

**Executive Summary – Enforcement Matter – Case No. 35549**  
**Western Refining Company, L.P.**  
**RN100213016**  
**Docket No. 2008-0439-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:**

Western Refining El Paso All Sites, 6501 Trowbridge Drive, El Paso, El Paso County

**Type of Operation:**

Petroleum refinery

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket Nos. 2008-0890-AIR-E and 2013-0841-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 8, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$40,234

**Amount Deferred for Expedited Settlement:** \$0

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

**Total Paid to General Revenue:** \$20,117

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

Payment Plan: N/A

**SEP Conditional Offset:** \$20,117

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** Yes

**Statutory Limit Adjustment:** \$6,200

**Applicable Penalty Policy:** September 2002

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***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** March 12 through April 11, 2007, June 25, 2007, August 3, 2007, September 21, 2007, October 31, 2007 and January 3, 2008

**Date(s) of NOE(s):** May 4, 2007, September 14, 2007, October 17, 2007, November 16 and 30, 2007 and January 7, 2008

***Violation Information***

1. Failed to prevent unauthorized emissions. Since this emissions event could have been avoided through better maintenance practices and was not properly reported, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [Federal Operating Permit (“FOP”) No. O1264, Special Terms and Conditions (“STC”) No. 21, New Source Review Permit (“NSRP”) No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions and limit opacity to 30% averaged over a six-minute period. Since the emissions event could have been avoided through better maintenance practices and was not properly reported, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A), 116.115(c), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to limit opacity to 30% averaged over a six-minute period. Since the emissions event could have been avoided through better maintenance practices and was not properly reported, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 111.111(a)(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to prevent unauthorized emissions. Since the emissions event could have been avoided through better operational practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to prevent unauthorized emissions. Since the emissions event could have been avoided through better operational and maintenance practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No.

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O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6. Failed to prevent unauthorized emissions. Since the emissions event could have been avoided through better maintenance practices and was not properly reported, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7. Failed to properly report Incident Nos. 86697, 90609, 98210, and 92318 [30 TEX. ADMIN. CODE § 101.201(a) and (b) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. On June 22, 2007, replaced the Fluidized Catalytic Cracking compressor vibration probes, reviewed and updated maintenance schedules, and conducted employee training to ensure that prompt action is taken to minimize emissions during emissions events and to prevent the recurrence of emissions events similar to Incident No. 92318;
- b. On February 7, 2007, updated maintenance procedures, and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 86697;
- c. On May 18, 2007, replaced the control scheme and backups for the air drying system, updated maintenance procedures, and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 90609;
- d. On September 7, 2007, updated solids management and maintenance procedures for the Tail Gas Unit absorber and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 96341;
- e. On October 15, 2007, updated maintenance procedures for the Asphalt Plant and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 98210;
- f. On October 15, 2007, conducted employee training on emissions event reporting requirements to ensure that emissions events are properly reported; and

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g. On December 1, 2007, reviewed and updated operation and maintenance procedures for the Compressor K-3922 lube oil pump and conducted employee training to prevent the recurrence of emissions event similar to Incident No. 100181.

**Technical Requirements:**

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

***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:** Amancio Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565  
**Respondent:** Forrest B. Lauher, Vice President & Refinery Manager, Western Refining Company, L.P., 123 West Mills Avenue, Suite 200, El Paso, Texas 79901  
Jeff A. Stevens, President & Chief Executive Officer, Western Refining Company, L.P., 123 West Mills Avenue, Suite 200, El Paso, Texas 79901  
**Respondent's Attorney:** N/A

**Attachment A**  
**Docket Number: 2008-0439-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Western Refining Company, L.P.</b>
<b>Payable Penalty Amount:</b>	<b>Forty Thousand Two Hundred Thirty-Four Dollars (\$40,234)</b>
<b>SEP Amount:</b>	<b>Twenty Thousand One Hundred Seventeen Dollars (\$20,117)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D") - Abandoned Tire Clean-Up</b>
<b>Location of SEP:</b>	<b>El Paso County, Rio Grande River Basin, Hueco-Mesilla Bolson Aquifer</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset 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 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 **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Administrator and TCEQ. The Third-Party Administrator shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The

Western Refining Company, L.P.  
Agreed Order - Attachment A

SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

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

**b. Environmental Benefit**

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

**c. Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator named above 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 amount to the Third-Party Administrator. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

Western Refining Company, L.P.  
Agreed Order - Attachment A

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

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

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

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

## **5. Publicity**

Any public statements concerning this SEP made by or on behalf of 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 identified in this Agreed Order has not been, and shall not be, included as an 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 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Mar-2008	Screening	28-Mar-2008	EPA Due	3-Jul-2008
	PCW	5-Jun-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Western Refining Company, L.P.		
Reg. Ent. Ref. No.	RN100213016		
Facility/Site Region	6-El Paso	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35549	No. of Violations	7
Docket No.	2008-0439-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$35,400**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **56.0%** Enhancement **Subtotals 2, 3, & 7** **\$19,824**

