

**Executive Summary – Enforcement Matter – Case No. 46831**

**Firestone Polymers, LLC**

**RN100224468**

**Docket No. 2013-0915-IWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

IWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Firestone Polymers Orange Plant, located on the south side of Farm-to-Market ("FM") Road 1006, approximately one mile east of the intersection of FM Road 1006 and State Highway 87, southwest of Orange, Orange County

**Type of Operation:**

Synthetic rubber fabrication facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 27, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$30,000

**Amount Deferred for Expedited Settlement:** \$6,000

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$12,000

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$12,000

Name of SEP: Big Thicket Association

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** March 28, 2013

**Executive Summary – Enforcement Matter – Case No. 46831**  
**Firestone Polymers, LLC**  
**RN100224468**  
**Docket No. 2013-0915-IWD-E**

**Date(s) of NOE(s):** April 12, 2013

***Violation Information***

Failed to comply with the permitted effluent limitations for total copper and total zinc [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0000454000 Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On September 24, 2012, Respondent cleaned out solids from the oily water separator and initiated a review process for chemical use to identify potential sources of zinc and copper and reasonable replacement or management controls.

**Technical Requirements:**

The Order will require Respondent to:

1. Implement and complete a Supplement Environmental Project (“SEP”). (See SEP Attachment A)
2. Within 365 days, submit written certification demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***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:** Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** Kazuya Hatakeyama, President, FIRESTONE POLYMERS, LLC, P.O. Box 1269, Orange, Texas 77631

**Respondent's Attorney:** Paulina Williams, Attorney, Baker Botts, L.L.P., 98 San Jacinto Boulevard, Suite 1500, Austin, Texas 7870

**Attachment A**  
**Docket Number: 2013-0915-IWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	FIRESTONE POLYMERS, LLC
<b>Penalty Amount:</b>	Twenty-Four Thousand Dollars (\$24,000)
<b>SEP Offset Amount:</b>	Twelve Thousand Dollars (\$12,000)
<b>Type of SEP:</b>	Contribution to a Third-Party Pre-Approved SEP
<b>Third-Party Administrator:</b>	Big Thicket Association
<b>Project Name:</b>	<i>Wetland Species and Ecosystems Analysis</i>
<b>Location of SEP:</b>	Hardin, Jefferson, Orange, Jasper, Liberty, Polk, and Tyler 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 Administrator named above. The contribution will be to the **Big Thicket Association** for the *Wetland Species and Ecosystem Analysis* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ. Specifically, the SEP Offset Amount will be used to inventory an additional taxonomic group, such as lichens, bryophytes, mussels, mollusks, amphibians, fish, or birds (the “Project”). The Project will involve collecting specimens from the Preserve as well as wetland properties in the above mentioned counties which are in the process of being donated to the Preserve. Currently, a memorandum of understanding regarding the impending donation is in place that will allow inventory of these properties. These areas have never been inventoried and need data for resource management. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs.

FIRESTONE POLYMERS, LLC  
Agreed Order - Attachment A

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This Project will benefit the environment by identifying the biodiversity, both native and exotic, in wetland wildlife corridors to assist in stewardship and sustainability. It will also assess the state of pollution indicator species to determine the impact of pollution on the Preserve. Additionally, inventories will identify areas where invasive species are present and aid in the analysis of harmful invasive species spreads and their impacts so that areas for removal can be identified.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Administrator. Respondent shall make the check payable to **Big Thicket Association SEP** and shall mail the contribution with a copy of the Agreed Order to:

Big Thicket Association  
Attention: Jan Ruppel, President  
P.O. Box 198  
Saratoga, Texas 77585

**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 Administrator. 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 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 the 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 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**

<b>Assigned</b>	22-Apr-2013	<b>Screening</b>	6-May-2013	<b>EPA Due</b>	5-Jun-2013
<b>PCW</b>	23-Jul-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	FIRESTONE POLYMERS, LLC	
<b>Reg. Ent. Ref. No.</b>	RN100224468	
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46831	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2013-0915-IWD-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jennifer Graves	
		<b>EC's Team</b>	Enforcement Team 1	
<b>Admin. Penalty \$ Limit Minimum</b>		\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$15,000**

### 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** **\$15,000**

Notes: Enhancement for two months of self-reported effluent violations, five orders with denial of liability, and one order without denial of liability. Reduction for one notice of intent to conduct an audit and one disclosure of violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

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

Total EB Amounts \$7,604  
Approx. Cost of Compliance \$50,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$30,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$30,000**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$30,000**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$6,000**

