

Executive Summary – Enforcement Matter – Case No. 48303
UTLX Manufacturing LLC
RN100212828
Docket No. 2014-0265-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

UTLX Manufacturing, 16923 Old Beaumont Highway 90, Houston, Harris County

Type of Operation:

Rail tank car manufacturing and painting site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 16, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,800

Amount Deferred for Expedited Settlement: \$5,560

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$22,240

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 10, 2014

Date(s) of NOE(s): February 4, 2014

Executive Summary – Enforcement Matter – Case No. 48303
UTLX Manufacturing LLC
RN100212828
Docket No. 2014-0265-AIR-E

Violation Information

1. Failed to comply with the maximum allowable emissions rate ("MAER") of 0.59 pounds per hour ("lbs/hr") of volatile organic compounds ("VOC") for the Catalytic Oxidizer, Emission Point Number ("EPN") E-209. Specifically, the MAER was exceeded on 191 days during the period of November 1, 2010 through October 29, 2011, resulting in a total of 161.34 lbs of unauthorized VOC emissions [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 5566, Special Conditions ("SC") No. 3, and Federal Operating Permit ("FOP") No. 01729, Special Terms and Conditions ("STC") No. 6].
2. Failed to comply with the MAER of 9.79 lbs/hr of VOC for the Line 2 Paint Booth, EPN E-202 through E-207. Specifically, the MAER for the Line 2 Paint Booth was exceeded on 194 days during the period of November 1, 2010 through October 29, 2011, resulting in a total of 14,987.35 lbs of unauthorized VOC emissions [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 5566, SC No. 3, and FOP No. 01729, STC No. 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On March 13, 2014, the Respondent submitted a permit amendment application for NSR Permit No. 5566 to increase the hourly VOC emissions rates for the Line 2 Paint Booth, EPN E-202 through E-207, and the Catalytic Oxidizer, EPN E-209.

Technical Requirements:

The Order will require the Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for NSR Permit No. 5566 that was submitted on March 13, 2014 within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days, submit written certification that NSR Permit No. 5566 has been amended to increase hourly VOC emissions rates for EPN E-202 through E-207 and EPN E-209 or that unauthorized emissions have ceased until such time that appropriate authorization is obtained.

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

Executive Summary – Enforcement Matter – Case No. 48303
UTLX Manufacturing LLC
RN100212828
Docket No. 2014-0265-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rachel Bekowies, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Randall McDougal, Director of Manufacturing, UTLX Manufacturing
LLC, 16923 Old Beaumont Highway 90, Houston, Texas 77049

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES Assigned PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Media Program(s) Government/Non-Profit
 Multi-Media Enf. Coordinator
 EC's Team
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Screening Date 18-Feb-2014

Docket No. 2014-0265-AIR-E

PCW

Respondent UTLX Manufacturing LLC

Policy Revision 2 (September 2002)

Case ID No. 48303

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212828

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	1	-2%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations and two agreed orders containing a denial of liability. Reduction for one Notice of Intent to conduct an audit and one Disclosure of Violations.

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

Screening Date 18-Feb-2014
 Respondent UTLX Manufacturing LLC
 Case ID No. 48303

Docket No. 2014-0265-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212828

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review ("NSR") Permit No. 5566, Special Conditions ("SC") No. 3, and Federal Operating Permit ("FOP") No. O1729, Special Terms and Conditions ("STC") No. 6

Violation Description Failed to comply with the maximum allowable emissions rate ("MAER") of 0.59 pounds per hour ("lbs/hr") of volatile organic compounds ("VOC") for the Catalytic Oxidizer, Emission Point Number ("EPN") E-209. Specifically, the MAER was exceeded on 191 days during the period of November 1, 2010 through October 29, 2011, resulting in a total of 161.34 lbs of unauthorized VOC emissions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent 25%
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					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 4 Number of violation days 191

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

Violation Base Penalty \$10,000

Four quarterly events are recommended for the period of November 1, 2010 through October 29, 2011.

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 \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$173

Violation Final Penalty Total \$13,900

This violation Final Assessed Penalty (adjusted for limits) \$13,900

Economic Benefit Worksheet

Respondent UTLX Manufacturing LLC

Case ID No. 48303

Reg. Ent. Reference No. RN100212828

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	\$900	1-Nov-2010	1-Sep-2014	3.84	\$173	n/a	\$173
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for submitting a permit amendment application to increase the hourly VOC emissions rates for the Catalytic Oxidizer and the Line 2 Paint Booth. The Date Required is the date of the first MAER exceedance. 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

\$900

TOTAL

\$173

Screening Date 18-Feb-2014
 Respondent UTLX Manufacturing LLC
 Case ID No. 48303

Docket No. 2014-0265-AIR-E

PCW

Policy Revision 2 (September 2007)
 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212828

Media [Statute] Air
 Enf. Coordinator Rachel Bekowies

Violation Number
 Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), NSR Permit No. 5566, SC No. 3, and FOP No. O1729, STC No. 6

Violation Description

Failed to comply with the MAER of 9.79 lbs/hr of VOC for the Line 2 Paint Booth, EPN E-202 through E-207. Specifically, the MAER for the Line 2 Paint Booth was exceeded on 194 days during the period of November 1, 2010 through October 29, 2011, resulting in a total of 14,987.35 lbs of unauthorized VOC emissions.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Four quarterly events are recommended for the period of November 1, 2010 through October 29, 2011.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent UTLX Manufacturing LLC

Case ID No. 48303

Reg. Ent. Reference No. RN100212828

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
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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				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

See economic benefit for Violation No. 1.