Notes: Enhancement for five NOV's with same/similar violations, one NOV with dissimilar violations, and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$8,790**

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

Total EB Amounts \$73  
Approx. Cost of Compliance \$23,250

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$46,434**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$46,434**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$40,234**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$40,234**

Screening Date 28-Mar-2008

Docket No. 2008-0439-AIR-E

PCW

Respondent Western Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 35549

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

### 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> )	5	25%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments 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> )	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> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 56%

>> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with same/similar violations, one NOV with dissimilar violations, and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 56%

Screening Date 28-Mar-2008

Docket No. 2008-0439-AIR-E

PCW

Respondent Western Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 35549

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit ("POP") No. O1264, Special Terms and Conditions No. 21, New Source Review Permit ("NSRP") No. 18897, Special Conditions No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 4,800.9 pounds ("lbs") of volatile organic compounds ("VOC"), 783.89 lbs of benzene, 2.84 lbs of sulfur dioxide ("SO2"), 0.41 lb of carbon monoxide ("CO"), 0.06 lb of nitric oxide, and 0.03 lb of hydrogen sulfide ("H2S") from the No. 9 Cooling Tower and the North Refinery Relief Flare during an emissions event (Incident No. 86697) that began on January 30, 2007, and lasted 192 hours. The emissions event occurred when tubes on Heat Exchanger E4132 failed and caused hydrocarbons to leak into the cooling tower water. Since the emissions event could have been avoided through better maintenance practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 8

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed corrective actions on February 7, 2007, prior to the May 4, 2007 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,275

This violation Final Assessed Penalty (adjusted for limits) \$3,275

# Economic Benefit Worksheet

**Respondent:** Western Refining Company, L.P.  
**Case ID No.:** 35549  
**Req. Ent. Reference No.:** RN100213016  
**Media:** Air  
**Violation No.:** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	30-Jan-2007	7-Feb-2007	0.02	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	30-Jan-2007	7-Feb-2007	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement training and update maintenance procedures to prevent the recurrence of emissions events caused by heat exchanger tube failure. The Date Required is the date the emissions event began. The Final Date is the date corrective actions were completed.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1



# Economic Benefit Worksheet

**Respondent** Western Refining Company, L.P.  
**Case ID No.** 35549  
**Reg. Ent. Reference No.** RN100213016  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$10,000	1-May-2007	18-May-2007	0.05	\$2	\$31	\$33
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	\$250	1-May-2007	18-May-2007	0.05	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	1-May-2007	18-May-2007	0.05	\$1	n/a	\$1

**Notes for DELAYED costs**

Estimated cost to replace the control scheme and backups for the air drying system, update maintenance procedures, and conduct employee training to prevent the recurrence of emissions events caused by failure of the control scheme and two backups for the air drying system. The Date Required is the date the emissions event began. The Final Date is the date corrective actions were completed.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$10,500

**TOTAL** \$34



# Economic Benefit Worksheet

**Respondent** Western Refining Company, L.P.  
**Case ID No.** 35549  
**Reg. Ent. Reference No.** RN100213016  
**Media** Air  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	1-Oct-2007	15-Oct-2007	0.04	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	1-Oct-2007	15-Oct-2007	0.04	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement training and update maintenance procedures to prevent the recurrence of emissions events caused by relief valve failure during maintenance activities. The Date Required is the date of the emissions event. The Final Date is the date corrective actions were completed.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$1



# Economic Benefit Worksheet

**Respondent** Western Refining Company, L.P.

**Case ID No.** 35549

**Reg. Ent. Reference No.** RN100213016

**Media** Air

**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	21-Aug-2007	7-Sep-2007	0.05	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	21-Aug-2007	7-Sep-2007	0.05	\$1	n/a	\$1

**Notes for DELAYED costs**  
 Estimated cost to update solids management and maintenance procedures to prevent the recurrence of emissions events caused by the Tail Gas Unit plugging. The Date Required is the date the emissions event began. The Final Date is the date corrective actions were completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance   \$500   **TOTAL**   \$1



# Economic Benefit Worksheet

**Respondent** Western Refining Company, L.P.  
**Case ID No.** 35549  
**Reg. Ent. Reference No.** RN100213016  
**Media** Air  
**Violation No.** 5

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)				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	\$250	17-Nov-2007	1-Dec-2007	0.04	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	17-Nov-2007	1-Dec-2007	0.04	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to conduct employee training and review and update operation and maintenance procedures for the Compressor K-3922 lube oil pump to prevent the recurrence of emissions events caused by power loss to the lube oil pump's process logic controller. The Date Required is the date of the emissions event. The Final Date is the date corrective actions were completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$500	<b>TOTAL</b>	\$1
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## Economic Benefit Worksheet

