

Executive Summary – Enforcement Matter – Case No. 50445
Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2015-0645-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

TOTAL PETROCHEMICALS USA La Porte Plant, 1818 Independence Parkway South, approximately 1.6 miles south of the San Jacinto Monument, Deer Park, Harris County

Type of Operation:

Polypropylene plastic manufacturing facility

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2015-0301-IHW-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 18, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$37,500

Amount Deferred for Expedited Settlement: \$7,500

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$15,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$15,000

Name of SEP: Armand Bayou Nature Center, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 18, 2015

Date(s) of NOE(s): April 10, 2015

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Violation Information

Failed to comply with permitted effluent limits for total suspended solids and biochemical oxygen demand 5-day) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0001000000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 101].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

a. By April 24, 2014, cleaned the Facility’s domestic wastewater treatment system’s 20-minute contact tanks; the settling basins in the domestic wastewater treatment system’s digesters; the treated water sump that discharges to Outfall No. 101; and the domestic wastewater treatment system’s discharge lines.

b. By May 1, 2014:

i. Updated operational guidance and conducted training with Facility and contract personnel to address inappropriate items entering the Facility’s domestic wastewater treatment system; and

ii. Updated weekly sampling procedures to obtain lab results quicker and prevent delays in corrective action responses.

c. By July 10, 2014:

i. Removed and properly disposed of floating debris in the Facility’s process wastewater treatment ponds and removed floating algae accumulations; and

ii. Removed and properly disposed of floating debris in sumps and ditches that discharge to the Facility’s process wastewater treatment ponds.

d. By November 7, 2014, isolated, repaired, and placed pump No. P-312A back into service.

e. By November 20, 2014:

i. Removed and properly disposed of solids in the Facility’s domestic wastewater treatment system’s digesters;

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ii. Decreased discharge rates through Outfall No. 001 to increase residence time for treatment in the Facility's process wastewater treatment ponds; and

iii. Added additional microorganisms to the Facility's process wastewater treatment ponds and the ponds' sump to facilitate biodegradation.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

2. The Order will also require the Respondent to, within 380 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001000000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limits.

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: Christopher Bost, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4575; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Mark Douglass, Plant Manager, Total Petrochemicals & Refining USA, Inc., 1818 Independence Parkway South, La Porte, Texas 77571
Phillippa Doligez, Chairwoman, Total Petrochemicals & Refining USA, Inc., 1201 Louisiana Street, Suite 1800, Houston, Texas 77002
Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-0645-IWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Total Petrochemicals & Refining USA, Inc.
Penalty Amount:	Thirty Thousand Dollars (\$30,000)
SEP Offset Amount:	Fifteen Thousand Dollars (\$15,000)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Armand Bayou Nature Center, Inc.
Project Name:	<i>Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the 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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Armand Bayou Nature Center, Inc.** for the *Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to manage the Armand Bayou Nature Center (“ABNC”), which comprises of 2,500 acres located in southeast Harris County. ABNC contains three unique and vanishing ecosystems: coastal tallgrass prairie, forested wetland, and the tidal marsh stream of Armand Bayou. Prescribed burning is one stewardship tool used to maintain a tallgrass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species, which primarily include the Chinese tallow tree and other woody plants. In addition, prescribed mowing shall be conducted on a rotational basis as needed for maintenance of native species and removal of non-native species. The Third Party Administrator shall propagate terrestrial and aquatic native plants and install them to restore the Coastal Prairie, Tidal Marsh, and Forested Wetlands. The SEP Offset Amount will be used to pay for the labor and materials costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and plants. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. 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.

The 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. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The ecological services provided by the restoration and management of the Coastal Prairie, Tidal Marsh, and Forested Wetlands ecosystems working in concert will help minimize pollution, reduce the amount of pollutants reaching the environment, and enhance water quality and wildlife habitat.