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** **\$24,000**

Screening Date 6-May-2013

Docket No. 2013-0915-IWD-E

PCW

Respondent FIRESTONE POLYMERS, LLC

Policy Revision 3 (September 2011)

Case ID No. 46831

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224468

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

### 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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	5	100%
	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> )	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> )	1	-1%
	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) 132%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two months of self-reported effluent violations, five orders with denial of liability, and one order without denial of liability. Reduction for one notice of intent to conduct an audit and one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 132%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 100%

Screening Date 6-May-2013

Docket No. 2013-0915-IWD-E

PCW

Respondent FIRESTONE POLYMERS, LLC

Policy Revision 3 (September 2011)

Case ID No. 46831

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224468

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000454000 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review conducted on March 28, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate total copper and total zinc to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2

62 Number of violation days

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

Violation Base Penalty \$15,000

Two monthly 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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7,604

Violation Final Penalty Total \$30,000

This violation Final Assessed Penalty (adjusted for limits) \$30,000

## Economic Benefit Worksheet

**Respondent** FIRESTONE POLYMERS, LLC  
**Case ID No.** 46831  
**Reg. Ent. Reference No.** RN100224468  
**Media** Water Quality  
**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
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50,000	31-Aug-2012	2-Nov-2014	2.17	\$362	\$7,242	\$7,604
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 determine the cause of noncompliance and implement corrective actions which have included cleaning out solids from the oily water separator and initiating a review process for chemical use to identify potential sources of zinc and copper and reasonable replacement or management controls. Date required is the initial month of noncompliance. Final date is the expected date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

**TOTAL**

\$7,604

**EFFLUENT VIOLATION TABLE**

**FIRESTONE POLYMERS, LLC**

TPDES Permit No. WQ0000454000

Docket No. 2013-0915-IWD-E

	Total Copper Daily Avg. Loading	Total Copper Daily Max. Loading	Total Zinc Daily Avg. Loading	Total Zinc Daily Max. Loading
Months	Limit = 0.11 lbs/day	Limit = 0.24 lbs/day	Limit = 0.75 lbs/day	Limit = 1.6 lbs/day
August 2012	0.137	0.543	0.886	2.76
December 2012	0.218	0.73	0.923	2.54

Avg. = Average  
 Max. = Maximum  
 lbs/day = pounds per day





# Compliance History Report

**PUBLISHED** Compliance History Report for CN601590789, RN100224468, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN601590789, FIRESTONE POLYMERS, LLC **Classification:** SATISFACTORY **Rating:** 20.02

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**Regulated Entity:** RN100224468, FIRESTONE POLYMERS ORANGE PLANT **Classification:** SATISFACTORY **Rating:** 20.02

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**Complexity Points:** 18 **Repeat Violator:** NO

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**CH Group:** 05 - Chemical Manufacturing

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**Location:** S SIDE OF FM 1006, APPROX 1 M E OF THE INTX OF FM 1006 AND ST HWY 87, SW OF ORANGE, ORANGE CO, TX

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**TCEQ Region:** REGION 10 - BEAUMONT

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## ID Number(s):

<b>INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30581</b>	<b>INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD008073538</b>
<b>AIR OPERATING PERMITS ACCOUNT NUMBER OC0010U</b>	<b>AIR OPERATING PERMITS PERMIT 1271</b>
<b>WASTEWATER PERMIT WQ0000454000</b>	<b>WASTEWATER EPA ID TX0002968</b>
<b>AIR NEW SOURCE PERMITS AFS NUM 4836100004</b>	<b>AIR NEW SOURCE PERMITS PERMIT 292</b>
<b>AIR NEW SOURCE PERMITS PERMIT 2565</b>	<b>AIR NEW SOURCE PERMITS REGISTRATION 46032</b>
<b>AIR NEW SOURCE PERMITS ACCOUNT NUMBER OC0010U</b>	<b>AIR NEW SOURCE PERMITS AFS NUM 4836100004</b>
<b>AIR NEW SOURCE PERMITS REGISTRATION 100724</b>	<b>AIR NEW SOURCE PERMITS REGISTRATION 109751</b>
<b>IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30581</b>	<b>PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1810014</b>
<b>AIR EMISSIONS INVENTORY ACCOUNT NUMBER OC0010U</b>	<b>POLLUTION PREVENTION PLANNING ID NUMBER P01569</b>