**Respondent:** Western Refining Company, L.P.

**Case ID No.:** 35549

**Reg. Ent. Reference No.:** RN100213016

**Media:** Air

**Violation No.:** 6

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$10,000	8-Jun-2007	22-Jun-2007	0.04	\$1	\$26	\$27
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	\$250	8-Jun-2007	22-Jun-2007	0.04	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	8-Jun-2007	22-Jun-2007	0.04	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to replace the Fluid Catalytic Cracking compressor vibration probes, review and update maintenance schedules, and conduct employee training to prevent the recurrence of emissions events caused by the Fluidized Catalytic Cracking Compressor not restarting after shutdown and to ensure that good maintenance practices are utilized to minimize emissions during emissions events. The Date Required is the date the emissions event began. The Final Date is the date corrective actions were completed.

### Avoided Costs

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

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$10,500

**TOTAL**

\$28



# Economic Benefit Worksheet

**Respondent:** Western Refining Company, L.P.  
**Case ID No.:** 35549  
**Reg. Ent. Reference No.:** RN100213016  
**Media:** Air  
**Violation No.:** 7

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	\$250	21-Feb-2007	15-Oct-2007	0.65	\$8	n/a	\$8
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 implement training to ensure emissions events are properly reported. The Date Required is the earliest occurrence of the violation (submittal date of the inaccurate and incomplete final report for Incident No. 86697). The Final Date is the date corrective actions were completed.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

**TOTAL:**

\$8



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601510191, RN100213016, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601510191, Western Refining Company, L.P.	<b>Classification:</b> AVERAGE	<b>Rating:</b> 1.58
<b>Regulated Entity:</b>	RN100213016, WESTERN REFINING EL PASO ALL SITES	<b>Classification:</b> AVERAGE	<b>Rating:</b> 2.18
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	02 - Oil and Petroleum Refineries		
<b>Location:</b>	6501 TROWBRIDGE DR EL PASO, TX 79905-3401, EL PASO COUNTY		
<b>TCEQ Region:</b>	REGION 06 - EL PASO		

**ID Number(s):**

**AIR OPERATING PERMITS** ACCOUNT NUMBER EE0015H  
**AIR OPERATING PERMITS** PERMIT 2297  
**AIR OPERATING PERMITS** ACCOUNT NUMBER EE0510P  
**AIR OPERATING PERMITS** PERMIT 1264  
**AIR OPERATING PERMITS** PERMIT 1264  
**AIR OPERATING PERMITS** PERMIT 2298

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXR000036087  
**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD007399025  
**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD054256391  
**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT 36419

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 30026  
**AIR NEW SOURCE PERMITS** PERMIT 525  
**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER EE0015H  
**AIR NEW SOURCE PERMITS** REGISTRATION 75519  
**AIR NEW SOURCE PERMITS** REGISTRATION 75854  
**AIR NEW SOURCE PERMITS** REGISTRATION 71353  
**AIR NEW SOURCE PERMITS** REGISTRATION 76566  
**AIR NEW SOURCE PERMITS** REGISTRATION 78577  
**AIR NEW SOURCE PERMITS** REGISTRATION 79913  
**AIR NEW SOURCE PERMITS** REGISTRATION 80089  
**AIR NEW SOURCE PERMITS** REGISTRATION 47597  
**AIR NEW SOURCE PERMITS** REGISTRATION 80508  
**AIR NEW SOURCE PERMITS** REGISTRATION 79884  
**AIR NEW SOURCE PERMITS** REGISTRATION 82084  
**AIR NEW SOURCE PERMITS** REGISTRATION 81841  
**AIR NEW SOURCE PERMITS** REGISTRATION 83331  
**AIR NEW SOURCE PERMITS** REGISTRATION 83001  
**AIR NEW SOURCE PERMITS** REGISTRATION 90656  
**AIR NEW SOURCE PERMITS** REGISTRATION 91087  
**AIR NEW SOURCE PERMITS** REGISTRATION 92218  
**AIR NEW SOURCE PERMITS** REGISTRATION 93228  
**AIR NEW SOURCE PERMITS** REGISTRATION 95073  
**AIR NEW SOURCE PERMITS** REGISTRATION 95490  
**AIR NEW SOURCE PERMITS** REGISTRATION 99295  
**AIR NEW SOURCE PERMITS** REGISTRATION 99105  
**AIR NEW SOURCE PERMITS** REGISTRATION 100798  
**AIR NEW SOURCE PERMITS** REGISTRATION 98766

**AIR OPERATING PERMITS** PERMIT 1348  
**AIR OPERATING PERMITS** PERMIT 2298  
**AIR OPERATING PERMITS** ACCOUNT NUMBER EE0082P  
**AIR OPERATING PERMITS** PERMIT 901  
**AIR OPERATING PERMITS** PERMIT 2297  
**POLLUTION PREVENTION PLANNING** ID NUMBER P06427