Coastal prairie grasslands are considered fire-dependent plant communities and require frequent exposure to fire effects for full ecological function. Prescribed fire in prairies helps control invasive species, minimize accumulated grass thatch, promote enrichment of soil nutrients and improve prairie plant vigor. One additional benefit of controlled prescribed burns is the reduction of fuels and the prevention of wildfires. This is particularly critical in the urban environment to protect human life and property and to minimize the release of large amounts of particulate matter resulting from uncontrolled wild fire. This treatment ensures that these coastal prairie grasslands will perform at their highest ecological function and provide the maximum potential ecological service to benefit water quality.

Mowing and targeted application of specialized herbicides will also help manage prairie species and remove non-native species. Propagation and installation of native plants will restore the natural balance to these ecosystems, reduce erosion, and increase habitat for wildlife. Plant installation in the Forested Wetland and Tidal Marsh will improve water quality by restoring depleted oxygen levels, providing habitat and nourishment for aquatic organisms, and reclaiming the area for native plants.

Proper management and restoration of these ecosystems will maximize the ecological services that they provide to Armand Bayou and Galveston Bay.

c. Minimum Expenditure

The 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, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Armand Bayou Nature Center, Inc. SEP** and shall mail the contribution with a copy of the Agreed Order to:

Armand Bayou Nature Center, Inc.
Attention: Mark Kramer, Stewardship Coordinator
P.O. Box 58828
Houston, Texas 77258

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the 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 the Respondent failed to fully implement and complete the Project, the 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, the 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:

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

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 the 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. Recognition

The 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 the 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 4 (April 2014)

PCW Revision March 26, 2014

TCEQ DATES	Assigned	20-Apr-2015	Screening	27-Apr-2015	EPA Due	2-Jun-2015
	PCW	13-Jun-2015				

RESPONDENT/FACILITY INFORMATION			
Respondent	Total Petrochemicals & Refining USA, Inc.		
Reg. Ent. Ref. No.	RN100212109		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	50445	No. of Violations	1
Docket No.	2015-0645-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Christopher Bost
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$18,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **100.0%** Enhancement **Subtotals 2, 3, & 7** **\$18,750**

Notes: Enhancement for eight orders with denial and four months of self-reported effluent violations.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$2,509**
 Estimated Cost of Compliance **\$40,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$37,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$37,500**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$37,500**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$7,500**

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 **\$30,000**

Screening Date 27-Apr-2015

Docket No. 2015-0645-IWD-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 50445

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	8	160%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	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>)	0	0%
	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) 180%

>> **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 eight orders with denial and four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 180%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 100%

Screening Date 27-Apr-2015

Docket No. 2015-0645-IWD-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 50445

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001000000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 101

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on February 18, 2015 and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that 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 5

121 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$18,750

Five quarterly events are recommended for the quarters containing the months of April 2014, June 2014, July 2014, and November 2014 (two for Outfall No. 001 and three for Outfall No. 101).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/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 \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,509

Violation Final Penalty Total \$37,500

This violation Final Assessed Penalty (adjusted for limits) \$37,500

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 50445
Reg. Ent. Reference No. RN100212109
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$30,000	30-Apr-2014	20-Nov-2014	0.56	\$56	\$1,118	\$1,174
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)	\$10,000	30-Apr-2014	30-Dec-2016	2.67	\$1,336	n/a	\$1,336

Notes for DELAYED costs

The first delayed cost includes the estimated amount for the corrective actions completed by the Respondent in response to the documented effluent violations. Date required is the first date of non-compliance. Final date is the date the Respondent completed the corrective actions.

The second delayed cost includes the estimated amount to take any additional corrective measures necessary to prevent additional non-compliances and return to compliance with all permitted effluent limits. Date required is the first date of non-compliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40,000

