

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 54362
LCY ELASTOMERS LP
RN102325974
Docket No. 2017-0615-IWD-E

Page 1 of 2

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

on the west side of Decker Drive, approximately 1,700 feet north of Baker Road and 1,600 feet south of Redell Road, Harris County

Type of Operation:

wastewater treatment facility

Other Significant Matters:

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

Texas Register Publication Date: June 29, 2018

Comments Received: None

Penalty Information

Total Penalty Assessed: \$78,750

Total Paid to General Revenue: \$39,375

Total Due to General Revenue: \$0

**Supplemental Environmental Project
("SEP") Conditional Offset:**

\$19,375

Name of SEP - Attachment A: *Wastewater Treatment Assistance*
\$10,000

Name of SEP - Attachment B: *Wastewater Treatment Assistance*
\$10,000

Name of SEP - Attachment C: *Household Hazardous Waste Collection*

Compliance History Classifications:

Person/CN – Satisfactory

Site/RN – Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 54362
LCY ELASTOMERS LP
RN102325974
Docket No. 2017-0615-IWD-E

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Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: July 22, 2016
Date(s) of NOV(s): May 31, 2016; July 31, 2016
Date(s) of NOE(s): September 1, 2016

Violation Information

1. Failed to comply with the quarterly WET limit of not less than 56% effluent concentration [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0004772000, WET Limit].
2. Failed to comply with permitted effluent limitations, as shown in the violation table [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004772000, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Conducted trials and incorporated a newly designed flocculant into the water treatment method at the Facility and returned to compliance with all permitted effluent limitations as of August 31, 2016.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed: February 26, 2018
Date Answer(s) Filed: March 15, 2018
SOAH Referral Date: April 26, 2018
Hearing Date(s):
Preliminary hearing: June 14, 2018 (scheduled)
Settlement Date: June 1, 2018

Contact Information

TCEQ Attorneys: Audrey Liter, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Division Agenda Coordinator: Janice Hernandez, (512) 239-2575
TCEQ SEP Attorney: Meaghan Bailey, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Had Darling, Enforcement Division, (512) 239-2520
TCEQ Regional Contact: Andy Goodridge, Houston Regional Office, (713) 767-3500
Respondent Contact: Bowei Lee, Governing Person, LCY ELASTOMERS MANAGEMENT, LLC, 4803 Decker Drive, Baytown, Texas 77520
Respondent's Attorney: Kirk F. Sniff, Clark Hill PLC, 901 Main Street, Suite 6000, Dallas, Texas 75202



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	6-Sep-2016	Screening	20-Sep-2016	EPA Due	5-Dec-2016
	PCW	27-Apr-2017				

RESPONDENT/FACILITY INFORMATION

Respondent	LCY ELASTOMERS LP				
Reg. Ent. Ref. No.	RN102325974				
Facility/Site Region	12-Houston		Major/Minor Source	Major	

CASE INFORMATION

Enf./Case ID No.	54362	No. of Violations	3
Docket No.	2017-0615-IWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Had Darling
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$62,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **51.0%** **Adjustment** **Subtotals 2, 3, & 7** **\$31,875**

Notes: Enhancement for two months of self-reported effluent violations, one NOV with dissimilar violations, and two orders with denial of liability. Reduction for one notice of intent to conduct an audit.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$15,625**

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

Total EB Amounts \$1,360
Estimated Cost of Compliance \$25,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$78,750**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$78,750**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$78,750**

DEFERRAL **0.0%** **Reduction** **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$78,750**

Screening Date	20-Sep-2016	Docket No.	2017-0615-IWD-E	PCW
Respondent	LCY ELASTOMERS LP			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	54362			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102325974			
Media [Statute]	Water Quality			
Enf. Coordinator	Had Darling			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 51%

>> 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 months of self-reported effluent violations, one NOV with dissimilar violations, and two orders with denial of liability. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 51%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 51%