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

**Date Compliance History Report Prepared:** May 09, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 09, 2008 to May 09, 2013

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

**Name:** Jennifer Graves

**Phone:** (956) 430-6023

## 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: 11/17/2008 ADMINORDER 2007-1598-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.260  
30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Part 63, Subpart H 63.167  
40 CFR Part 63, Subpart U 63.502(a)

5C THSC Chapter 382 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
FOP O-01271 Special Condition 10 OP  
NSR Permit 292 Special Condition 4E PERMIT  
Description: Failed to cap seven open ended lines, and to properly seal 56 leaking open-ended lines in volatile organic compound (VOC) service with a cap, plug, or blind flange.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.260  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Part 63, Subpart U 63.502(n)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
FOP O-01271 Special Condition 1D OP  
Description: Failed to monitor Cooling Tower DK-801 on a quarterly basis using EPA Method 624.  
Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter T 106.454(3)(B)  
30 TAC Chapter 115, SubChapter E 115.412(1)(A)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
FOP O-01271 Special Condition 10 OP  
Description: Failed to maintain closed lids on degreasers.  
Classification: Moderate  
Citation: 30 TAC Chapter 113, SubChapter C 113.260  
30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
FOP O-01271 Special Condition 10 OP  
NSR Permit 292 15 PERMIT  
Description: Failed to conduct residual volatile organic compounds (VOC) sampling at the exit of the dryer of Crumb Unit Three.  
Classification: Moderate  
Citation: 30 TAC Chapter 113, SubChapter C 113.260  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Part 63, Subpart U 63.506(e)(5)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
Special Terms and Conditions 10 OP  
Description: Failed to submit a Notification of Compliance Status Report.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.260  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Part 63, Subpart U 63.494(a)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
FOP O-01271 Special Condition 1D OP  
Description: Failed to demonstrate compliance with the residual organic hazardous air pollutant limitations set forth in NESHAP Emissions: Group I Polymers and Resins.  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
FOP O-01271 Special Condition 10 OP  
SC 7B PERMIT  
Description: Failed to properly monitor Cooling Tower DK-801.  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: FOP O-01271 General Terms and Conditions OP  
FOP O-01271 Special Condition 3,B,iii OP  
Description: Failed to perform annual opacity observations of all stationary vents.  
Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
30 TAC Chapter 122, SubChapter B 122.146(1)  
30 TAC Chapter 122, SubChapter B 122.146(5)(C)(v)  
30 TAC Chapter 122, SubChapter B 122.146(5)(D)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP O-01271 General Terms and Conditions OP

Description: Failed to report the occurrence of deviations in semi-annual deviation reports and to accurately certify compliance in an Annual Compliance Certification.

2 Effective Date: 08/31/2009 ADMINORDER 2009-0623-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.221(a)  
30 TAC Chapter 113, SubChapter C 113.100  
30 TAC Chapter 113, SubChapter C 113.260  
30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 116, SubChapter G 116.715(c)(7)  
30 TAC Chapter 116, SubChapter G 116.715(c)(9)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Special Condition 11 OP

Special Conditions 1 and 8 PERMIT

Description: Failure to prevent unauthorized emissions and maintain a flare pilot flame. Specifically, 55 pounds of 1,3-butadiene were released from the South Flare, due to the flare's pilot flame not being lit.

EIC A8(c)(2)(A)(ii) MOD(2)(D)

Violation Track No. 356015 is considered to be a cascading violation as it deals with a flare that was without a lit pilot and has been combined with violation Track No. 355993 which deals with an EE which resulted from the flare not being lit.

3 Effective Date: 03/08/2010 ADMINORDER 2009-1402-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 116, SubChapter G 116.715(c)(7)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: O-01271, General Terms and Conditions OP

O-01271, Special Condition 10 OP

Special Condition 1 PERMIT

Description: Failure to maintain an emission rate below the allowable limit.

A8(c)(2)(A)(ii)

Moderate 2d

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)  
30 TAC Chapter 101, SubChapter F 101.201(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: O 01271, Special Condition 2F OP

O-01271, General Terms and Condition OP

Description: Failure to properly report an emissions event.

MOD 2B

4 Effective Date: 06/04/2010 ADMINORDER 2009-1933-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 116, SubChapter G 116.715(c)(7)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: O-01271, General Terms and Conditions OP  
O-01271, Special Condition 10 OP  
Special Condition 1 PERMIT

Description: Failure to maintain an emission rate below the allowable limit.

