

**Executive Summary – Enforcement Matter – Case No. 48732**  
**KM Liquids Terminals LLC**  
**RN100237452**  
**Docket No. 2014-0776-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

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

Galena Park Terminal, 906 Clinton Drive, Galena Park, Harris County

**Type of Operation:**

Bulk liquid storage and transport site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 5, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$27,562

**Amount Deferred for Expedited Settlement:** \$5,512

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

**Total Paid to General Revenue:** \$11,025

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

Payment Plan: N/A

**SEP Conditional Offset:** \$11,025

Name of SEP: Houston-Galveston Area Council (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:** March 24, 2014

**Date(s) of NOE(s):** May 8, 2014

**Executive Summary – Enforcement Matter – Case No. 48732**  
**KM Liquids Terminals LLC**  
**RN100237452**  
**Docket No. 2014-0776-AIR-E**

***Violation Information***

Failed to comply with the emissions limit for nitrogen oxides ("NOx") based on stack tests conducted from May 13, 2013 through May 14, 2013, for Emission Point No. ("EPN") FL-2b, and from May 24, 2013 through May 25, 2013, for EPNs FL-2a and FL-2c. Specifically, emissions from Flare System No. 2 (EPNs FL-2a, FL-2b, and FL-2c combined) were measured to be 7.90 pounds per hour ("lbs/hr") for NOx and the maximum allowable emissions rate for the flare system was 1.51 lbs/hr [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 2193, Special Conditions No. 1, and Federal Operating Permit No. O988, Special Terms and Conditions No. 19].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
  - a. Within 30 days, certify compliance with the emissions limit for NOx from the Tank Truck ("TR"), Rail Car ("RC"), and Marine Loading Vapor Combustion Units ("VCUs") system (formerly known as Flare System No. 2, which consisted of EPNs FL-2a, FL-2b, and FL-2c) in accordance with NSR Permit No. 2193, or submit an administratively complete permit amendment application for NSR Permit No. 2193 to increase the maximum allowable emissions rate for NOx from the TR, RC, and Marine Loading VCUs system, which is made up of EPNs VCU-2a, VCU-2b, and VCU-2c;
  - b. If a permit amendment application is submitted, then within 45 days, submit written certification that an administratively complete permit amendment application for NSR Permit No. 2193 was submitted;
  - c. If a permit amendment application is submitted, then respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days of such requests, or by any deadline specified in writing; and
  - d. If a permit amendment application is submitted, then within 180 days, submit written certification that either the permit amendment to increase the NOx emissions limit for EPNs VCU-2a, VCU-2b, and VCU-2c has been obtained or that unauthorized emissions

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from EPNs VCU-2a, VCU-2b, and VCU-2c have ceased until such time that appropriate authorization is obtained.

***Litigation Information***

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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Rachel Bekowies, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565  
**Respondent:** Jeffery Alan Hersperger, General Manager, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547-3461  
W.P. Brown, Vice President, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park, Texas 77547-3461  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2014-0776-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>KM Liquids Terminals LLC</b>
<b>Penalty Amount:</b>	<b>Twenty-Two Thousand Fifty Dollars (\$22,050)</b>
<b>SEP Offset Amount:</b>	<b>Eleven Thousand Twenty-Five Dollars (\$11,025)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO ("AERCO")</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b>Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties</b>	

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 **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for

installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

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 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 the Respondent 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

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. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

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 **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, 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:

KM Liquids Terminals LLC  
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. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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

<b>TCEQ DATES</b>	<b>Assigned</b>	19-May-2014	<b>Screening</b>	27-May-2014	<b>EPA Due</b>	2-Feb-2015
	<b>PCW</b>	4-Jun-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	KM Liquids Terminals LLC
<b>Reg. Ent. Ref. No.</b>	RN100237452
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48732	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0776-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rachel Bekowies
		<b>EC's Team</b>	Enforcement Team 4
<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>\$18,750</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	47.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$8,812</b>
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Notes: Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and two agreed orders containing a 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: \$376  
 Approx. Cost of Compliance: \$5,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$27,562</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>\$27,562</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$27,562</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$5,512</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$22,050</b>
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**Screening Date** 27-May-2014