TOTAL

\$2,509

EFFLUENT VIOLATION TABLE						
Total Petrochemicals & Refining USA, Inc.						
Texas Pollutant Discharge Elimination System Permit No. WQ0001000000						
Docket No. 2015-0645-IWD-E						
Months	BOD ₅ Daily Max. Conc.	BOD ₅ Daily Avg. Loading	BOD ₅ Daily Max. Loading	TSS Daily Max. Conc.	TSS Daily Avg. Loading	TSS Daily Max. Loading
	Limit = 65 mg/L	Limit = 142 lbs/day	Limit = 284 lbs/day	Limit = 65 mg/L	Limit = 304 lbs/day	Limit = 894 lbs/day
Outfall No. 001						
June 2014	n/a	c	c	n/a	375	905
November 2014	n/a	155	577	n/a	c	c
Outfall No. 101						
April 2014	c	n/a	n/a	112	n/a	n/a
July 2014	105	n/a	n/a	c	n/a	n/a
November 2014	100	n/a	n/a	c	n/a	n/a

BOD₅ = biochemical oxygen demand (five-day)
TSS = total suspended solids
Max. = maximum
Avg. = average
Conc. = concentration

mg/L = milligrams per liter
lbs/day = pounds per day
c = compliant
n/a = not applicable



Compliance History Report

PUBLISHED Compliance History Report for CN604041020, RN100212109, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN604041020, Total Petrochemicals & Refining USA, Inc.	Classification: SATISFACTORY	Rating: 2.91
Regulated Entity:	RN100212109, TOTAL PETROCHEMICALS USA LA PORTE PLANT	Classification: SATISFACTORY	Rating: 1.74
Complexity Points:	30	Repeat Violator: NO	
CH Group:	05 - Chemical Manufacturing		
Location:	Located at 1818 Independence Parkway South, approximately 1.6 miles south of the San Jacinto Monument in Deer Park, Harris County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0036S
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD086981172
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50374

AIR OPERATING PERMITS PERMIT 1293
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30551
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010880

AIR NEW SOURCE PERMITS PERMIT 3908B
AIR NEW SOURCE PERMITS AFS NUM 4820100008
AIR NEW SOURCE PERMITS PERMIT 21538
AIR NEW SOURCE PERMITS REGISTRATION 16138
AIR NEW SOURCE PERMITS REGISTRATION 41719
AIR NEW SOURCE PERMITS REGISTRATION 101790
AIR NEW SOURCE PERMITS REGISTRATION 110569
WASTEWATER PERMIT WQ0001000000
STORMWATER PERMIT TXR05M372

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0036S
AIR NEW SOURCE PERMITS PERMIT 2269C
AIR NEW SOURCE PERMITS PERMIT 18153
AIR NEW SOURCE PERMITS REGISTRATION 2560
AIR NEW SOURCE PERMITS PERMIT 83796
AIR NEW SOURCE PERMITS REGISTRATION 111728
AIR NEW SOURCE PERMITS REGISTRATION 111727
WASTEWATER EPA ID TX0007421
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0036S

POLLUTION PREVENTION PLANNING ID NUMBER P00243

AIR QUALITY NON PERMITTED ID NUMBER LGL100212109

EMISSIONS BANKING AND TRADING ID NUMBER EBT100212109

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: June 08, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 08, 2010 to June 08, 2015

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

Name: Christopher Bost

Phone: (512) 239-4575

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: 06/26/2010 ADMINORDER 2009-1869-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to prevent unauthorized emissions. Total failed to operate the North Flare with a flame present at all times.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failure to notify the TCEQ of a reportable emissions event within 24 hours of discovery.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to prevent unauthorized emissions. Failure to prevent polymer solids build-up and plugging in the Train 7 Cyclo-filter.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to prevent unauthorized emissions. Total failed to prevent polymer solids build-up and plugging in the Train 7 Cyclo-filter.

2 Effective Date: 08/21/2010 ADMINORDER 2010-0019-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to prevent unauthorized emissions. Total failed to prevent plugging in the Train 7 Cyclo-filter.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 6 PERMIT

Description: Failure to prevent unauthorized emissions. Total failed to ensure that the cooling water system was functioning properly after conducting maintenance.

3 Effective Date: 10/15/2010 ADMINORDER 2010-0525-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to prevent unauthorized emissions. Train 7 operators failed to maintain the designated temperature parameters in the Train 7 Reactor during startup of the unit.