A8(c)(2)(A)(ii)  
MOD 2D

5 Effective Date: 11/03/2011 ADMINORDER 2011-0655-AIR-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 116, SubChapter G 116.715(c)(7)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT  
Special Terms and Conditions No. 11 OP

Description: Failed to prevent unauthorized emissions during an emissions event. Specifically, during an emissions event (Incident No. 149833) that occurred on January 25, 2011, an inlet expansion joint to Pump DP434 failed causing Reactor DR402 to release approximately 2,096 gallons of n-hexane, resulting in the unauthorized release of 11,839.66 pounds ("lbs") of n-hexane to the atmosphere over a fourteen hour period.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 116, SubChapter G 116.715(c)(7)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT  
Special Terms and Conditions No. 11 OP

Description: Failed to prevent unauthorized emissions during an emissions event. Specifically, during an emissions event (Incident No. 150306) that occurred on February 5, 2011, a gasket failed due to freezing water in the drain leg of Purified Butadiene Tank F1106, resulting in the unauthorized release of 14,828 lbs of 1,2-butadiene and 21,588 lbs of butene to the atmosphere over a six hour and thirty minute period.

6 Effective Date: 12/19/2011 ADMINORDER 2011-1258-IWD-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

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

Rqmt Prov: Eff. Lim. & Mon. Req. No. 1, Outfall 001 PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	May 14, 2008	(689809)
Item 2	June 18, 2008	(689810)
Item 3	August 18, 2008	(710565)
Item 4	October 20, 2008	(710567)
Item 5	November 10, 2008	(710568)
Item 6	December 02, 2008	(727364)
Item 7	January 20, 2009	(727365)
Item 8	February 18, 2009	(750094)
Item 9	March 20, 2009	(750095)
Item 10	April 17, 2009	(750097)

Item 11	June 15, 2009	(768251)
Item 12	July 08, 2009	(760577)
Item 13	July 23, 2009	(749896)
Item 14	August 19, 2009	(804271)
Item 15	August 28, 2009	(760758)
Item 16	September 17, 2009	(804272)
Item 17	October 19, 2009	(804273)
Item 18	November 20, 2009	(804274)
Item 19	January 20, 2010	(804276)
Item 20	February 19, 2010	(804270)
Item 21	March 18, 2010	(830733)
Item 22	April 19, 2010	(830734)
Item 23	May 20, 2010	(830735)
Item 24	June 17, 2010	(846219)
Item 25	July 05, 2010	(829567)
Item 26	July 19, 2010	(826384)
Item 27	July 20, 2010	(860817)
Item 28	August 20, 2010	(866779)
Item 29	September 20, 2010	(873854)
Item 30	October 15, 2010	(881456)
Item 31	November 19, 2010	(887986)
Item 32	December 15, 2010	(896185)
Item 33	January 17, 2011	(902260)
Item 34	February 20, 2011	(909034)
Item 35	April 15, 2011	(899951)
Item 36	May 16, 2011	(937975)
Item 37	June 16, 2011	(945290)
Item 38	July 19, 2011	(952574)
Item 39	August 16, 2011	(959257)
Item 40	November 10, 2011	(977487)
Item 41	January 17, 2012	(974675)
Item 42	January 18, 2012	(990554)
Item 43	February 17, 2012	(997919)
Item 44	March 14, 2012	(1003439)
Item 45	March 16, 2012	(982045)
Item 46	March 26, 2012	(990299)
Item 47	April 18, 2012	(1010003)
Item 48	May 14, 2012	(1016399)
Item 49	June 18, 2012	(1024120)
Item 50	July 13, 2012	(1031515)
Item 51	August 17, 2012	(1037890)
Item 52	October 15, 2012	(1060713)
Item 53	October 26, 2012	(1029910)
Item 54	November 19, 2012	(1060714)
Item 55	December 14, 2012	(1060715)
Item 56	February 20, 2013	(1078864)

**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.

- |   |  |                          |
|---|--|--------------------------|
| 1 | Date: 08/31/2012 (1060712)   | CN601590789              |
|   | Self Report? YES   | Classification: Moderate |
|   | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                          |
|   | Description: Failure to meet the limit for one or more permit parameter                            |                          |
|   |  |                          |
| 2 | Date: 12/31/2012 (1078865)   | CN601590789              |
|   | Self Report? YES   | Classification: Moderate |
|   | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                          |
|   | Description: Failure to meet the limit for one or more permit parameter                            |                          |

## F. Environmental audits:

Notice of Intent Date: 02/06/2008 (617837)

Disclosure Date: 10/07/2008

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)

Description: Failure to maintain records to demonstrate compliance with PBR conditions.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(C)

Description: Failure to maintain records of abrasive blasting hrs. of operation and material usage.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(8)

Description: Failure to maintain records to document daily coating and solvent use, actual hrs of surface coating operation, emissions in lbs/hr and lbs/day, lbs/week, tons over 12 months.