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 86385  
**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 36419  
**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT 50116  
**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT PC036419

**AIR NEW SOURCE PERMITS** REGISTRATION 89789  
**AIR NEW SOURCE PERMITS** REGISTRATION 12768  
**AIR NEW SOURCE PERMITS** PERMIT 18897  
**AIR NEW SOURCE PERMITS** REGISTRATION 76322  
**AIR NEW SOURCE PERMITS** AFS NUM 481410004  
**AIR NEW SOURCE PERMITS** REGISTRATION 76517  
**AIR NEW SOURCE PERMITS** REGISTRATION 77266  
**AIR NEW SOURCE PERMITS** REGISTRATION 78328  
**AIR NEW SOURCE PERMITS** REGISTRATION 79810  
**AIR NEW SOURCE PERMITS** REGISTRATION 35579  
**AIR NEW SOURCE PERMITS** REGISTRATION 80309  
**AIR NEW SOURCE PERMITS** REGISTRATION 79813  
**AIR NEW SOURCE PERMITS** REGISTRATION 80553  
**AIR NEW SOURCE PERMITS** REGISTRATION 82097  
**AIR NEW SOURCE PERMITS** REGISTRATION 81718  
**AIR NEW SOURCE PERMITS** REGISTRATION 86373  
**AIR NEW SOURCE PERMITS** REGISTRATION 87861  
**AIR NEW SOURCE PERMITS** REGISTRATION 87848  
**AIR NEW SOURCE PERMITS** REGISTRATION 88327  
**AIR NEW SOURCE PERMITS** REGISTRATION 92330  
**AIR NEW SOURCE PERMITS** PERMIT 93546  
**AIR NEW SOURCE PERMITS** REGISTRATION 95780  
**AIR NEW SOURCE PERMITS** REGISTRATION 99151  
**AIR NEW SOURCE PERMITS** REGISTRATION 99045  
**AIR NEW SOURCE PERMITS** REGISTRATION 101081  
**AIR NEW SOURCE PERMITS** REGISTRATION 101232  
**AIR NEW SOURCE PERMITS** REGISTRATION 101519

AIR NEW SOURCE PERMITS REGISTRATION 102257  
AIR NEW SOURCE PERMITS REGISTRATION 101869  
AIR NEW SOURCE PERMITS REGISTRATION 101864  
AIR NEW SOURCE PERMITS REGISTRATION 104300  
AIR NEW SOURCE PERMITS REGISTRATION 102086  
AIR NEW SOURCE PERMITS REGISTRATION 102428  
AIR NEW SOURCE PERMITS REGISTRATION 103904  
AIR NEW SOURCE PERMITS REGISTRATION 109307  
AIR NEW SOURCE PERMITS REGISTRATION 104817  
AIR NEW SOURCE PERMITS REGISTRATION 107222  
AIR NEW SOURCE PERMITS REGISTRATION 106384  
AIR NEW SOURCE PERMITS REGISTRATION 108064  
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION  
7854  
STORMWATER PERMIT TXR15TX98

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION #  
(SWR) 30605  
AIR EMISSIONS INVENTORY ACCOUNT NUMBER EE1359L

AIR NEW SOURCE PERMITS PERMIT 103951  
AIR NEW SOURCE PERMITS REGISTRATION 101781  
AIR NEW SOURCE PERMITS REGISTRATION 103466  
AIR NEW SOURCE PERMITS REGISTRATION 104301  
AIR NEW SOURCE PERMITS REGISTRATION 104437  
AIR NEW SOURCE PERMITS REGISTRATION 102724  
AIR NEW SOURCE PERMITS REGISTRATION 107105  
AIR NEW SOURCE PERMITS REGISTRATION 108054  
AIR NEW SOURCE PERMITS REGISTRATION 105344  
AIR NEW SOURCE PERMITS REGISTRATION 108264  
AIR NEW SOURCE PERMITS REGISTRATION 105463  
AIR NEW SOURCE PERMITS REGISTRATION 106700  
STORMWATER PERMIT TXR05U187

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION #  
(SWR) 86385  
AIR EMISSIONS INVENTORY ACCOUNT NUMBER EE0015H

**Compliance History Period:** September 01, 2006 to August 31, 2011 **Rating Year:** 2011 **Rating Date:** 09/01/2011

**Date Compliance History Report Prepared:** June 05, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 05, 2008 to June 05, 2013

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

**Name:** Rebecca Johnson

**Phone:** (361) 825-3423

**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:**

See Federal Addendum

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	July 25, 2008	(687294)
Item 2	August 07, 2008	(689055)
Item 3	August 19, 2008	(688846)
Item 4	September 19, 2008	(703028)
Item 5	October 01, 2008	(704368)
Item 6	October 24, 2008	(702842)
Item 7	October 27, 2008	(706182)
Item 8	November 20, 2008	(704038)
Item 9	February 13, 2009	(727052)
Item 10	February 24, 2009	(722703)
Item 11	March 19, 2009	(725744)

