

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47996
Flint Hills Resources Polymers, LLC
RN101618759
Docket No. 2013-2149-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Unauthorized emissions which are excessive emissions events.

Media:

AIR

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

118 Huntsman Way, Longview, Harrison County

Type of Operation:

polypropylene pellet manufacturer

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: December 5, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$287,000

Total Paid to General Revenue: \$143,500

Total Due to General Revenue: \$0

SEP Conditional Offset: \$143,500

Name of SEP: *Clean Buses Project* - Harrison County;
022 Shreveport-Texarkana-Tyler Air Quality Control Region

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Flint Hills Resources Polymers, LLC

RN101618759

Docket No. 2013-2149-AIR-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: August 1, 2012
Date(s) of NOV(s): August 16, 2013; October 18, 2013
Date(s) of NOE(s): August 24, 2012

Violation Information

Failed to prevent unauthorized emissions by failing to equip an open-ended line with a cap, blind flange, plug, or second valve (10,127 pounds (“lbs”) of ethylene, 33,827 lbs of propane, and 1,390,031 lbs of propylene during an avoidable emissions event that lasted for 331 hours and 45 minutes. It was determined that this emissions event was an excessive emissions event.) [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.20(1), 116.715(a) and (c)(7), and 122.143(4); 40 C.F.R. §§ 60.482-6(a)(1) and 60.562-2(a); Federal Operating Permit No. O1282, Special Terms and Conditions Nos. (1)(A), (7), and (9)(A); and Flexible Permit Nos. 18105 and PAL3, Special Conditions Nos. 1 and 13(E)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. On January 5, 2012, installed permanent blinds on the open-ended line, car-sealed the Tank 130 atmospheric vent valve, and added the valve to its audit list.
2. On April 27, 2012, reviewed processes for other potential vent lines that could be open-ended lines.
3. On June 14, 2012, revised procedures and checklists to address vent line valve usage and subsequent closure/sealing for future shutdowns/startups and developed a lockout/tagout process to ensure proper isolation and subsequent blinding on the Tank 30 vent line.
4. On June 14, 2012, trained all affected employees on expectations for future shutdowns/startups.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
Settlement Date: October 17, 2014

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ SEP Attorney: Meaghan Bailey, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Amancio Gutierrez, Enforcement Division, 512-239-3921

TCEQ Regional Contact: Michelle Baetz, Tyler Regional Office, 903-535-5100

Respondent Contact: Bill Shelton, Plant Manager, Flint Hills Resources Polymers, LLC, 118 Huntsman Way, Longview, Texas 75602

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-2149-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Flint Hills Resources Polymers, LLC
Penalty Amount:	Two Hundred Eighty-Seven Thousand Dollars (\$287,000)
SEP Offset Amount:	One Hundred Forty-Three Thousand Five Hundred Dollars (\$143,500)
Type of SEP:	Contribution to a Pre-Approved Third-Party Administrator
Third-Party Administrator:	Texas Association of Resource Conservation & Development Areas, Inc.
Project Name:	<i>Clean Buses Project</i>
Location of SEP:	Harrison County; 022 Shreveport-Texarkana-Tyler Air Quality Control Region

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D")** for the *Clean Buses Project*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to retrofit older diesel buses with lower emissions or clean fuel technology in order to reduce air emissions and to purchase lower-emission buses that are model year 2010 or newer to public school districts or public charter schools, and replace a diesel bus that is model year 2006 or older. RC&D shall ensure that each replacement bus purchased has an engine that meets 2010 EPA Standards. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, and any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

B. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D
Attention: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of**

the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	25-Nov-2013	Screening	25-Nov-2013	EPA Due	21-May-2013
	PCW	15-Oct-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Flint Hills Resources Polymers, LLC				
Reg. Ent. Ref. No.	RN101618759				
Facility/Site Region	5-Tyler	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	47996	No. of Violations	1
Docket No.	2013-2149-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		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**

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

PAYABLE PENALTY

Screening Date 25-Nov-2013

Docket No. 2013-2149-AIR-E

PCW

Respondent Flint Hills Resources Polymers, LLC

Policy Revision 3 (September 2011)

Case ID No. 47996

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101618759

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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>)	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>)	3	-3%
	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)

>> **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 two NOVs with same/similar violations. Reduction for three Notices of Intent to conduct an audit.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date 25-Nov-2013

Docket No. 2013-2149-AIR-E

PCW

Respondent Flint Hills Resources Polymers, LLC

Policy Revision 3 (September 2011)

Case ID No. 47996

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101618759

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(1), 116.715(a) and (c)(7), and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations §§ 60.482-6(a)(1) and 60.562-2(a), Federal Operating Permit No. O1282, Special Terms and Conditions Nos. (1)(A), (7), and (9)(A), and Flexible Permit Nos. 18105 and PAL3, Special Conditions Nos. 1 and 13(E)