Viol. Classification: Moderate

Rqmt Prov: PERMIT 292, SC 13A

Description: Failure to amend permit to reflect current operating procedures.

Viol. Classification: Moderate

Rqmt Prov: PERMIT 2565 SC, 12A, 12D, 12F, and 12G

Description: Failure to document 30 day average NOx and CO emissions for boiler EB-110 and have readily available. In addition, to maintain instrument calibration and maintenance records for EB-110, and outage records with a complete description of maintenance and repairs for EB-110 and EB-111. Furthermore, records of hourly feed rate of waste hexane and HHV in gallons per minute, and records of weight percent of constituents.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.49b(d)

Description: Failure to maintain records of daily fuel combustion and rolling annual capacity factor calculation for natural gas.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT T 63.501

Description: Failure to maintain records of individual wastewater streams, MACT U, are incomplete.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.116(a)(2)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT T 63.506(e)(6)

Description: Failure to maintain complete tank inspection and repair record for tank DF 137 and DF 138.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2390

Description: OLD MACT transport records do not calculate rolling 3yr average and include weight percent of HAP in the stream.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.216(3)(A)

Description: Failure to maintain complete daily VOC transfer records.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.131

Description: Failure to have air tight seals on the access panels of the oil water separator, which allow VOC emissions to escape.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201

30 TAC Chapter 101, SubChapter F 101.211

Description: Failure to calculate emissions from SSM activities to determine whether they constitute emission events or MSS events that must be reported or recorded.

Viol. Classification: Minor

Citation: 40 CFR Chapter 82, SubChapter C, PT 82, SubPT F 82.166(k)

Description: Failure to maintain records to demonstrate that refrigerant leak repairs are made within 30 days.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)

Description: Failure to timely notify a pH excursion that occurred April 11, 2007.

Disclosure Date: 08/10/2009

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)

Description: Failure to maintain records to demonstrate compliance with PBR conditions.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(C)

Description: Failure to maintain records of abrasive blasting hrs. of operation and material usage.

Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 106, SubChapter S 106.433(8)  
 Description: Failure to maintain records to document daily coating and solvent use, actual hrs of surface coating operation, emissions in lbs/hr and lbs/day, lbs/week, tons over 12 months.

Viol. Classification: Moderate  
 Rqmt Prov: PERMIT 292, SC 13A  
 Description: Failure to amend permit to reflect current operating procedures.  
 Viol. Classification: Moderate  
 Rqmt Prov: PERMIT 2565 SC, 12A, 12D, 12F, and 12G

Description: Failure to document 30 day average NOx and CO emissions for boiler EB-110 and have readily available. In addition, to maintain instrument calibration and maintenance records for EB-110, and outage records with a complete description of maintenance and repairs for EB-110 and EB-111. Furthermore, records of hourly feed rate of waste hexane and HHV in gallons per minute, and records of weight percent of constituents.

Viol. Classification: Moderate  
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.49b(d)  
 Description: Failure to maintain records of daily fuel combustion and rolling annual capacity factor calculation for natural gas.

Viol. Classification: Minor  
 Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT T 63.501  
 Description: Failure to maintain records of individual wastewater streams, MACT U, are incomplete.  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter B 115.116(a)(2)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT T 63.506(e)(6)  
 Description: Failure to maintain complete tank inspection and repair record for tank DF 137 and DF 138.  
 Viol. Classification: Minor  
 Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2390  
 Description: OLD MACT transport records do not calculate rolling 3yr average and include weight percent of HAP in the stream.

Viol. Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.216(3)(A)  
 Description: Failure to maintain complete daily VOC transfer records.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter B 115.131  
 Description: Failure to have air tight seals on the access panels of the oil water separator, which allow VOC emissions to escape.

Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201  
 30 TAC Chapter 101, SubChapter F 101.211  
 Description: Failure to calculate emissions from SSM activities to determine whether they constitute emission events or MSS events that must be reported or recorded.  
 Viol. Classification: Minor  
 Citation: 40 CFR Chapter 82, SubChapter C, PT 82, SubPT F 82.166(k)  
 Description: Failure to maintain records to demonstrate that refrigerant leak repairs are made within 30 days.  
 Viol. Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
 Description: Failure to timely notify a pH excursion that occurred April 11, 2007.