**Published Compliance History Report for CN601510191, RN100213016, Rating Year 2011 which includes Compliance History (CH) components from June 05, 2008, through June 05, 2013.**

Item 12	June 02, 2009	(741234)
Item 13	June 22, 2009	(748377)
Item 14	July 24, 2009	(763311)
Item 15	August 14, 2009	(765814)
Item 16	August 25, 2009	(762835)
Item 17	September 16, 2009	(775413)
Item 18	September 25, 2009	(776959)
Item 19	December 14, 2009	(784289)
Item 20	January 06, 2010	(787240)
Item 21	January 22, 2010	(784736)
Item 22	January 25, 2010	(789021)
Item 23	February 02, 2010	(790153)
Item 24	February 04, 2010	(788166)
Item 25	February 17, 2010	(788521)
Item 26	February 25, 2010	(791780)
Item 27	March 16, 2010	(795920)
Item 28	March 24, 2010	(795515)
Item 29	March 29, 2010	(794824)
Item 30	April 14, 2010	(794574)
Item 31	April 19, 2010	(798846)
Item 32	April 23, 2010	(800065)
Item 33	May 21, 2010	(803398)
Item 34	June 09, 2010	(803351)
Item 35	June 14, 2010	(825046)
Item 36	July 15, 2010	(830353)
Item 37	July 29, 2010	(842467)
Item 38	August 18, 2010	(843767)
Item 39	October 07, 2010	(860501)
Item 40	December 02, 2010	(872686)
Item 41	January 20, 2011	(891298)
Item 42	February 08, 2011	(891894)
Item 43	February 11, 2011	(892186)
Item 44	March 01, 2011	(901036)
Item 45	March 03, 2011	(901399)
Item 46	March 04, 2011	(892089)
Item 47	March 07, 2011	(901677)
Item 48	March 15, 2011	(895096)
Item 49	March 24, 2011	(899252)
Item 50	March 28, 2011	(907075)
Item 51	April 07, 2011	(900304)
Item 52	April 08, 2011	(908672)
Item 53	April 11, 2011	(893150)
Item 54	April 12, 2011	(912369)
Item 55	April 13, 2011	(912162)
Item 56	April 14, 2011	(905090)
Item 57	April 15, 2011	(901334)
Item 58	April 18, 2011	(907313)
Item 59	April 27, 2011	(914307)
Item 60	May 03, 2011	(908429)
Item 61	May 20, 2011	(900621)
Item 62	June 01, 2011	(914240)
Item 63	June 02, 2011	(908590)
Item 64	June 03, 2011	(922303)
Item 65	June 07, 2011	(915405)
Item 66	June 10, 2011	(914236)
Item 67	June 23, 2011	(922173)
Item 68	June 24, 2011	(934009)
Item 69	July 15, 2011	(935896)
Item 70	July 26, 2011	(935949)
Item 71	August 19, 2011	(944860)

Item 72	August 29, 2011	(950263)
Item 73	September 01, 2011	(944291)
Item 74	September 16, 2011	(956454)
Item 75	September 23, 2011	(949329)
Item 76	September 29, 2011	(957492)
Item 77	October 03, 2011	(944235)
Item 78	October 25, 2011	(956951)
Item 79	November 08, 2011	(962449)
Item 80	November 18, 2011	(963092)
Item 81	December 22, 2011	(975917)
Item 82	January 24, 2012	(981462)
Item 83	February 07, 2012	(977419)
Item 84	February 21, 2012	(977428)
Item 85	February 23, 2012	(977328)
Item 86	May 17, 2012	(996322)
Item 87	May 21, 2012	(1001404)
Item 88	May 24, 2012	(1006556)
Item 89	June 06, 2012	(1001705)
Item 90	June 20, 2012	(1003092)
Item 91	August 02, 2012	(1015927)
Item 92	August 14, 2012	(1023526)
Item 93	August 28, 2012	(1028200)
Item 94	December 11, 2012	(1049622)
Item 95	January 11, 2013	(1050258)
Item 96	January 28, 2013	(1051637)
Item 97	February 12, 2013	(1054373)
Item 98	March 21, 2013	(1059072)
Item 99	March 28, 2013	(1054894)
Item 100	June 03, 2013	(1094671)

**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: 08/13/2008 (689192) Classification: Minor  
Self Report? NO  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(c)  
Description: Failure to postmark a written report within 30-days following the end of the reporting period per 40 CRF §60.7(c).
  
- 2 Date: 04/23/2009 (741826) CN601510191 Classification: Minor  
Self Report? NO  
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
Description: Failure to include all deviations on the appropriate Semi-Annual Deviation and Certification Reports as required by Title 30 Texas Administrative Code (TAC) §122.145(2)(A).
  