4 Effective Date: 12/25/2010 ADMINORDER 2009-1015-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 3908B, Special Condition No. 1 PERMIT

Description: Failure to prevent unauthorized emissions. Total failed to close the fuel-gas bypass vent to the BO-4 Boiler after conducting maintenance.

5 Effective Date: 04/18/2011 ADMINORDER 2010-1675-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to prevent unauthorized emissions during an event that occurred on June 30, 2010. Specifically, the Respondent released into the atmosphere 682.79 lbs of propylene, 149.11 lbs of carbon monoxide, 16.76 lbs of nitrogen oxide, and 38.23 lbs of propane from the EPN ES-205 in the Train 5 & 6 Polypropylene Unit over a two hour and fifty minute period. The event occurred due to a shutdown when operators failed to increase the cooling water flow rate to the Recovery Column Condenser.

- 6 Effective Date: 10/02/2011 ADMINORDER 2011-0603-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: Special Condition No. 1 PERMIT
 Description: Failed to prevent unauthorized emissions during an emissions event. Specifically, during an emissions event (Incident No. 148650) that occurred on December 21, 2010, and lasted approximately five hours and twenty minutes, the Respondent released approximately 744 pounds ("lbs") of carbon monoxide, 101 lbs of nitrogen oxides, 49 lbs of propane, and 1,142 lbs of propylene from the Train 9 Polypropylene Unit. The event occurred due to a false low level instrument reading.....
- 7 Effective Date: 03/09/2013 ADMINORDER 2012-1093-AIR-E (1660 Order-Agreed Order With Denial)
 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)
 Rqmt Prov: FOP 1293 ST&C 14 OP
 NSR 3908B SC13 PERMIT
 Description: Failed to maintain the minimum thermal oxidizer firebox exit temperature and oxygen concentration, as documented during a record review conducted on January 26, 2012. Specifically, the firebox temperature for Unit ID No. M2A-ES-215 fell below 1,450 degrees Fahrenheit for a total of 13.3 hours from August 11, 2010 to July 21, 2011, and the exhaust oxygen concentration fell below the required minimum of 10% for temperatures between 1,450 and 1,550 degrees Fahrenheit and the required minimum of 7%
 Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter H 115.725(l)
 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)
 Rqmt Prov: FOP 1293 ST&C 14 OP
 FOP 1293 ST&C 1A OP
 NSR 21538 SC16 PERMIT
 Description: Failed to monitor the inlet and exhaust volatile organic compound ("VOC") concentration of the Bleeder/Feeder Vent Gas Catalytic Oxidizer (Unit ID No. M3A-ES-975) on August 12, 2010, October 15, 2010, and from February 13, 2011 to August 8, 2011, as documented during a record review conducted on January 26, 2012
- 8 Effective Date: 04/07/2013 ADMINORDER 2012-1362-AIR-E (1660 Order-Agreed Order With Denial)
 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)
 Rqmt Prov: Special Condition 1 PERMIT
 Special Terms and Conditions No. 11 OP
 Description: Failed to comply with the allowable annual VOC emissions rate for the South Flare. Specifically, the Respondent exceeded the allowable annual VOC emissions rate of 2.36 tons per year based on a rolling 12-month period, from January 1, 2011 through March 31, 2012, resulting in the unauthorized release of 2.89 tons of VOC.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 17, 2010	(846311)
Item 2	November 03, 2010	(881544)
Item 3	November 16, 2010	(888066)
Item 4	November 18, 2010	(902349)
Item 5	December 16, 2010	(896290)
Item 6	February 17, 2011	(909133)
Item 7	March 14, 2011	(916383)
Item 8	April 12, 2011	(924892)
Item 9	May 18, 2011	(938069)
Item 10	May 31, 2011	(952666)