**Docket No.** 2014-0776-AIR-E

**PCW**

**Respondent** KM Liquids Terminals LLC

Policy Revision 4 (April 2014)

**Case ID No.** 48732

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN100237452

**Media [Statute]** Air

**Enf. Coordinator** Rachel Bekowies

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 47%

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

No

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

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

Satisfactory Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and two agreed orders containing a 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)** 47%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 47%

Screening Date 27-May-2014

Docket No. 2014-0776-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 4 (April 2014)

Case ID No. 48732

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100237452

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review Permit No. 2193, Special Conditions No. 1, and Federal Operating Permit No. O988, Special Terms and Conditions No. 19

Violation Description Failed to comply with the emissions limit for nitrogen oxides ("NOx") based on stack tests conducted from May 13, 2013 through May 14, 2013, for Emission Point No. ("EPN") FL-2b, and from May 24, 2013 through May 25, 2013, for EPNs FL-2a and FL-2c. Specifically, emissions from Flare System No. 2 (EPNs FL-2a, FL-2b, and FL-2c combined) were measured to be 7.90 pounds per hour ("lbs/hr") for NOx and the maximum allowable emissions rate for the flare system was 1.51 lbs/hr.

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

Based on the stack tests, approximately 58,123.44 lbs of unauthorized NOx was released during the period of non-compliance. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 5

379 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 based on the May 13, 2013 stack test start date through the May 27, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$376

Violation Final Penalty Total \$27,563

This violation Final Assessed Penalty (adjusted for limits) \$27,563

## Economic Benefit Worksheet

**Respondent** KM Liquids Terminals LLC  
**Case ID No.** 48732  
**Reg. Ent. Reference No.** RN100237452  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$5,000	13-May-2013	13-Nov-2014	1.50	\$376	n/a	\$376
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit amendment that increases the combined NOx emissions limit for EPNs VCU-2a, VCU-2b, and VCU-2c, formerly known as EPNs FL-2a, FL-2b, and FL-2c. The Date Required is the first date of the first stack test. The Final Date is the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$5,000

**TOTAL**

\$376

The TCEQ is committed to accessibility.

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



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603254707, RN100237452, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN603254707, KM Liquids Terminals LLC **Classification:** SATISFACTORY **Rating:** 3.35

**Regulated Entity:** RN100237452, GALENA PARK TERMINAL **Classification:** SATISFACTORY **Rating:** 1.14

**Complexity Points:** 41 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 906 CLINTON DRIVE GALENA PARK, TEXAS 77547-3461, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER HG0262H  
**WASTEWATER** EPA ID TX0005819  
**AIR NEW SOURCE PERMITS** REGISTRATION 24412  
**AIR NEW SOURCE PERMITS** REGISTRATION 45172  
**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HG0262H  
**AIR NEW SOURCE PERMITS** PERMIT 2443  
**AIR NEW SOURCE PERMITS** REGISTRATION 53795  
**AIR NEW SOURCE PERMITS** REGISTRATION 55782  
**AIR NEW SOURCE PERMITS** AFS NUM 4820100091  
**AIR NEW SOURCE PERMITS** REGISTRATION 74762  
**AIR NEW SOURCE PERMITS** REGISTRATION 79780  
**AIR NEW SOURCE PERMITS** PERMIT 101199  
**AIR NEW SOURCE PERMITS** REGISTRATION 103819  
**AIR NEW SOURCE PERMITS** REGISTRATION 101674  
**AIR NEW SOURCE PERMITS** REGISTRATION 105646  
**AIR NEW SOURCE PERMITS** REGISTRATION 118052  
**AIR NEW SOURCE PERMITS** REGISTRATION 114179