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

\$0

TOTAL

\$0

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 CN602856155, RN100212828, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN602856155, UTLX Manufacturing LLC **Classification:** SATISFACTORY **Rating:** 0.23

Regulated Entity: RN100212828, UTLX MANUFACTURING **Classification:** SATISFACTORY **Rating:** 0.23

Complexity Points: 9 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 16923 OLD BEAUMONT HIGHWAY 90 HOUSTON, TEXAS 77049, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0811R

POLLUTION PREVENTION PLANNING ID NUMBER

P01587

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION

1011189

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 82082

AIR NEW SOURCE PERMITS REGISTRATION 11062

AIR NEW SOURCE PERMITS AFS NUM 4820100335

AIR NEW SOURCE PERMITS REGISTRATION 112664

AIR OPERATING PERMITS PERMIT 1729

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION

(SWR) 82082

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TX0000274456

AIR NEW SOURCE PERMITS PERMIT 5566

AIR NEW SOURCE PERMITS REGISTRATION 11764A

AIR NEW SOURCE PERMITS REGISTRATION 98986

AIR EMISSIONS INVENTORY ACCOUNT NUMBER

HG0811R

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: February 26, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 18, 2009 to February 18, 2014

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

Name: Rachel Bekowies

Phone: (512) 239-2608

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

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

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

1 Effective Date: 02/22/2009 ADMINORDER 2008-1323-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP O-1729 General Terms and Conditions OP

Description: Failed to submit a Title V deviation report for the reporting period of November 1, 2006 through April 30, 2007, by May 30, 2007. Specifically, the deviation report was not submitted until November 1, 2007.

2 Effective Date: 02/10/2012 ADMINORDER 2011-1196-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 08/2010 - Failure to collect any repeats following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: TCR MCL Violation 01/2011 - System exceeded a Maximum Contaminant Level (MCL) Violation.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 28, 2009	(747540)
Item 2	April 14, 2010	(794132)
Item 3	August 18, 2011	(949258)
Item 4	October 24, 2013	(1113997)

E. Written notices of violations (NOV) (CEDS 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: 07/08/2013 (1100506) CN602856155
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.142(b)(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Description: Failure to include references to Permit-By-Rules (PBRs) in the Title V Application.
(Category B3 Violation)

F. Environmental audits:

Notice of Intent Date: 12/02/2010 (899119)
Disclosure Date: 09/29/2011
Viol. Classification: Major
Citation: 30 TAC Chapter 101, SubChapter H 101.359(a)
30 TAC Chapter 106, SubChapter K 106.262
Description: Failed to submit ECT-1 forms in a timely fashion starting with 2002 compliance period.
Viol. Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.247(2)
Description: Failed to submit documentation to the TCEQ that motor vehicle fuel throughputs are less than 10,000 gallons per month.
Viol. Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter H 101.359(a)
Description: Failed to recognize that it was a major source of NOx at the start of the NOx Mass Emission Cap and Trade Program due to actual emissions being significantly less than program applicability threshold, and thus failed to implement and comply with all requirements of this program.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
UTLX MANUFACTURING LLC
RN100212828**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0265-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 UTLX Manufacturing LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a rail tank car manufacturing and painting site at 16923 Old Beaumont Highway 90 in Houston, Harris County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. 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 February 9, 2014.
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-Seven Thousand Eight Hundred Dollars (\$27,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Two Thousand Two Hundred Forty Dollars (\$22,240) of the administrative penalty and Five Thousand Five

Hundred Sixty Dollars (\$5,560) 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.

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 March 13, 2014, the Respondent submitted a permit amendment application for New Source Review ("NSR") Permit No. 5566 to increase the hourly volatile organic compounds ("VOC") emissions rates for the Line 2 Paint Booth, Emission Point Number ("EPN") E-202 through E-207, and the Catalytic Oxidizer, EPN E-209.
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 Site, the Respondent is alleged to have:

1. Failed to comply with the maximum allowable emissions rate ("MAER") of 0.59 pounds per hour ("lbs/hr") of VOC for the Catalytic Oxidizer, EPN E-209, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 5566, Special Conditions ("SC") No. 3, and Federal Operating Permit ("FOP") No. O1729, Special Terms and Conditions ("STC") No. 6, as documented during a record review conducted on January 10, 2014. Specifically, the MAER was exceeded on 191 days during the period of November 1, 2010 through October 29, 2011, resulting in a total of 161.34 lbs of unauthorized VOC emissions.
2. Failed to comply with the MAER of 9.79 lbs/hr of VOC for the Line 2 Paint Booth, EPN E-202 through E-207, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 5566, SC No. 3, and FOP No. O1729, STC No. 6, as documented during a record review conducted on January 10,

2014. Specifically, the MAER for the Line 2 Paint Booth was exceeded on 194 days during the period of November 1, 2010 through October 29, 2011, resulting in a total of 14,987.35 lbs of unauthorized VOC emissions.

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: UTLX Manufacturing LLC, Docket No. 2014-0265-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application for NSR Permit No. 5566 that was submitted on March 13, 2014 within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - b. Within 180 days after the effective date of this Agreed Order, submit written certification that NSR Permit No. 5566 has been amended to increase hourly VOC emissions rates for EPN E-202 through E-207 and EPN E-209 or that unauthorized emissions have ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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 Site 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. 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.

7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

6/5/14
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.

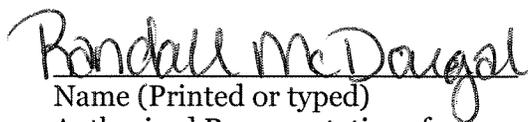
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- 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.


Signature

4-9-14
Date


Name (Printed or typed)
Authorized Representative of
UTLX Manufacturing LLC

Director of Manufacturing
Title

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