Item 11	June 10, 2011	(945441)
Item 12	August 08, 2011	(959352)
Item 13	November 16, 2011	(977580)
Item 14	December 12, 2011	(984350)
Item 15	February 13, 2012	(998010)
Item 16	March 15, 2012	(1003536)
Item 17	April 11, 2012	(1010101)
Item 18	May 08, 2012	(1016492)
Item 19	June 13, 2012	(1024215)
Item 20	June 14, 2012	(1061020)
Item 21	June 18, 2012	(1031607)
Item 22	August 14, 2012	(1037984)
Item 23	September 19, 2012	(1046720)
Item 24	November 16, 2012	(1061021)
Item 25	January 16, 2013	(1079054)
Item 26	February 18, 2013	(1079053)
Item 27	March 18, 2013	(1089351)
Item 28	April 17, 2013	(1095744)
Item 29	June 12, 2013	(1110344)
Item 30	July 11, 2013	(1117229)
Item 31	August 12, 2013	(1124984)
Item 32	September 16, 2013	(1129583)
Item 33	November 18, 2013	(1140713)
Item 34	December 17, 2013	(1147172)
Item 35	January 17, 2014	(1153241)
Item 36	February 14, 2014	(1160576)
Item 37	March 18, 2014	(1167221)
Item 38	April 14, 2014	(1174354)
Item 39	June 18, 2014	(1187440)
Item 40	September 12, 2014	(1205845)
Item 41	October 18, 2014	(1212257)
Item 42	October 24, 2014	(1192038)
Item 43	November 18, 2014	(1218509)
Item 44	December 23, 2014	(1209601)
Item 45	January 19, 2015	(1230875)
Item 46	March 17, 2015	(1248655)

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: 06/30/2014 (1198629)	CN604041020	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 07/31/2014 (1198630)	CN604041020	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 11/30/2014 (1224288)	CN604041020	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 01/31/2015 (1242326)	CN604041020	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

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
TOTAL PETROCHEMICALS &
REFINING USA, INC.
RN100212109

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2015-0645-IWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Total Petrochemicals & Refining USA, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a polypropylene plastic manufacturing facility located at 1818 Independence Parkway South, approximately 1.6 miles south of the San Jacinto Monument in Deer Park, Harris County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 15, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirty-Seven Thousand Five Hundred Dollars (\$37,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Dollars (\$15,000) of the administrative penalty and Seven Thousand Five Hundred Dollars (\$7,500) 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. Fifteen Thousand Dollars (\$15,000) 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 the Respondent has implemented the following corrective measures at the Facility:
 - a. By April 24, 2014, cleaned the Facility's domestic wastewater treatment system's 20-minute contact tanks; the settling basins in the domestic wastewater treatment system's digesters; the treated water sump that discharges to Outfall No. 101; and the domestic wastewater treatment system's discharge lines.
 - b. By May 1, 2014:
 - i. Updated operational guidance and conducted training with Facility and contract personnel to address inappropriate items entering the Facility's domestic wastewater treatment system; and
 - ii. Updated weekly sampling procedures to obtain lab results quicker and prevent delays in corrective action responses.
 - c. By July 10, 2014:
 - i. Removed and properly disposed of floating debris in the Facility's process wastewater treatment ponds and removed floating algae accumulations; and
 - ii. Removed and properly disposed of floating debris in sumps and ditches that discharge to the Facility's process wastewater treatment ponds.
 - d. By November 7, 2014, isolated, repaired, and placed pump No. P-312A back into service.

- e. By November 20, 2014:
 - i. Removed and properly disposed of solids in the Facility's domestic wastewater treatment system's digesters;
 - ii. Decreased discharge rates through Outfall No. 001 to increase residence time for treatment in the Facility's process wastewater treatment ponds; and
 - iii. Added additional microorganisms to the Facility's process wastewater treatment ponds and the ponds' sump to facilitate biodegradation.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001000000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 101, as documented during a record review conducted on February 18, 2015 and shown in the table below:

EFFLUENT VIOLATION TABLE						
Months	BOD ₅ Daily Max. Conc.	BOD ₅ Daily Avg. Loading	BOD ₅ Daily Max. Loading	TSS Daily Max. Conc.	TSS Daily Avg. Loading	TSS Daily Max. Loading
	Limit = 65 mg/L	Limit = 142 lbs/day	Limit = 284 lbs/day	Limit = 65 mg/L	Limit = 304 lbs/day	Limit = 894 lbs/day
Outfall No. 001						
June 2014	n/a	c	c	n/a	375	905
November 2014	n/a	155	577	n/a	c	c
Outfall No. 101						
April 2014	c	n/a	n/a	112	n/a	n/a
July 2014	105	n/a	n/a	c	n/a	n/a
November 2014	100	n/a	n/a	c	n/a	n/a