**AIR OPERATING PERMITS** PERMIT 988  
**AIR NEW SOURCE PERMITS** REGISTRATION 12956  
**AIR NEW SOURCE PERMITS** REGISTRATION 29236  
**AIR NEW SOURCE PERMITS** REGISTRATION 47921  
**AIR NEW SOURCE PERMITS** PERMIT 2193  
**AIR NEW SOURCE PERMITS** PERMIT 2444  
**AIR NEW SOURCE PERMITS** REGISTRATION 75915  
**AIR NEW SOURCE PERMITS** REGISTRATION 76331  
**AIR NEW SOURCE PERMITS** REGISTRATION 73983  
**AIR NEW SOURCE PERMITS** REGISTRATION 77380  
**AIR NEW SOURCE PERMITS** REGISTRATION 81751  
**AIR NEW SOURCE PERMITS** EPA PERMIT N158  
**AIR NEW SOURCE PERMITS** REGISTRATION 103829  
**AIR NEW SOURCE PERMITS** EPA PERMIT N168  
**AIR NEW SOURCE PERMITS** REGISTRATION 112072  
**AIR NEW SOURCE PERMITS** REGISTRATION 105434  
**IHW CORRECTIVE ACTION** SOLID WASTE REGISTRATION # (SWR) 30573  
**UNDERGROUND INJECTION CONTROL** PERMIT 5X2600543  
**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER HG0262H  
**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD026481523  
**POLLUTION PREVENTION PLANNING** ID NUMBER P00264

**WASTEWATER** PERMIT TXG670089

**UNDERGROUND INJECTION CONTROL** PERMIT 5X2600696

**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT 50054

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 30573

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

**Date Compliance History Report Prepared:** May 29, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 27, 2009 to May 27, 2014

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

**Name:** Rachel Bekowies

**Phone:** (512) 239-2608

## Site and Owner/Operator History:

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

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

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

- 1 Effective Date: 04/25/2010 ADMINORDER 2009-1161-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:S.C. 30C PERMIT  
Description: Failed to maintain a permit required destruction efficiency of 99.8% for the East Plant Roof Landing Vapor Combustion Unit.  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
5C THSC Chapter 382 382.085(b)  
Description: Failed to represent equipment in the permitting process, as documented during an investigation conducted on May 17, 2009. Specifically, a permit was obtained for one vapor combustion unit (EPN TNK VCU-1), however, two vapor combustors were installed (EPN TNK VCU-1A and EPN TNK VCU-1B).
- 2 Effective Date: 09/16/2011 ADMINORDER 2011-0250-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 33 PERMIT  
STC 16 OP  
Description: Failed to maintain the minimum operating temperature in the Vapor Combustion Unit ("VCU") of 1520°F for Vapor Combustor VCU-1A, 1556°F for Vapor Combustor VCU-1B, and 1800°F for Vapor Combustor VCU-2.

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1	August 06, 2009	(764785)
Item 2	August 17, 2009	(759252)
Item 3	January 13, 2010	(786574)
Item 4	January 19, 2010	(786707)
Item 5	May 26, 2010	(802429)
Item 6	August 23, 2010	(869776)
Item 7	September 20, 2010	(876714)
Item 8	October 04, 2010	(890609)
Item 9	October 20, 2010	(884240)
Item 10	December 30, 2010	(898995)
Item 11	January 24, 2011	(904861)
Item 12	February 18, 2011	(932359)
Item 13	February 22, 2011	(911807)
Item 14	July 15, 2011	(936932)
Item 15	July 29, 2011	(937359)
Item 16	January 17, 2012	(962886)
Item 17	October 22, 2012	(1008231)
Item 18	November 08, 2012	(1037428)
Item 19	January 09, 2014	(1132616)
Item 20	February 21, 2014	(1146521)

### **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: 11/22/2013 (1116496) CN603254707  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.112(e)(3)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(3)(ii)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2346(a)(1)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.423(a)  
 5C THSC Chapter 382 382.085(b)  
 SC 33 PERMIT  
 ST&C 19 OP  
 ST&C 1A OP  
 Description: Failed to properly route emissions to a control device for Tanks (EPNs: TNK-VCU-1A, TNK-VCU-1B, and TNK-VCU-2) Category C1  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)  
 5C THSC Chapter 382 382.085(b)  
 SC 31(E) PERMIT  
 ST&C 19 OP  
 ST&C 1A OP  
 Description: Failure to seal 2 open-ended lines open-ended lines (OELs). Category C10  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 FOP No. O988, STC No. 2G OP  
 Description: Failure to record all scheduled maintenance, startup, or shutdown activities.  
 Self Report? NO Classification: Minor  
 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)  
 SC 23 PERMIT  
 ST&C 19 OP  
 ST&C 1A OP  
 Description: Failure to refloat (Tank 25-22) by the required timeframe. Category C3  
 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)  
 SC 1 PERMIT  
 ST&C 19 OP  
 Description: Failure to maintain NOx emissions during source testing for FL-2A, FL-2B, and FL-2C.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 ST&C 1A OP  
 Description: Failure to submit all scheduled maintenance, startup, or shutdown activities.  
 Category C3

