

Executive Summary – Enforcement Matter – Case No. 46724
Western Refining Company, L.P.
RN100213016
Docket No. 2013-0841-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Western Refining El Paso, 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 2008-0439-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 31, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$25,838

Amount Deferred for Expedited Settlement: \$5,167

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$10,336

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$10,335

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

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 46724
Western Refining Company, L.P.
RN100213016
Docket No. 2013-0841-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 14, 2013

Date(s) of NOE(s): March 1, 2013

Violation Information

1. Failed to obtain authorization for material unloading activities at the North Loading Rack NLR3. Specifically, the unloading of biodiesel, transmix, fuel oil, light cycle oil, crude oil, toluene, and xylene from rail cars and tank trucks was documented to have occurred without the proper authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

2. Failed to pave a parking lot with more than 100 parking spaces. Specifically, the contractor parking lot at the Plant has more than 100 parking spaces; however, the parking lot is not paved [Federal Operating Permit No. O1348, Special Terms and Conditions No. 3.F.(iv), 30 TEX. ADMIN. CODE §§ 111.149(b) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On September 25, 2012, the Respondent obtained Permit by Rule Registration No. 105344 authorizing material unloading activities at the North Loading Rack NLR3.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 180 days, pave the contractor parking lot at the Plant or cover it with an equivalent method determined by the Executive Director;
 - b. Within 195 days, submit written certification to demonstrating compliance with Ordering Provision a.

**Executive Summary – Enforcement Matter – Case No. 46724
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Docket No. 2013-0841-AIR-E**

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Amancio Gutierrez, Enforcement Division, Enforcement Team 5, MC 169, (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: Leslie Ann Allen, Senior Vice President of Environmental and Regulatory Affairs, Western Refining Company, L.P., 212 North Clark Street, El Paso, Texas 79905
Forrest B. Lauher, Vice President, El Paso Refinery, Western Refining Company, L.P., 212 North Clark Street, El Paso, Texas 79905
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0841-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Western Refining Company, L.P.
Penalty Amount:	Twenty Thousand Six Hundred Seventy-One Dollars (\$20,671)
SEP Amount:	Ten Thousand Three Hundred Thirty-Five Dollars (\$10,335)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")
Name of Project:	Abandoned Tire Clean-Up
Location of SEP:	El Paso County; Texas Air Quality Control Region 153 - El Paso - Las Cruces - Alamogordo

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

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

remaining SEP Offset Amount may be applied to another approved RC&D project. The 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 75963-5067

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

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

4. Failure to Fully Perform

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 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	4-Mar-2013	Screening	18-Mar-2013	EPA Due	
	PCW	21-Oct-2013				

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

CASE INFORMATION			
Enf./Case ID No.	46724	No. of Violations	2
Docket No.	2013-0841-AIR-E	Order Type	1660
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	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	41.0% Enhancement	Subtotals 2, 3, & 7	\$6,150
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Notes: Enhancement for two 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.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,812
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Economic Benefit	50.0% Enhancement*	Subtotal 6	\$7,500
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Total EB Amounts \$34,597
 Approx. Cost of Compliance \$471,948
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$25,838
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$25,838
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$25,838
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DEFERRAL	20.0% Reduction	Adjustment	-\$5,167
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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	\$20,671
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Screening Date 18-Mar-2013

Docket No. 2013-0841-AIR-E

PCW

Respondent Western Refining Company, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46724

PCW Revision August 3, 2011

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>)	2	10%
	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 judgements or consent decrees meeting criteria</i>)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	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) 41%

>> **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 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 Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 41%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 41%

Screening Date 18-Mar-2013

Docket No. 2013-0841-AIR-E

PCW

Respondent Western Refining Company, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46724

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain authorization for material unloading activities at the North Loading Rack NLR3. Specifically, the unloading of biodiesel, transmix, fuel oil, light cycle oil, crude oil, toluene, and xylene from rail cars and tank trucks was documented to have occurred without the proper authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

202 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$11,250

Three quarterly events are recommended from the March 6, 2012 non-compliance date to the September 25, 2012 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$2,812

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

Notes

The Respondent completed corrective actions on September 25, 2012, prior to the March 1, 2013 NOE.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$18,676

This violation Final Assessed Penalty (adjusted for limits) \$18,676

Economic Benefit Worksheet

Respondent Western Refining Company, L.P.

Case ID No. 46724

Req. Ent. Reference No. RN100213016

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,500	6-Mar-2012	25-Sep-2012	0.56	\$42	n/a	\$42
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization for the unloading activities at North Loading Rack NLR3. The Date Required is the non-compliance date. The Final Date is the 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

\$1,500

TOTAL

\$42

Screening Date 18-Mar-2013

Docket No. 2013-0841-AIR-E

PCW

Respondent Western Refining Company, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46724

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s) Federal Operating Permit No. O1348, Special Terms and Conditions No. 3.F.(iv), 30 Tex. Admin. Code §§ 111.149(b) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to pave a parking lot with more than 100 parking spaces. Specifically, the contractor parking lot at the Plant has more than 100 parking spaces; however, the parking lot is not paved.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	15.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 63

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

Violation Base Penalty \$3,750

One quarterly event is recommended from the January 14, 2013 investigation date to the March 18, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34,555

Violation Final Penalty Total \$7,163

This violation Final Assessed Penalty (adjusted for limits) \$7,163

Economic Benefit Worksheet

Respondent Western Refining Company, L.P.