BOD₅ = biochemical oxygen demand (five-day)
 TSS = total suspended solids
 Max. = maximum
 Avg. = average
 Conc. = concentration

mg/L = milligrams per liter
 lbs/day = pounds per day
 c = compliant
 n/a = not applicable

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: Total Petrochemicals & Refining USA, Inc., Docket No. 2015-0645-IWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Fifteen Thousand Dollars (\$15,000) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that, within 380 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001000000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing",

and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Romona Moore
For the Executive Director

12/4/15
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.

Mark Douglas
Signature

8/6/2015
Date

MARK DOUGLASS
Name (Printed or typed)
Authorized Representative of
Total Petrochemicals & Refining USA, Inc.

PLANT MANAGER
Title

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

Attachment A
Docket Number: 2015-0645-IWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Total Petrochemicals & Refining USA, Inc.
Penalty Amount:	Thirty Thousand Dollars (\$30,000)
SEP Offset Amount:	Fifteen Thousand Dollars (\$15,000)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Armand Bayou Nature Center, Inc.
Project Name:	<i>Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the 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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Armand Bayou Nature Center, Inc.** for the *Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to manage the Armand Bayou Nature Center (“ABNC”), which comprises of 2,500 acres located in southeast Harris County. ABNC contains three unique and vanishing ecosystems: coastal tallgrass prairie, forested wetland, and the tidal marsh stream of Armand Bayou. Prescribed burning is one stewardship tool used to maintain a tallgrass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species, which primarily include the Chinese tallow tree and other woody plants. In addition, prescribed mowing shall be conducted on a rotational basis as needed for maintenance of native species and removal of non-native species. The Third Party Administrator shall propagate terrestrial and aquatic native plants and install them to restore the Coastal Prairie, Tidal Marsh, and Forested Wetlands. The SEP Offset Amount will be used to pay for the labor and materials costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and plants. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. 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.

The 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. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The ecological services provided by the restoration and management of the Coastal Prairie, Tidal Marsh, and Forested Wetlands ecosystems working in concert will help minimize pollution, reduce the amount of pollutants reaching the environment, and enhance water quality and wildlife habitat.

Coastal prairie grasslands are considered fire-dependent plant communities and require frequent exposure to fire effects for full ecological function. Prescribed fire in prairies helps control invasive species, minimize accumulated grass thatch, promote enrichment of soil nutrients and improve prairie plant vigor. One additional benefit of controlled prescribed burns is the reduction of fuels and the prevention of wildfires. This is particularly critical in the urban environment to protect human life and property and to minimize the release of large amounts of particulate matter resulting from uncontrolled wild fire. This treatment ensures that these coastal prairie grasslands will perform at their highest ecological function and provide the maximum potential ecological service to benefit water quality.

Mowing and targeted application of specialized herbicides will also help manage prairie species and remove non-native species. Propagation and installation of native plants will restore the natural balance to these ecosystems, reduce erosion, and increase habitat for wildlife. Plant installation in the Forested Wetland and Tidal Marsh will improve water quality by restoring depleted oxygen levels, providing habitat and nourishment for aquatic organisms, and reclaiming the area for native plants.

Proper management and restoration of these ecosystems will maximize the ecological services that they provide to Armand Bayou and Galveston Bay.

c. Minimum Expenditure

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

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Armand Bayou Nature Center, Inc. SEP** and shall mail the contribution with a copy of the Agreed Order to:

Armand Bayou Nature Center, Inc.
Attention: Mark Kramer, Stewardship Coordinator
P.O. Box 58828
Houston, Texas 77258

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the 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 the Respondent failed to fully implement and complete the Project, the 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, the 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:

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

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 the 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. Recognition

The 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.