

**Executive Summary – Enforcement Matter – Case No. 51905  
Flint Hills Resources Houston Chemical, LLC  
RN102576063  
Docket No. 2016-0243-AIR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Unauthorized emissions which are excessive emissions events.

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Flint Hills Resources Houston Chemical, 9822 La Porte Freeway, Houston, Harris County

**Type of Operation:**

Chemical Plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 29, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,000

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

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

**Total Paid to General Revenue:** \$12,000

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

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** October 26, 2015

**Date(s) of NOE(s):** February 9, 2016

**Executive Summary – Enforcement Matter – Case No. 51905**  
**Flint Hills Resources Houston Chemical, LLC**  
**RN102576063**  
**Docket No. 2016-0243-AIR-E**

***Violation Information***

Failed to prevent unauthorized emissions. This event was determined to be an excessive emissions event [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. O1251, Special Terms and Conditions No. 11 and General Terms and Conditions, and New Source Review Permit Nos. 18999, PSDTX755, and N210, Special Conditions No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, submit a corrective action plan ("CAP") in accordance with the TCEQ letter dated February 9, 2016 to address the excessive emissions event that began on September 14, 2015 (Incident No. 220173);
- b. Within 45 days, submit written certification demonstrating compliance with a.;
- c. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the September 14, 2015 excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;
- d. Upon Commission approval of the CAP, implement the CAP in accordance with the approved schedule; and
- e. Within 15 days upon completion of the CAP implementation, submit written certification to demonstrate compliance with d.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

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

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 51905  
Flint Hills Resources Houston Chemical, LLC  
RN102576063  
Docket No. 2016-0243-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Raime Hayes-Falero, Enforcement Division, Enforcement Team 5, MC 149, (713) 767-3567; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** N/A

**Respondent:** James Rhame, Site Manager, Flint Hills Resources Houston Chemical, LLC, 9822 La Porte Freeway, Houston, Texas 77017

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	16-Feb-2016	<b>Screening</b>	17-Feb-2016	<b>EPA Due</b>	
	<b>PCW</b>	25-May-2016				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Flint Hills Resources Houston Chemical, LLC		
<b>Reg. Ent. Ref. No.</b>	RN102576063		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	51905	<b>No. of Violations</b>	1
<b>Docket No.</b>	2016-0243-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Raime Hayes-Falero
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,500</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
<b>Compliance History</b>	60.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$4,500</b>

Notes: Enhancement for two orders with denial of liability and one order without denial of liability. Reduction for three notices of intent to conduct an audit and one disclosure of violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$858  
 Estimated Cost of Compliance: \$10,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$12,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$12,000</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$12,000</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$12,000</b>
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**Screening Date** 17-Feb-2016

**Docket No.** 2016-0243-AIR-E

**PCW**

**Respondent** Flint Hills Resources Houston Chemical, LLC

Policy Revision 4 (April 2014)

**Case ID No.** 51905

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN102576063

**Media [Statute]** Air

**Enf. Coordinator** Raime Hayes-Falero

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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> )	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> )	1	-2%

Please Enter Yes or No

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)** 60%

>> **Repeat Violator (Subtotal 3)**

No

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

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for two orders with denial of liability and one order without denial of liability.  
Reduction for three notices of intent to conduct an audit and one disclosure of violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 60%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 60%

Screening Date 17-Feb-2016

Docket No. 2016-0243-AIR-E

PCW

Respondent Flint Hills Resources Houston Chemical, LLC

Policy Revision 4 (April 2014)

Case ID No. 51905

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102576063

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit No. O1251, Special Terms and Conditions No. 11 and General Terms and Conditions, and New Source Review Permit Nos. 18999, PSDTX755, and N210, Special Conditions No. 1

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 130 pounds ("lbs") of propane and 32,481 lbs of propylene as Plant fugitive emissions, during an avoidable emissions event (Incident No. 220173) that began on September 14, 2015 and lasted 39 hours and 47 minutes. The event occurred due to a crack on a half-inch nipple on a flow transmitter impulse line. This event was determined to be an excessive emissions event.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Based on the Air Quality Analysis of the air dispersion modeling that was submitted by the Respondent, human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 Number of violation days 2

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One monthly event is recommended.

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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$858

Violation Final Penalty Total \$12,000

This violation Final Assessed Penalty (adjusted for limits) \$12,000

## Economic Benefit Worksheet

**Respondent** Flint Hills Resources Houston Chemical, LLC  
**Case ID No.** 51905  
**Reg. Ent. Reference No.** RN102576063  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	14-Sep-2015	1-Jun-2017	1.72	\$858	n/a	\$858

Notes for DELAYED costs

Estimated cost to implement a corrective action plan to prevent a recurrence of emissions events due to the same causes as Incident No. 220173. The Date Required is the date the emissions event began. The Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$858

The TCEQ is committed to accessibility.