- 3 Date: 06/01/2009 (739726) CN601510191 Classification: Moderate  
Self Report? NO  
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
40E PERMIT  
Description: Failure to comply with any and all such conditions of the Flexible Permit; specifically, facility failed to perform a stack test within 120 days following daily activity level exceeding 110 percent of that demonstrated during the previous stack test in accordance with Flexible Permit No. 18897 Special Condition No. 40 E.
  
- 4 Date: 01/29/2010 (787788) CN601510191 Classification: Moderate  
Self Report? NO  
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)  
5C THSC Chapter 382 382.085  
Description: Failure to meet Special Condition 4E of TCEQ permit No.18897, as required by 30 TAC 116.715(a). Specifically, Western Refining Company, LP had 6 open ended

lines that were detected during the onsite investigation and had failed to equip the open-ended valve or lines with an appropriately sized cap, blind flange, plug, or a second valve at all times per 40 CFR § 63.167(a)(1).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.180(b)(1)  
5C THSC Chapter 382 382.085

Description: Failure to meet Special Condition 4F of TCEQ permit No.18897, as required by 30 TAC 116.715(a). During the onsite investigation Western Refining Company, LP failed to alternately use zero gas between the specified calibration gases during calibration of the TVA device in accordance with Method 21 as required per 40 CFR § 63.180(b)(1).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085

Description: Failure to comply with Federal Operating Permit No.O-02298 Special Condition 13. Specifically, Western Refining Company, LP failed to meet Special Conditions 4E and 4F of TCEQ Permit No.18997 as required by 30 TAC 122.143(4).

5 Date: 09/13/2012 (1028290) CN601510191

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the Texas Commission on Environmental Quality (TCEQ) nuisance regulation 30 TAC §101.4 Nuisance.

6 Date: 03/04/2013 (1041472)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 1(A). Specifically, Western Refining Company L.P. failed to comply with 30 TAC §115.354(11) by failing to check (within 30 days of being placed in volatile organic compound service) new connectors for leaks by monitoring with a hydrocarbon gas analyzer for components in light liquid and gas service and by using visual, audio, and/or olfactory means for components in heavy liquid service.

Self Report? NO 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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 15 of TCEQ NSRP No. 18897, by failing to maintain H2S levels below the permitted 162 ppm for a rolling 3 hour average as required.

Self Report? NO 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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 14 of TCEQ NSRP No. 18897, as required by 30 TAC 122.143(4), by not maintaining the Thermal Oxidizer EPN PK-853 six-minute average temperature above the minimum one hour average temperature maintained during the last satisfactory stack test.

Self Report? NO 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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 24(A) of TCEQ NSRP No. 18897, by allowing the FCCU and Wet Gas Scrubber (WGS) vent stack (EPN 111) to exceed the maximum allowable concentration of 65 ppmv for sulfur dioxide (SO2) averaged over a one-hour period.

Self Report? NO 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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 1 of TCEQ NSRP No. 18897, by failing to prevent emissions from the North Relief Flare listed in the "Emission Sources - Maximum Allowable Emission Rates".

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to comply with Federal Operating Permit No. O1348, Special Condition 1(A). Specifically, Western Refining Company L.P. failed to comply with 30 TAC §115.112 by failing to maintain working pressure sufficient at all times to prevent any vapor or gas loss to the atmosphere from tank no. T-4118 during times it held volatile organic compounds (VOCs).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to comply with Federal Operating Permit No. O1348, Special Condition 31. Specifically, Western Refining Company L.P. failed to comply with 30 TAC §122.146 by failing to accurately complete section "Operating Permit Requirements for Which Deviations are Being Reported" on the Semi-Annual Deviation and Certification Report for Period March 6, 2012 through September 5, 2012. Multiple "Term & Condition No." and "Regulatory Requirement Citation" fields did not correspond to the proper perm		
Self Report?	NO	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)		
Description:	Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 42 of TCEQ NSRP No. 18897, by failing to calculate, revalidate, track, and sum the emissions from applicable Attachments A and B.		

**F. Environmental audits:**

Notice of Intent Date: 04/26/2012 (1014096)  
No DOV Associated

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

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***Addendum to Compliance History Federal Enforcement Actions***

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***Reg Entity Name:*** WESTERN REFINING EL PASO ALL SITES

***Reg Entity Add:*** 6501 TROWBRIDGE DR

***Reg Entity City:*** EL PASO

***Reg Entity No:*** RN100213016

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***Customer Name:*** Western Refining

***Customer No:*** CN601510191

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***EPA Case No:*** 06-2002-3725

***Order Issue Date (yyyymmdd):*** 20110902

***Case Result:*** Final Order With Penalty

***Statute:*** CAA

***Sect of Statute:*** 111

***Classification:*** Moderate

***Program:*** National Emission Stand

***Citation:*** 40 CFR

***Violation Type:*** Air Emissions Not Otherwise Specified

***Cite Sect:*** 482-6(a)

***Cite Part:*** 60

***Enforcement Action:*** Consent Decree or Court Order Resolving a Civil

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WESTERN REFINING  
COMPANY, L.P.  
RN100213016