Notice of Intent Date: 03/05/2013 (1075600)  
 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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FIRESTONE POLYMERS, LLC  
RN10022468**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2013-0915-IWD-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding FIRESTONE POLYMERS, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent represented by Ms. Paulina Williams of the law firm of Baker Botts, L.L.P., together stipulate that:

1. The Respondent owns and operates a synthetic rubber fabrication facility located on the south side of Farm-to-Market Road 1006, approximately one mile east of the intersection of Farm-to-Market Road 1006 and State Highway 87, southwest of Orange, Orange County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director 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 April 17, 2013.
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 Thousand Dollars (\$30,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Dollars (\$12,000) of the administrative penalty and Six Thousand Dollars (\$6,000) 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. Twelve Thousand Dollars (\$12,000) of the administrative penalty 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by September 24, 2012, the Respondent cleaned out solids from the oily water separator and initiated a review process for chemical use to identify potential sources of zinc and copper and reasonable replacement or management controls.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000454000 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 28, 2013, and shown in the table below:

EFFLUENT VIOLATION TABLE				
	Total Copper Daily Avg. Loading	Total Copper Daily Max. Loading	Total Zinc Daily Avg. Loading	Total Zinc Daily Max. Loading
Months	Limit = 0.11 lbs/day	Limit = 0.24 lbs/day	Limit = 0.75 lbs/day	Limit = 1.6 lbs/day
August 2012	0.137	0.543	0.886	2.76
December 2012	0.218	0.73	0.923	2.54
Avg. = Average Max. = Maximum lbs/day = pounds per day				

### 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: FIRESTONE POLYMERS, LLC, Docket No. 2013-0915-IWD-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 I, Paragraph 6 above, Twelve Thousand Dollars (\$12,000) 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, within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0000454000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-

reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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 fine 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:

Water Section, Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the

Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

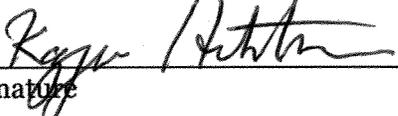
10/21/13  
Date

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.

  
Signature

Aug. 6, 2013  
Date

Kazuya Hatakeyama  
Name (Printed or typed)  
Authorized Representative of  
FIRESTONE POLYMERS, LLC

President  
Title

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

**Attachment A**  
**Docket Number: 2013-0915-IWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	FIRESTONE POLYMERS, LLC
<b>Penalty Amount:</b>	Twenty-Four Thousand Dollars (\$24,000)
<b>SEP Offset Amount:</b>	Twelve Thousand Dollars (\$12,000)
<b>Type of SEP:</b>	Contribution to a Third-Party Pre-Approved SEP
<b>Third-Party Administrator:</b>	Big Thicket Association
<b>Project Name:</b>	<i>Wetland Species and Ecosystems Analysis</i>
<b>Location of SEP:</b>	Hardin, Jefferson, Orange, Jasper, Liberty, Polk, and Tyler 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 Administrator named above. The contribution will be to the **Big Thicket Association** for the *Wetland Species and Ecosystem Analysis* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ. Specifically, the SEP Offset Amount will be used to inventory an additional taxonomic group, such as lichens, bryophytes, mussels, mollusks, amphibians, fish, or birds (the “Project”). The Project will involve collecting specimens from the Preserve as well as wetland properties in the above mentioned counties which are in the process of being donated to the Preserve. Currently, a memorandum of understanding regarding the impending donation is in place that will allow inventory of these properties. These areas have never been inventoried and need data for resource management. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs.

FIRESTONE POLYMERS, LLC  
Agreed Order - Attachment A

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This Project will benefit the environment by identifying the biodiversity, both native and exotic, in wetland wildlife corridors to assist in stewardship and sustainability. It will also assess the state of pollution indicator species to determine the impact of pollution on the Preserve. Additionally, inventories will identify areas where invasive species are present and aid in the analysis of harmful invasive species spreads and their impacts so that areas for removal can be identified.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Administrator. Respondent shall make the check payable to **Big Thicket Association SEP** and shall mail the contribution with a copy of the Agreed Order to:

Big Thicket Association  
Attention: Jan Ruppel, President  
P.O. Box 198  
Saratoga, Texas 77585

**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 Administrator. 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 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 the 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 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.