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



# TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN604650093, RN102576063, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN604650093, Flint Hills Resources  
Houston Chemical, LLC **Classification:** SATISFACTORY **Rating:** 1.82

**Regulated Entity:** RN102576063, FLINT HILLS RESOURCES  
HOUSTON CHEMICAL **Classification:** SATISFACTORY **Rating:** 1.82

**Complexity Points:** 32 **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 9822 LA PORTE FWY, HOUSTON, TX 77017-2721, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

## ID Number(s):

<b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER HG0035U	<b>AIR OPERATING PERMITS</b> PERMIT 1251
<b>POLLUTION PREVENTION PLANNING</b> ID NUMBER P00438	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXD096035274
<b>INDUSTRIAL AND HAZARDOUS WASTE</b> SOLID WASTE REGISTRATION # (SWR) 30463	<b>WASTEWATER</b> PERMIT WQ0000393000
<b>WASTEWATER</b> EPA ID TX0006068	<b>AIR NEW SOURCE PERMITS</b> PERMIT 18999
<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER HG0035U	<b>AIR NEW SOURCE PERMITS</b> AFS NUM 4820100117
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 132979	<b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX755
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 111298	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 111299
<b>AIR NEW SOURCE PERMITS</b> EPA PERMIT GHGPSDTX137	<b>AIR NEW SOURCE PERMITS</b> EPA PERMIT GHGPSDTX15
<b>AIR NEW SOURCE PERMITS</b> EPA PERMIT PSDTX755M1	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 135358
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 133525	<b>AIR NEW SOURCE PERMITS</b> EPA PERMIT N216
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 137182	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 132235
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 135594	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 135875
<b>AIR NEW SOURCE PERMITS</b> EPA PERMIT N210	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 133851
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 135390	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 111301
<b>STORMWATER</b> PERMIT TXR05X163	<b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER HG0035U

**Compliance History Period:** September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** February 17, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 17, 2011 to February 17, 2016

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

**Name:** Jennifer Nguyen

**Phone:** (512) 239-6160

## 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: 08/27/2012 ADMINORDER 2012-0376-IWD-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limitations PERMIT  
Description: Failed to comply with permitted effluent limits, as documented during a record review conducted on January 10, 2012.
- 2 Effective Date: 09/26/2013 ADMINORDER 2013-0720-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
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: SC 27D PERMIT  
ST&C 15 OP  
ST&C 9B OP  
Description: Failure to perform stack sampling within 180 days after initial start-up. (Category A8.c.1.G).
- 3 Effective Date: 12/05/2015 ADMINORDER 2014-1746-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 115, SubChapter H 115.722(c)(1)  
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 prevent unauthorized emissions.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	July 06, 2011	(935195)
Item 2	August 23, 2011	(944732)
Item 3	June 29, 2012	(1008965)
Item 4	September 18, 2012	(1031342)
Item 5	December 13, 2012	(976197)
Item 6	January 23, 2013	(1051427)
Item 7	April 10, 2015	(1215379)
Item 8	June 16, 2015	(1227642)
Item 9	January 11, 2016	(1281451)

**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.

N/A

**F. Environmental audits:**

Notice of Intent Date: 02/29/2012 (1014140)

No DOV Associated

Notice of Intent Date: 07/16/2014 (1193465)

Disclosure Date: 07/16/2014

Viol. Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: The previous owner failed to obtain authorization prior to construction of a propylene splitter (the 109 Splitter Project).

Notice of Intent Date: 10/27/2015 (1289008)

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FLINT HILLS RESOURCES  
HOUSTON CHEMICAL, LLC  
RN102576063**

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

**AGREED ORDER  
DOCKET NO. 2016-0243-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Flint Hills Resources Houston Chemical, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a plant located at 9822 La Porte Freeway in Houston, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on October 26, 2015, TCEQ staff documented that the Respondent released 130 pounds ("lbs") of propane and 32,481 lbs of propylene as Plant fugitive emissions, during an avoidable emissions event (Incident No. 220173) that began on September 14, 2015 and lasted 39 hours and 47 minutes. The event occurred due to a crack on a half-inch nipple on a flow transmitter impulse line. TCEQ staff determined that this event was an excessive emissions event.
4. The Respondent received notice of the violations on February 12, 2016.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 7, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. O1251, Special Terms and Conditions No. 11 and General Terms and Conditions, and New Source Review Permit Nos. 18999, PSDTX755, and N210, Special Conditions No. 1. This event was determined to be an excessive emissions event.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twelve Thousand Dollars (\$12,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Twelve Thousand Dollar (\$12,000) administrative penalty.

## **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed an administrative penalty in the amount of Twelve Thousand Dollars (\$12,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However,

the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Flint Hills Resources Houston Chemical, LLC, Docket No. 2016-0243-AIR-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit a corrective action plan ("CAP") in accordance with the TCEQ letter dated February 9, 2016 to address the excessive emissions event that began on September 14, 2015 (Incident No. 220173);
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision No. 2.a, as described in Ordering Provision No. 2.e below;
  - c. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the September 14, 2015 excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;
  - d. Upon Commission approval of the CAP, implement the CAP in accordance with the approved schedule; and
  - e. Within 15 days upon completion of the CAP implementation, submit written certification, as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. 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

Date

*Tracy Miller for Ramiro Garcia, Jr.*  
For the Executive Director

*9.22.16*  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Flint Hills Resources Houston Chemical, LLC. I am authorized to agree to the attached Agreed Order on behalf of Flint Hills Resources Houston Chemical, LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Flint Hills Resources Houston Chemical, LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*James Rhame*  
Signature

*June 15, 2016*  
Date

*JAMES Rhame*  
Name (Printed or typed)  
Authorized Representative of  
Flint Hills Resources Houston Chemical, LLC

*Site 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 III, Paragraph 1 of this Agreed Order.