Case ID No. 46724

Req. Ent. Reference No. RN100213016

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$470,448	14-Jan-2013	1-Feb-2014	1.05	\$1,645	\$32,910	\$34,555
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 pave the approximately six acre contractor parking lot at \$1.80 per square foot (261,360 square feet x \$1.80 = \$470,448). The Date Required is the investigation date. The Final Date is the estimated date of compliance

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$470,448

TOTAL

\$34,555

The TCEQ is committed to accessibility.

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



Compliance History Report

PUBLISHED Compliance History Report for CN601510191, RN100213016, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN601510191, Western Refining Company, L.P.	Classification:	SATISFACTORY	Rating:	1.58
Regulated Entity:	RN100213016, WESTERN REFINING EL PASO ALL SITES	Classification:	SATISFACTORY	Rating:	2.18
Complexity Points:	24	Repeat Violator:	NO		
CH Group:	02 - Oil and Petroleum Refineries				
Location:	6501 TROWBRIDGE DR EL PASO, TX 79905-3401, EL PASO COUNTY				
TCEQ Region:	REGION 06 - EL PASO				

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER EE0015H
AIR OPERATING PERMITS PERMIT 901
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 NEW SOURCE PERMITS REGISTRATION 102257

AIR NEW SOURCE PERMITS REGISTRATION 101869

AIR OPERATING PERMITS PERMIT 1348

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 PCO36419

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 4814100004

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 PERMIT 103951

AIR NEW SOURCE PERMITS REGISTRATION 101781

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 105463
AIR NEW SOURCE PERMITS REGISTRATION 106700

STORMWATER PERMIT TXR05U187

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION
(SWR) 30605

AIR EMISSIONS INVENTORY ACCOUNT NUMBER EE0015H

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 112411
AIR NEW SOURCE PERMITS REGISTRATION 108064

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 7854

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION
(SWR) 86385

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION
(SWR) 85616

AIR EMISSIONS INVENTORY ACCOUNT NUMBER EE1359L

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

Date Compliance History Report Prepared: August 19, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 19, 2008 to August 19, 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 addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	September 19, 2008	(703028)
Item 2	October 01, 2008	(704368)
Item 3	October 24, 2008	(702842)
Item 4	October 27, 2008	(706182)
Item 5	November 20, 2008	(704038)
Item 6	February 13, 2009	(727052)
Item 7	February 24, 2009	(722703)
Item 8	March 19, 2009	(725744)
Item 9	June 02, 2009	(741234)
Item 10	June 22, 2009	(748377)
Item 11	July 24, 2009	(763311)
Item 12	August 14, 2009	(765814)
Item 13	August 25, 2009	(762835)

Item 14	September 16, 2009	(775413)
Item 15	September 25, 2009	(776959)
Item 16	December 14, 2009	(784289)
Item 17	January 06, 2010	(787240)
Item 18	January 22, 2010	(784736)
Item 19	January 25, 2010	(789021)
Item 20	February 02, 2010	(790153)
Item 21	February 04, 2010	(788166)
Item 22	February 17, 2010	(788521)
Item 23	February 25, 2010	(791780)
Item 24	March 16, 2010	(795920)
Item 25	March 24, 2010	(795515)
Item 26	March 29, 2010	(794824)
Item 27	April 14, 2010	(794574)
Item 28	April 19, 2010	(798846)
Item 29	April 23, 2010	(800065)
Item 30	May 21, 2010	(803398)
Item 31	June 09, 2010	(803351)
Item 32	June 14, 2010	(825046)
Item 33	July 15, 2010	(830353)
Item 34	July 29, 2010	(842467)
Item 35	August 18, 2010	(843767)
Item 36	October 07, 2010	(860501)
Item 37	December 02, 2010	(872686)
Item 38	January 20, 2011	(891298)
Item 39	February 08, 2011	(891894)
Item 40	February 11, 2011	(892186)
Item 41	March 01, 2011	(901036)
Item 42	March 03, 2011	(901399)
Item 43	March 04, 2011	(892089)
Item 44	March 07, 2011	(901677)
Item 45	March 15, 2011	(895096)
Item 46	March 24, 2011	(899252)
Item 47	March 28, 2011	(907075)
Item 48	April 07, 2011	(900304)
Item 49	April 08, 2011	(908672)
Item 50	April 11, 2011	(893150)
Item 51	April 12, 2011	(912369)
Item 52	April 13, 2011	(912162)
Item 53	April 14, 2011	(905090)
Item 54	April 15, 2011	(901334)
Item 55	April 18, 2011	(907313)
Item 56	April 27, 2011	(914307)
Item 57	May 03, 2011	(908429)
Item 58	May 20, 2011	(900621)
Item 59	June 01, 2011	(914240)
Item 60	June 02, 2011	(908590)
Item 61	June 03, 2011	(922303)
Item 62	June 07, 2011	(915405)
Item 63	June 10, 2011	(914236)
Item 64	June 23, 2011	(922173)
Item 65	June 24, 2011	(934009)
Item 66	July 15, 2011	(935896)
Item 67	July 26, 2011	(935949)
Item 68	August 19, 2011	(944860)
Item 69	August 29, 2011	(950263)
Item 70	September 01, 2011	(944291)
Item 71	September 16, 2011	(956454)
Item 72	September 23, 2011	(949329)

