------------------------------|------------------|

Notes
 Enhancement for four orders with denial of liability, one order without denial of liability, and one court order with denial of liability. Reduction for two Notices of Intent to conduct audits, one disclosure of violations and high performer classification.

| | | | | |
|--------------------|----|-------------------------|-------------------|------------|
| 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: \$177
 Approx. Cost of Compliance: \$9,658
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|------------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$200,000 |
|-----------------------------|-----------------------|------------------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
 [Empty box for notes]

| | |
|-----------------------------|------------------|
| Final Penalty Amount | \$200,000 |
|-----------------------------|------------------|

| | | |
|-----------------------------------|-------------------------------|------------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$100,000 |
|-----------------------------------|-------------------------------|------------------|

| | | | |
|-----------------|-----------------------|-------------------|------------|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|-----------------------|-------------------|------------|

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

Notes
 No deferral is recommended for Findings Orders.

| | |
|------------------------|------------------|
| PAYABLE PENALTY | \$100,000 |
|------------------------|------------------|

Screening Date 11-Feb-2013

Docket No. 2013-0369-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 3 (September 2011)

Case ID No. 46245

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Heather Podlipny

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>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| 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 | 1 | 25% |
| 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>) | 1 | -2% |

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) 111%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for three orders with denial of liability, one order without denial of liability, and one court order with denial of liability. Reduction for two Notices of Intent to conduct audits, one disclosure of violations and high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 101%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 11-Feb-2013

Docket No. 2013-0369-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 3 (September 2011)

Case ID No. 46245

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 5171, Special Conditions No. 1

Violation Description

Failed to prevent unauthorized emissions during an event that began on October 2, 2012 (Incident No. 174672) and lasted 95 hours and 23 minutes. Specifically, a storage tank circulation pump, used to blend additives, was not correctly restarted after a planned power outage. The day after power was restored, butane was offloaded from tank trucks into the external floating roof tank, Emission Point No. T150-56. Due to the absence of circulation in the tank, the butane was not properly blended with the gasoline in the tank, causing butane emissions to escape to the atmosphere through the external floating roof seals. In addition, the escaping butane forced 20 gallons of gasoline inside the tank through the seals, onto the tank roof and to the ground below, which resulted in gasoline emissions being released to the atmosphere. The emissions event resulted in the release of 176,556.58 pounds ("lbs") of butane, 0.5635 lbs of benzene, 32.57 lbs of isopentane, 10.70 lbs of 2-methylpentane, and 49.86 lbs of other volatile organic compounds. The emissions event was determined to be excessive.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | x | | |
| Potential | | | |

Percent 100.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation. Emissions modeling estimated that the off-property ambient air concentration for butane exceeded the effects screening level by two times.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 4

4 Number of violation days

| | |
|--------------|---|
| daily | x |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$100,000

Four daily events are 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 \$100,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$177

Violation Final Penalty Total \$200,000

This violation Final Assessed Penalty (adjusted for limits) \$100,000

Economic Benefit Worksheet

Respondent KM Liquids Terminals LLC
Case ID No. 46245
Reg. Ent. Reference No. RN100224815
Media Air
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|-------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$4,658 | 2-Oct-2012 | 9-Oct-2012 | 0.02 | \$4 | n/a | \$4 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$5,000 | 2-Oct-2012 | 11-Jun-2013 | 0.69 | \$173 | n/a | \$173 |

Notes for DELAYED costs

Remediation/Disposal costs for the cleanup and remediation of the 20 gallon gasoline spill. Other estimated costs to update and implement training and operating procedures to prevent a recurrence of emissions events due to similar causes as Incident No. 174672. The Dates Required are the start date of the emissions event. The Remediation/Disposal Final Date is the date the gasoline spill cleanup was accomplished and the Other Final Date is the estimated date of compliance for the emissions event.

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 \$9,658

TOTAL \$177

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN602717092, RN100224815, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602717092, KM Liquids Terminals LLC **Classification:** HIGH **Rating:** 0.04
Regulated Entity: RN100224815, PASADENA TERMINAL **Classification:** HIGH **Rating:** 0.00
Complexity Points: 20 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 530 WITTER STREET, PASADENA, TX 77506-2436, HARRIS COUNTY
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0261J