2 Date: 03/26/2014 (1144475) CN603254707  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 1 PERMIT  
 Description: Failure to prevent the release of approximately 3,000 lbs of MTBE due to an emissions event that occurred during a planned maintenance activity on January 2, 2014. [Subcategory B-13]

3 Date: 05/08/2014 (1157801) CN603254707  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 ST&C 1A OP  
 Description: Failure to submit all scheduled maintenance, startup, or shutdown activities.  
 Category C3

## F. Environmental audits:

Notice of Intent Date: 02/03/2010 (796679)

Disclosure Date: 05/06/2011

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 33

Description: Failed to maintain the required VCU operating temperature in 6 minute averages for 27 instances from 12/23/09 - 1/10/11.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 27E and 33

Description: Failed to ensure that hardware functioned properly as specified by the manufacturer as hardware related deviations occurred 21 times from 12/24/09 to 1/10/11.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-6(a)(1)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

Rqmt Prov: PERMIT SC 31E

Description: Failed to equip bleed valves and sample points with a plug, cap, blind flange, or a second closed valve as this occurred 30 times from 1/20/10 to 10/4/10.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 31A

Description: Failed to document all components that are excluded from monitoring and that are in non VOC or vacuum service.

Viol. Classification: Minor

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-7(h)(3)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(i)(3)

Description: Failed to have written plans for annual monitoring of difficult to monitor OLDMACT and NESHP components.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.354

30 TAC Chapter 115, SubChapter D 115.356(1)

30 TAC Chapter 115, SubChapter D 115.356(2)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Part 61, Subpart V 61.242-7

40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-7(h)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(c)

Rqmt Prov: PERMIT SC 31F

Description: Failed to properly monitor or tag components to meet LDAR program requirements.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.113

40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.113(b)

Description: Failed to the initial notice for a new source, and it was provided late to the administrator.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2382(d)

Description: The MACT EEEE NOCS did not include the information regarding pumps and valves as specified in 40 CFR 63.1039(a)(1) through (3).

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2386(b)(1)(ii)

Description: Failed to submit the first compliance report required by MACT Subpart EEEE and the periodic report required by Subpart H on time. They were due on 7/31/07, but were not submitted until 7/27/10.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2386(b)(2)(i)

Description: Failed to submit the compliance reports required by MACT Subpart EEEE and MACT Subpart H for reporting periods from 7/1/07 to 12/30/09.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.182(d)(2)(xiii)

Description: Failed to include the facts that explain the delay of repair and why a process unit shutdown was technically feasible in the MACT Subpart H report dated 7/30/10.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.428(h)(4)

Description: Failed to ensure that leaking equipment was repaired within 15 days according to the the Excess Emissions Report dated 7/27/10. In addition, the report also states that failure to repair the components within 15 days was not reported on the delay of repair list.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.424(b)

Description: Failed to have a detailed list, summary description or diagram showing the location of the equipment in gasoline service on the GD MACT AVO logs.

Viol. Classification: Minor

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)

Description: Failed to perform the 10 year internal floating roof inspection in 2007 for Tank 5-21. The seal inspection was not performed until 2010.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(A)

Description: Failed to notify of the start of construction for Tank 125-1 on 11/7/08 and 15-3 on 4/1/10.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 28

Description: Inaccurate floating roof leg position in the inventory management system caused unauthorized floating roof landings and this occurred 9 times from 7/4/10 - 10/20/10.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 28

Description: Failed to degas the internal floating roof after it was landed and stripped. This occurred between 8/21/10 and 11/16/10.

Viol. Classification: Major

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

Description: Failed to have authorization for new or re-worked piping and/or fugitive components.