§           BEFORE THE  
§  
§  
§           TEXAS COMMISSION ON  
§  
§           ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-0439-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 Western Refining Company, L.P. ("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 refinery at 6501 Trowbridge Drive in El Paso, El Paso County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted on March 12, 2007 through April 11, 2007, TCEQ staff documented that the Respondent released 4,800.9 pounds ("lbs") of volatile organic compounds ("VOC"), 783.89 lbs of benzene, 2.84 lbs of sulfur dioxide ("SO<sub>2</sub>"), 0.41 lb of carbon monoxide ("CO"), 0.06 lb of nitric oxide, and 0.03 lb of hydrogen sulfide ("H<sub>2</sub>S") from the No. 9 Cooling Tower and the North Refinery Flare during an emissions event (Incident No. 86697) that began on January 30, 2007, and lasted 192 hours. The emissions event occurred when tubes on Heat Exchanger E4132 failed and caused hydrocarbons to leak into the cooling tower water. The TCEQ has determined that the emissions event could have been avoided through better maintenance practices and was not properly reported.
4. During a record review conducted on August 3, 2007, TCEQ staff documented that the Respondent released 1,091 lbs of VOC, 604 lbs of CO, 403 lbs of SO<sub>2</sub>, 216 lbs of nitrogen oxides ("NO<sub>x</sub>"), and 4 lbs of H<sub>2</sub>S from the Tail Gas Incinerator, the No. 1 Boiler, the Rheniformer Flare, and the North Main Flare, and experienced 100% opacity from the North Main Flare and Rheniformer Flare during an emissions event (Incident No. 90609) that began on May 1, 2007, and lasted 72 hours. The event occurred when the control scheme for the air drying system and two backup systems failed causing a loss of the instrument air supply for the Plant. The TCEQ has determined that the emissions event could have been avoided through better maintenance practices and was not properly reported.
5. During a record review conducted on October 31, 2007, TCEQ staff documented that the Respondent experienced 100% opacity from a pressure relief device in the Asphalt Plant during an excess opacity event (Incident No. 98210) that began on October 1, 2007, and lasted two hours. The excess opacity event occurred when a pressure relief valve failed while maintenance was being conducted on a blow still in the Asphalt Plant. The TCEQ has determined that the emissions event could have been avoided through better maintenance practices and was not properly reported.
6. During a record review conducted on September 21, 2007, TCEQ staff documented that the Respondent released 10,831 lbs of SO<sub>2</sub>, 720 lbs of VOC, 117 lbs of H<sub>2</sub>S, 79 lbs of particulate matter, 20 lbs of CO, 9 lbs of NO<sub>x</sub>, and 6 lbs of ammonia from the Sulfur Recovery Unit Tail Gas Incinerator during an emissions event (Incident No. 96341) that began on August 21, 2007, and lasted 52 hours. The emissions event occurred when the absorber for the Tail Gas Unit plugged. The TCEQ has determined that the emissions event could have been avoided through better operational practices.
7. During a record review conducted on January 3, 2008, TCEQ staff documented that the Respondent released 1,456 lbs of SO<sub>2</sub>, 208.2 lbs of VOC, 148 lbs of CO, 31.8 lbs of NO<sub>x</sub>, and 16 lbs of H<sub>2</sub>S from the Relief Gas Emergency Flare and the Rheniformer Flare during an emissions event (Incident No. 100181) that began on November 17, 2007, and lasted one hour and 13 minutes. The emissions event occurred when power was lost to the lube oil pump's process logic controller at Compressor K-3922 and the compressor ran until

failure. The TCEQ has determined that the emissions event could have been avoided through better operational and maintenance practices.