Violation Description

Failed to prevent unauthorized emissions by failing to equip an open-ended line with a cap, blind flange, plug, or second valve. Specifically, the Respondent released 10,127 pounds ("lbs") of ethylene, 33,827 lbs of propane, and 1,390,031 lbs of propylene from the Tank 130 atmospheric vent (Emission Point Number F072FG2A) during an avoidable emissions event (Incident No. 162712) that began on November 29, 2011 and lasted for 331 hours and 45 minutes. The event occurred when an atmospheric vent valve on Tank 130 was left in the open position. The vent valve was on an open-ended line. It was determined that this emissions event was an excessive emissions event.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			100.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 14 Number of violation days 14

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

Violation Base Penalty \$350,000

Fourteen daily events are recommended from the emissions event start date of November 29, 2011 to the end date of December 12, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$87,500

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

Notes The Respondent completed corrective measures on June 14, 2012, prior to the August 24, 2012 NOE date.

Violation Subtotal \$262,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$287,000

This violation Final Assessed Penalty (adjusted for limits) \$287,000

Economic Benefit Worksheet

Respondent Flint Hills Resources Polymers, LLC
Case ID No. 47996
Reg. Ent. Reference No. RN101618759
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	\$100	29-Nov-2011	5-Jan-2012	0.10	\$0	\$1	\$1
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	\$500	29-Nov-2011	14-Jun-2012	0.54	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	29-Nov-2011	14-Jun-2012	0.54	\$14	n/a	\$14

Notes for DELAYED costs
 Estimated expense to install permanent blinds on the open-ended line (provided by the Respondent), car-seal the Tank 130 atmospheric vent valve, revise procedures and checklist, and retrain employees. The Dates Required are the date the emissions event began and 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 \$1,100

TOTAL \$28



Compliance History Report

PUBLISHED Compliance History Report for CN603776725, RN101618759, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN603776725, Flint Hills Resources Polymers, LLC	Classification: SATISFACTORY	Rating: 1.06
Regulated Entity:	RN101618759, FLINT HILLS RESOURCES LONGVIEW FACILITY	Classification: SATISFACTORY	Rating: 1.06
Complexity Points:	15	Repeat Violator:	NO
CH Group:	05 - Chemical Manufacturing		
Location:	118 HUNTSMAN WAY LONGVIEW, TX 75602-6105, HARRISON COUNTY		
TCEQ Region:	REGION 05 - TYLER		

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HH0171A	AIR OPERATING PERMITS PERMIT 1282
AIR NEW SOURCE PERMITS AFS NUM 4820300050	AIR NEW SOURCE PERMITS ACCOUNT NUMBER HH0171A
AIR NEW SOURCE PERMITS PERMIT 18105	AIR NEW SOURCE PERMITS REGISTRATION 99781
AIR NEW SOURCE PERMITS REGISTRATION 109195	STORMWATER PERMIT TXRNEX277
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HH0171A	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000020842
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 85052	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TX0000999755
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 83181	POLLUTION PREVENTION PLANNING ID NUMBER P01954

Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	November 26, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	November 26, 2008 to November 26, 2013				

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

Name: Amancio R. Gutierrez **Phone:** (512) 239-3921

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:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A

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:	08/16/2013 (1105858)	CN603776725
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 101, SubChapter A 101.20(1) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1) 5C THSC Chapter 382 382.085(b) FOP O-1282, STC 1A OP NSR Permit, SC 13E PERMIT	
	Description:	Failure to equip 7 valves with open-ended lines with a cap, blind flange, plug, or second valve. Flint Hills reported that on the following days open-ended lines were discovered and plugged upon discovery: April 1, 2012 (1), April 26, 2012 (2), July 30, 2012 (2), September 30, 2011 (2).	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A) 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) FOP O-1282, STC 3 OP FOP O-1282, STC 7 OP NSR Permit, SC 7C PERMIT	
	Description:	Failure to operate flares with no visible emissions except periods not to exceed a total of five minutes during any two consecutive hours.	
	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) FOP O-1282, STC 7 OP NSR Permit, SC 16 PERMIT	
	Description:	Failure to analyze a minimum of two polypropylene powder samples for VOC content during one quarter of the year. During the fourth quarter of 2011, only one of the two samples was usable resulting in only one being analyzed.	
	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) FOP O-1282, STC 7 OP NSR Permit, SC 8 PERMIT	
	Description:	Failure to meet the 170 lb of VOC/MMlbs of polypropylene on an hourly averaging period for VOC emitted to atmosphere. It was reported between February 10, 2012 and February 14, 2012 three samples taken that exceeded the permit limit.	
	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) FOP O-1282, STC 7 OP NSR Permit, SC 13E PERMIT	
	Description:	Failure to equip 2 valves with open-ended lines with a cap, blind flange, plug, or second valve. Flint Hills reported that on the following days open-ended lines were discovered and plugged upon discovery: October 28, 2011 (1) and February 9, 2012 (1).	
2	Date:	10/18/2013 (1123066)	CN603776725
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 30 TAC Chapter 116, SubChapter G 116.715(c)(7) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Terms and Condition 1.A OP Special Terms and Condition 7 OP Special Terms and Condition 9.A OP	
	Description:	Failure to prevent unauthorized emissions during an emissions event (Incident No. 178200) that was discovered on January 17, 2013 at 1215 hours (determined to have occurred from January 15, 2013 at 0037 hours to January 17, 2013 at 1215 hours).	