Viol. Classification: Major

Citation: 30 TAC Chapter 117, SubChapter B 117.303(a)

Description: Failure to classify facility as a major source of Nox emissions instead of a minor source therefore affecting the applicability of emergency use generators, diesel engines, and steam boiler.

Notice of Intent Date: 05/13/2013 (1103185)

No DOV Associated

Notice of Intent Date: 07/01/2013 (1115549)

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  
KM LIQUIDS TERMINALS LLC  
RN100237452

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2014-0776-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KM Liquids Terminals LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a bulk liquid storage and transport site at 906 Clinton Drive in Galena Park, Harris County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 13, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Seven Thousand Five Hundred Sixty-Two Dollars (\$27,562) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Twenty-Five Dollars (\$11,025) of the administrative penalty and Five

Thousand Five Hundred Twelve Dollars (\$5,512) 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. Eleven Thousand Twenty-Five Dollars (\$11,025) 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 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.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to comply with the emissions limit for nitrogen oxides ("NOx") based on stack tests conducted from May 13, 2013 through May 14, 2013, for Emission Point No. ("EPN") FL-2b, and from May 24, 2013 through May 25, 2013, for EPNs FL-2a and FL-2c, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 2193, Special Conditions No. 1, and Federal Operating Permit No. O988, Special Terms and Conditions No. 19, as documented during a record review conducted on March 24, 2014. Specifically, emissions from Flare System No. 2 (EPNs FL-2a, FL-2b, and FL-2c combined) were measured to be 7.90 pounds per hour ("lbs/hr") for NOx and the maximum allowable emissions rate for the flare system was 1.51 lbs/hr.

## 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: KM Liquids Terminals LLC, Docket No. 2014-0776-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eleven Thousand Twenty-Five Dollars (\$11,025) 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 administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, certify compliance with the emissions limit for NOx from the Tank Truck ("TR"), Rail Car ("RC"), and Marine Loading Vapor Combustion Units ("VCUs") system (formerly known as Flare System No. 2, which consisted of EPNs FL-2a, FL-2b, and FL-2c) in accordance with NSR Permit No. 2193, as described in Ordering Provision No. 3.e. below, or submit an administratively complete permit amendment application for NSR Permit No. 2193 to increase the maximum allowable emissions rate for NOx from the TR, RC, and Marine Loading VCUs system, which is made up of EPNs VCU-2a, VCU-2b, and VCU-2c, in accordance with 30 TEX. ADMIN. CODE § 116.111 to:

Air Permits Division, MC 163  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. If a permit amendment application is submitted, then within 45 days after the effective date of this Agreed Order, submit written certification that an administratively complete permit amendment application for NSR Permit No. 2193 was submitted, as described in Ordering Provision No. 3.e. below;
- c. If a permit amendment application is submitted, then respond completely and adequately, as determined by the TCEQ, to all requests for information

concerning the permit amendment application within 30 days of such requests, or by any deadline specified in writing;

- d. If a permit amendment application is submitted, then within 180 days after the effective date of this Agreed Order, submit written certification that either the permit amendment to increase the NOx emissions limit for EPNs VCU-2a, VCU-2b, and VCU-2c has been obtained or that unauthorized emissions from EPNs VCU-2a, VCU-2b, and VCU-2c have ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 3.e. below; and
- e. Written certifications required by Ordering Provision Nos. 3.a., 3.b., and 3.d. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the 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 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 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 Site operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Pamela Monica J*  
For the Executive Director

9/25/14  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

*JA*  
Signature

Aug 8, 2014  
Date

Jeffery Alan Hensperger  
Name (Printed or typed)  
Authorized Representative of  
KM Liquids Terminals LLC

GENERAL 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: 2014-0776-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>KM Liquids Terminals LLC</b>
<b>Penalty Amount:</b>	<b>Twenty-Two Thousand Fifty Dollars (\$22,050)</b>
<b>SEP Offset Amount:</b>	<b>Eleven Thousand Twenty-Five Dollars (\$11,025)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO ("AERCO")</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b>Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties</b>	

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 **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for

installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

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 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 the Respondent 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

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. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

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 **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, 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:

KM Liquids Terminals LLC  
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. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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.