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD070137161

POLLUTION PREVENTION PLANNING ID NUMBER

P00263

AIR NEW SOURCE PERMITS PERMIT 5171

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0261J

AIR NEW SOURCE PERMITS REGISTRATION 75567

AIR NEW SOURCE PERMITS REGISTRATION 75160

AIR NEW SOURCE PERMITS AFS NUM 4820100092

STORMWATER PERMIT TXR05AG59

AIR OPERATING PERMITS PERMIT 984

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 30772

WASTEWATER EPA ID TX0063576

AIR NEW SOURCE PERMITS PERMIT 8477

AIR NEW SOURCE PERMITS REGISTRATION 75933

AIR NEW SOURCE PERMITS REGISTRATION 74333

AIR NEW SOURCE PERMITS REGISTRATION 76487

AIR NEW SOURCE PERMITS REGISTRATION 107194

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30772

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0261J

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: February 11, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 11, 2008 to February 11, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Podlipny

Phone: (512) 239-2603

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 03/23/2009 ADMINORDER 2008-1588-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:No. 5171, Special Condition No. 1 PERMIT

Description: Failed to prevent an avoidable emissions event.

- 2 Effective Date: 05/09/2010 ADMINORDER 2009-1622-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:SC 14 OP
SC 23E PERMIT
Description: Failed to properly sample the purge gas from storage tanks to determine if it is acceptable for uncontrolled venting.
- 3 Effective Date: 12/20/2010 COURTOORDER (Final Judgement-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:5171, Special Condition 1 PERMIT
Description: Failed to prevent a leak of gasoline from a thinned piece of piping at the Pit 3 Manifold, which caused an unauthorized emissions event.
- 4 Effective Date: 03/07/2011 ADMINORDER 2010-1205-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:Special Condition No. 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,551.69 pounds of volatile organic compounds from Tank 150-66 during an emissions event that began on August 15, 2009 and lasted 21 hours and 48 minutes (Incident No. 136110) due to an excess fill rate while Tank 150-66 was being refilled.
- 5 Effective Date: 04/08/2012 ADMINORDER 2011-1726-AIR-E (1660 Order-Agreed Order With Denial)
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)
Rqmt Prov:General Terms and Conditions OP
Description: the Respondent is alleged to have failed to submit a complete and accurate semi-annual deviation report.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 February 15, 2008 (618701)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

Notice of Intent Date: 10/12/2009 (784663)
No DOV Associated

Notice of Intent Date: 06/30/2011 (937004)
Disclosure Date: 11/10/2011
Viol. Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)
30 TAC Chapter 122, SubChapter B 122.142

Description: Failed to have enclosed ground flares in compliance with visible emissions requirements for stationary vents.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2013-0369-AIR-E

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 ("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 presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a petroleum storage terminal at 530 Witter Street in Pasadena, Harris County, Texas (the "Site").

2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on November 7, 2012, TCEQ staff documented that the Respondent failed to prevent unauthorized emissions during an event that began on October 2, 2012 (Incident No. 174672) and lasted 95 hours and 23 minutes. Specifically, a storage tank circulation pump, used to blend additives, was not correctly restarted after a planned power outage. The day after power was restored, butane was offloaded from tank trucks into the external floating roof tank, Emission Point No. T150-56. Due to the absence of circulation in the tank, the butane was not properly blended with the gasoline in the tank, causing butane emissions to escape to the atmosphere through the external floating roof seals. In addition, the escaping butane forced 20 gallons of gasoline inside the tank through the seals, onto the tank roof and to the ground below, which resulted in gasoline emissions being released to the atmosphere. The emissions event resulted in the release of 176,556.58 pounds ("lbs") of butane, 0.5635 lbs of benzene, 32.57 lbs of isopentane, 10.70 lbs of 2-methylpentane, and 49.86 lbs of other volatile organic compounds. The emissions event was determined to be excessive.
4. The Respondent received notice of the violations on January 30, 2013.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. By October 9, 2012, completed the cleanup and remediation of the 20 gallon gasoline spill;
 - b. By October 12, 2012, completed a root cause analysis of the incident;
 - c. On October 15, 2012, revised the written operating procedures and trained the operators on the revised written procedures. The revised written procedures now require confirmation that the butane blending system is running prior to off-loading butane trucks;
 - d. On February 11, 2013, completed a study of the gasoline/butane blending system. The study focused on adding hardware and process control software logic permissive to prevent off-loading of a butane truck if the butane blending system is not operating as designed; and
 - e. On March 22, 2013, submitted a corrective action plan ("CAP") to address the excessive emissions event (Incident No. 174672) that occurred on October 2, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions during an event that began on October 2, 2012 (Incident No. 174672), lasting 95 hours and 23 minutes, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 5171, Special Conditions No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of One Hundred Thousand Dollars (\$100,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Fifty Thousand Dollars (\$50,000) of the administrative penalty. Fifty Thousand Dollars (\$50,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Hundred Thousand Dollars (\$100,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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. 2013-0369-AIR-E" to:

Financial Administration Division, Revenue Operations 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 II, Paragraph 4 above, Fifty Thousand Dollars (\$50,000) of the assessed administrative penalty shall be offset with the condition that the Respondent implements 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. The Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the submitted CAP within 15 days after the date of such requests, or by any other deadline specified in writing;
 - b. Upon Commission approval, implement the CAP in accordance with the approved schedule; and
 - c. Within 15 days upon completion of CAP implementation, submit written certification to demonstrate compliance with Ordering Provision No. 3.b., as described below, and include detailed supporting documentation including photographs, receipts, and/or other records. 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:

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 Site 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, 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.
10. 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.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis
For the Executive Director

9/3/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of KM Liquids Terminals LLC. I am authorized to agree to the attached Agreed Order on behalf of KM Liquids Terminals LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, KM Liquids Terminals LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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. Brown
Signature

5/30/13
Date

W. P. Brown
Name (Printed or typed)
Authorized Representative of
KM Liquids Terminals LLC

V. P. Operations
Title

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

Attachment A
Docket Number: 2013-0369-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|-------------------------------|---|
| Respondent: | KM Liquids Terminals LLC |
| Penalty Amount: | One Hundred Thousand Dollars (\$100,000) |
| SEP Offset Amount: | Fifty Thousand Dollars (\$50,000) |
| Type of SEP: | Contribution to a Third-Party Pre-Approved SEP |
| Third-Party Recipient: | Barbers Hill Independent School District |
| Project Name: | <i>Barbers Hill Vehicle and Equipment Program</i> |
| Location of SEP: | Chambers and Harris Counties |

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset 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

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Barbers Hill Independent School District** for the *Barbers Hill Vehicle and Equipment Program*. The contribution will be used in accordance with the SEP agreement between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to 1) retire current diesel-powered or gasoline-powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled or low-emission vehicles/equipment; 2) convert current vehicles and equipment to alternative-fueled vehicles/equipment; or 3) retrofit current gasoline-powered and diesel-powered vehicles and equipment to decrease emissions from those sources.

The SEP Offset Amount may only be used for: 1) the incremental costs of purchase of alternative-fueled or lower-emission vehicles/equipment or retrofit of existing vehicles/equipment; 2) the incremental cost of purchase of alternative fuels versus regular gasoline or diesel fuels; or 3) other direct expenses authorized in advance and in writing by TCEQ.

Retirement of Vehicles: the Third-Party Recipient shall ensure that equipment and vehicles being retired are operational and that vehicles have current registration stickers. The retired vehicles and equipment must not be resold for any use except scrap value.

KM Liquids Terminals LLC
Agreed Order - Attachment A

The Third-Party Recipient shall submit proof of registration, decommissioning, and disposables for all retired vehicles and equipment.

Retrofits and Conversions: the Third-Party Recipient shall submit proof that all conversions or retrofits meet current Environmental Protection Agency low-emission standards. When purchasing alternative-fueled vehicles or equipment, the Third-Party Recipient shall purchase only those types of equipment that use fuels that are available for purchase within 15 miles of its fleet operation area. Alternative-fueled technologies may include propane or electric-powered lawn mowers, propane-powered light duty vehicles and heavy equipment, and other technologies or alternative fuels as described below. The Third-Party Recipient may utilize any of the following fuel technologies if the fuel is available for purchase within 15 miles of its fleet operation area.

Alternative fuel usage is limited to this list which is defined by the Energy Policy Act of 1992 and is currently, or has been, commercially available for vehicles:

- Biodiesel (if used in an area not designated as ozone non-attainment or near non-attainment)
- Electricity
- Ethanol
- Hydrogen
- Methanol
- Natural Gas
- Propane

Other fuels that are currently under development may be approved for use at the discretion of the TCEQ. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Replacement of gasoline and diesel powered lawnmowers, heavy equipment, and vehicles with lower-emission items will reduce air pollution emissions of particulate matter, volatile organic carbon compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by the older

replaced item. Use of alternative fuels combined with energy efficiency modifications results in a direct reduction in the amount of emissions that contribute to air pollution in this state.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset 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, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Barbers Hill Independent SEP** and shall mail the contribution with a copy of the Agreed Order to:

John Johnson, Esquire
Carl R. Griffith & Associates, Inc.
2901 Turtle Creek Drive, Suite 445
Port Arthur, Texas 77642

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset

KM Liquids Terminals LLC
Agreed Order - Attachment A

Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of 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

Respondent shall not include this SEP in any application made to the TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.