Item 73	September 29, 2011	(957492)
Item 74	October 03, 2011	(944235)
Item 75	October 25, 2011	(956951)
Item 76	November 08, 2011	(962449)
Item 77	November 18, 2011	(963092)
Item 78	December 22, 2011	(975917)
Item 79	January 24, 2012	(981462)
Item 80	February 07, 2012	(977419)
Item 81	February 21, 2012	(977428)
Item 82	February 23, 2012	(977328)
Item 83	May 17, 2012	(996322)
Item 84	May 21, 2012	(1001404)
Item 85	May 24, 2012	(1006556)
Item 86	June 06, 2012	(1001705)
Item 87	June 20, 2012	(1003092)
Item 88	August 02, 2012	(1015927)
Item 89	August 14, 2012	(1023526)
Item 90	August 28, 2012	(1028200)
Item 91	December 11, 2012	(1049622)
Item 92	January 11, 2013	(1050258)
Item 93	January 28, 2013	(1051637)
Item 94	February 12, 2013	(1054373)
Item 95	March 21, 2013	(1059072)
Item 96	March 28, 2013	(1054894)
Item 97	June 03, 2013	(1094671)
Item 98	July 09, 2013	(1101492)
Item 99	July 26, 2013	(1094597)
Item 100	August 14, 2013	(1113638)

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: 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.

- 2 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.

3 Date: 06/12/2013 (1087590)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)

Description: Failure to submit the Final Report no later than two weeks after the end of the emissions event. The Final Report should have been submitted on April 25, 2013, the Final Report was submitted on April 30, 2013.

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

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: WESTERN REFINING EL PASO ALL SITES

Reg Entity Add: 6501 TROWBRIDGE DR

Reg Entity City: EL PASO

Reg Entity No: RN100213016

Customer Name: Western Refining

Customer No: CN601510191

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

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. 2013-0841-AIR-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 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 together stipulate that:

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. 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 March 6, 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 Twenty-Five Thousand Eight Hundred Thirty-Eight Dollars (\$25,838) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand

Three Hundred Thirty-Six Dollars (\$10,336) of the administrative penalty and Five Thousand One Hundred Sixty-Seven Dollars (\$5,167) 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. Ten Thousand Three Hundred Thirty-Five Dollars (\$10,335) 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 on September 25, 2012, the Respondent obtained Permit by Rule Registration No. 105344 authorizing material unloading activities at the North Loading Rack NLR3.
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 Plant, the Respondent is alleged to have:

1. Failed to obtain authorization for material unloading activities at the North Loading Rack NLR3, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on January 14, 2013. Specifically, the unloading of biodiesel, transmix, fuel oil, light cycle oil, crude oil, toluene, and xylene from rail cars and tank trucks was documented to have occurred without the proper authorization.
2. Failed to pave a parking lot with more than 100 parking spaces, in violation of Federal Operating Permit No. O1348, Special Terms and Conditions No. 3.F.(iv), 30 TEX. ADMIN. CODE §§ 111.149(b) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 14, 2013. Specifically, the

contractor parking lot at the Plant has more than 100 parking spaces; however, the parking lot is not paved.

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: Western Refining Company, L.P., Docket No. 2013-0841-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 I, Paragraph 6 above, Ten Thousand Three Hundred Thirty-Five Dollars (\$10,335) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order, pave the contractor parking lot at the Plant or cover it with an equivalent method determined by the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 111.149(b);
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and contain the following language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Hancock
For the Executive Director

4/2/14
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.

Forrest B. Louker
Signature

12/9/13
Date

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

VP Refining - El Paso
Title
Refinery

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: 2013-0841-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Western Refining Company, L.P.
Penalty Amount:	Twenty Thousand Six Hundred Seventy-One Dollars (\$20,671)
SEP Amount:	Ten Thousand Three Hundred Thirty-Five Dollars (\$10,335)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")
Name of Project:	Abandoned Tire Clean-Up
Location of SEP:	El Paso County; Texas Air Quality Control Region 153 - El Paso - Las Cruces - Alamogordo

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

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

remaining SEP Offset Amount may be applied to another approved RC&D project. The 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 75963-5067

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

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

4. Failure to Fully Perform

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.