8. During a record review conducted on June 25, 2007, TCEQ staff documented that the Respondent released 35,161 lbs of SO<sub>2</sub>, 13,383 lbs of NO<sub>x</sub>, 4,695 lbs of CO, and 371 lbs of H<sub>2</sub>S from the South Amine Acid Gas Flare during an emissions event (Incident No. 92318) that began on June 8, 2007, and lasted 45 hours. The emissions event occurred when the Fluidized Catalytic Cracking ("FCC") compressor did not restart after a Plant wide power outage. The TCEQ has determined that the emissions event could have been avoided through better maintenance practices and was not properly reported.
9. During record reviews conducted on June 25, 2007, July 5, 2007, August 3, 2007, and October 31, 2007, TCEQ staff documented that the final report for Incident No. 86697 did not contain an accurate quantity of the compounds emitted and did not provide the basis of determination for the quantity of compounds emitted; Incident No. 90609 was not reported within 24 hours of discovery (the event was discovered on May 1, 2007 and was not reported until May 3, 2007); the initial report for Incident No. 98210 did not contain the cause of the emissions event or the corrective actions taken; and the initial report for Incident No. 92318 did not contain a complete account of the actions taken to minimize emissions or an accurate quantity of the compounds emitted.
11. The Respondent received notices of the violations on May 9, 2007, September 19, 2007, October 22, 2007, November 21, 2007, December 5, 2007, and January 12, 2008.
12. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On June 22, 2007, replaced the FCC compressor vibration probes, reviewed and updated maintenance schedules, and conducted employee training to ensure that prompt action is taken to minimize emissions during emissions events and to prevent the recurrence of emissions events similar to Incident No. 92318;
  - b. On February 7, 2007, updated maintenance procedures, and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 86697;
  - c. On May 18, 2007, replaced the control scheme and backups for the air drying system, updated maintenance procedures, and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 90609;
  - d. On September 7, 2007, updated solids management and maintenance procedures for the Tail Gas Unit absorber and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 96341;
  - e. On October 15, 2007, updated maintenance procedures for the Asphalt Plant and conducted employee training to prevent the recurrence of emissions events similar to Incident No. 98210;

- f. On October 15, 2007, conducted employee training on emissions event reporting requirements to ensure that emissions event are properly reported; and
- g. On December 1, 2007, reviewed and updated operation and maintenance procedures for the Compressor K-3922 lube oil pump and conducted employee training to prevent the recurrence of emissions event similar to Incident No. 100181.

## 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, in violation of Federal Operating Permit ("FOP") No. O1264, Special Terms and Conditions No. 21, New Source Review Permit ("NSRP") No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since this emissions event could have been avoided through better maintenance practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent unauthorized emissions and limit opacity to 30% averaged over a six-minute period, in violation of FOP No. O1264, Special Terms and Conditions No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A), 116.115(c), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event could have been avoided through better maintenance practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to limit opacity to 30% averaged over a six-minute period, in violation of 30 TEX. ADMIN. CODE § 111.111(a)(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event could have been avoided through better maintenance practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to prevent unauthorized emissions, in violation of FOP No. O1264, Special Terms and Conditions No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event could have been avoided through better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
6. As evidenced by Findings of Fact No. 7, the Respondent failed to prevent unauthorized emissions, in violation of FOP No. O1264, Special Terms and Conditions No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4),

and TEX. HEALTH & SAFETY CODE § 382.085(b) Since the emissions event could have been avoided through better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

7. As evidenced by Findings of Fact No. 8, the Respondent failed to prevent unauthorized emissions, in violation of FOP No. O1264, Special Terms and Conditions No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event could have been avoided through better maintenance practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
8. As evidenced by Findings of Fact No. 9, the Respondent failed to properly report Incident Nos. 86697, 90609, 98210, and 92318, in violation of 30 TEX. ADMIN. CODE § 101.201(a) and (b) and TEX. HEALTH & SAFETY CODE § 382.085(b).
9. 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.
10. An administrative penalty in the amount of Forty Thousand Two Hundred Thirty-Four Dollars (\$40,234) 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 Twenty Thousand One Hundred Seventeen Dollars (\$20,117) of the administrative penalty. Twenty Thousand One Hundred Seventeen Dollars (\$20,117) 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 Forty Thousand Two Hundred Thirty-Four Dollars (\$40,234) as set forth in Section II, Paragraph 10 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: Western Refining Company, L.P., Docket No. 2008-0439-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 10 above, Twenty Thousand One Hundred Seventeen Dollars (\$20,117) 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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.

9. 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.
10. 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 Monci  
For the Executive Director

2/18/14  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Western Refining Company, L.P. I am authorized to agree to the attached Agreed Order on behalf of Western Refining Company, L.P., 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, Western Refining Company, L.P. 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.

Forrest B. Leuter  
Signature

2/14/13  
Date

Forrest B. Leuter  
Name (Printed or typed)  
Authorized Representative of  
Western Refining Company, L.P.

VP Refining - Safety  
Title Manager

**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: 2008-0439-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Western Refining Company, L.P.</b>
<b>Payable Penalty Amount:</b>	<b>Forty Thousand Two Hundred Thirty-Four Dollars (\$40,234)</b>
<b>SEP Amount:</b>	<b>Twenty Thousand One Hundred Seventeen Dollars (\$20,117)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D") - Abandoned Tire Clean-Up</b>
<b>Location of SEP:</b>	<b>El Paso County, Rio Grande River Basin, Hueco-Mesilla Bolson Aquifer</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset 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 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 **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Administrator and TCEQ. The Third-Party Administrator shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The

Western Refining Company, L.P.  
Agreed Order - Attachment A

SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

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

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator named above 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 amount to the Third-Party Administrator. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

Western Refining Company, L.P.  
Agreed Order - Attachment A

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

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

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

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

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.