F. Environmental audits:

Notice of Intent Date: 11/13/2009 (785623)

No DOV Associated

Notice of Intent Date: 10/06/2012 (1034820)

No DOV Associated

Notice of Intent Date: 08/13/2013 (1115825)

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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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FLINT HILLS RESOURCES
POLYMERS, LLC;
RN101618759**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-2149-AIR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Flint Hills Resources Polymers, LLC ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns a polypropylene pellet manufacturing plant located at 118 Huntsman Way in Longview, Harrison County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During a record review conducted on August 1, 2012, a TCEQ Tyler Regional Office investigator documented that Respondent failed to prevent unauthorized emissions by failing to equip an open-ended line with a cap, blind flange, plug, or second valve. Specifically, Respondent released 10,127 pounds ("lbs") of ethylene, 33,827 lbs of propane, and 1,390,031 lbs of propylene from the Tank 130 atmospheric vent (Emission Point Number F072FG2A) during an avoidable emissions event (Incident No. 162712) that began on November 29, 2011 and lasted for 331 hours and 45 minutes. The event occurred when an atmospheric vent valve on Tank 130 was left in the open position by a third party contractor employee during a final walk down following a Plant turnaround event. The vent valve was on an open-ended line. It was determined that this emissions event was an excessive emissions event.

3. The Executive Director recognizes that Respondent implemented the following corrective measures at the Plant:
 - a. On January 5, 2012, installed permanent blinds on the open-ended line, car-sealed the Tank 130 atmospheric vent valve, and added the valve to its audit list;
 - b. On April 27, 2012, reviewed processes for other potential vent lines that could be open-ended lines;
 - c. On June 14, 2012, revised procedures and checklists to address vent line valve usage and subsequent closure/sealing for future shutdowns/startups and developed a lockout/tagout process to ensure proper isolation and subsequent blinding on the Tank 30 vent line; and
 - d. On June 14, 2012, trained all affected employees on expectations for future shutdowns/startups.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent unauthorized emissions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.20(1), 116.715(a) and (c)(7), and 122.143(4); 40 C.F.R. §§ 60.482-6(a)(1) and 60.562-2(a); Federal Operating Permit No. O1282, Special Terms and Conditions Nos. (1)(A), (7), and (9)(A); and Flexible Permit Nos. 18105 and PAL3, Special Conditions Nos. 1 and 13(E).
3. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of two hundred eighty-seven thousand dollars (\$287,000.00) 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. Respondent paid one hundred forty-three thousand five hundred dollars (\$143,500.00) of the administrative penalty. Pursuant to TEX. WATER CODE § 7.067, one hundred forty-three thousand five hundred dollars (\$143,500.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement and any payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall implement and complete a SEP as set forth in Conclusion of Law No. 4. The amount of one hundred forty-three thousand five hundred dollars (\$143,500.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
7. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



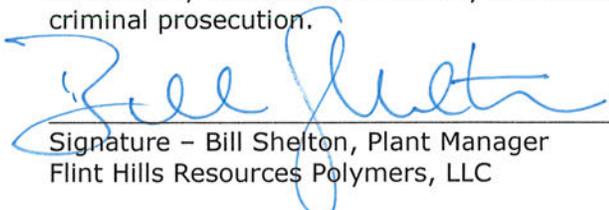
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Flint Hills Resources Polymers, LLC, 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 in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Bill Shelton, Plant Manager
Flint Hills Resources Polymers, LLC



Date

Attachment A
Docket Number: 2013-2149-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Flint Hills Resources Polymers, LLC
Penalty Amount:	Two Hundred Eighty-Seven Thousand Dollars (\$287,000)
SEP Offset Amount:	One Hundred Forty-Three Thousand Five Hundred Dollars (\$143,500)
Type of SEP:	Contribution to a Pre-Approved Third-Party Administrator
Third-Party Administrator:	Texas Association of Resource Conservation & Development Areas, Inc.
Project Name:	<i>Clean Buses Project</i>
Location of SEP:	Harrison County; 022 Shreveport-Texarkana-Tyler Air Quality Control Region

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D")** for the *Clean Buses Project*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to retrofit older diesel buses with lower emissions or clean fuel technology in order to reduce air emissions and to purchase lower-emission buses that are model year 2010 or newer to public school districts or public charter schools, and replace a diesel bus that is model year 2006 or older. RC&D shall ensure that each replacement bus purchased has an engine that meets 2010 EPA Standards. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, and any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

B. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D
Attention: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of**

the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.