Screening Date	20-Sep-2016	Docket No.	2017-0615-IWD-E	PCW
Respondent	LCY ELASTOMERS LP	Policy Revision 4 (April 2014)		
Case ID No.	54362	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN102325974			
Media [Statute]	Water Quality			
Enf. Coordinator	Had Darling			
Violation Number	1			
Rule Cite(s)	Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004772000, Whole Effluent Toxicity ("WET") Limit			
Violation Description	Failed to comply with the quarterly WET limit of not less than 56 percent ("%") effluent concentration. Specifically, an effluent concentration of 24% was reported as toxic for the monitoring period ending December 31, 2015.			
Base Penalty				\$25,000
>> Environmental, Property and Human Health Matrix				
OR	Release Harm			
		Major	Moderate	Minor
	Actual	x		
	Potential			
				Percent 100.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent 0.0%
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment				\$0
				\$25,000
Violation Events				
Number of Violation Events		1	92	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
				Violation Base Penalty \$25,000
One quarterly event is recommended for the monitoring period ending in December 2015.				
Good Faith Efforts to Comply		25.0%		Reduction \$6,250
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
	Extraordinary			
	Ordinary	x		
	N/A			
Notes	The Respondent achieved compliance on August 31, 2016.			
Violation Subtotal				\$18,750
Economic Benefit (EB) for this violation Statutory Limit Test				
Estimated EB Amount		\$1,360	Violation Final Penalty Total \$31,500	
This violation Final Assessed Penalty (adjusted for limits)				\$31,500

Economic Benefit Worksheet

Respondent LCY ELASTOMERS LP
Case ID No. 54362
Reg. Ent. Reference No. RN102325974
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$25,000	31-Jul-2015	31-Aug-2016	1.09	\$1,360	n/a	\$1,360

Notes for DELAYED costs

Estimated cost to conduct trials and incorporate a newly designed flocculent into the water treatment method. Date required is the initial date of noncompliance. Final date is the compliance date.

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

\$25,000

TOTAL

\$1,360

Screening Date 20-Sep-2016 Respondent LCY ELASTOMERS LP Case ID No. 54362 Reg. Ent. Reference No. RN102325974 Media [Statute] Water Quality Enf. Coordinator Had Darling	Docket No. 2017-0615-IWD-E	PCW <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision March 26, 2014</i>
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Violation Number	2	Rule Cite(s)	
		Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0004772000, Effluent Limitations and Monitoring Requirements No. 1	
Violation Description	Failed to comply with permitted effluent limitations, as shown in the attached violation table.		

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			
	Potential				30.0%

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
					0.0%

A simplified model was utilized to evaluate the values for total aluminum, and total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. The amounts discharged at the time of the violations were significant and did not exceed levels protective of human health or the environment.

Adjustment	\$17,500
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Adjustment	\$7,500
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Violation Events

Number of Violation Events	4	123	Number of violation days
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daily		Violation Base Penalty	\$30,000
weekly			
monthly	x		
quarterly			
semiannual			
annual			
single event			

Four monthly events are recommended for the months of January 2016, March 2016, April 2016, and May 2016.

Good Faith Efforts to Comply

	25.0%	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		
Notes	The Respondent achieved compliance on August 31, 2016.	

Violation Subtotal	\$22,500
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$0
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Statutory Limit Test

Violation Final Penalty Total	\$37,800
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This violation Final Assessed Penalty (adjusted for limits)	\$37,800
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Economic Benefit Worksheet

Respondent LCY ELASTOMERS LP
Case ID No. 54362
Reg. Ent. Reference No. RN102325974
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	See Economic Benefit for Violation No. 1.						

Avoided Costs

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

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

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 20-Sep-2016 Respondent LCY ELASTOMERS LP Case ID No. 54362 Reg. Ent. Reference No. RN102325974 Media [Statute] Water Quality Enf. Coordinator Had Darling	Docket No. 2017-0615-IWD-E	PCW <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision March 26, 2014</i>
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Violation Number	3	
Rule Cite(s)		Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0004772000, Effluent Limitations and Monitoring Requirements No. 1
Violation Description		Failed to comply with permitted effluent limitations, as shown in the attached violation table.

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			x	
	Potential				
					Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes	A simplified model was used to evaluate the values for carbonaceous biochemical oxygen demand (five-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.
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Adjustment	\$21,250
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Adjustment	\$3,750
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Violation Events

Number of Violation Events	2	60	Number of violation days
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	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

Violation Base Penalty	\$7,500
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Two quarterly events are recommended for the quarters containing the months of July 2015 and February 2016.

Good Faith Efforts to Comply

25.0%	
	Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary	x		
N/A			

Notes	The Respondent achieved compliance on August 31, 2016.
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Violation Subtotal	\$5,625
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$0
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Statutory Limit Test

Violation Final Penalty Total	\$9,450
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This violation Final Assessed Penalty (adjusted for limits)	\$9,450
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Economic Benefit Worksheet

Respondent LCY ELASTOMERS LP
Case ID No. 54362
Reg. Ent. Reference No. RN102325974
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

LCY ELASTOMERS LP
Texas Pollutant Discharge Elimination System Permit No. WQ0004772000
Docket No. 2017-0615-IWD-E
Case No. 54362

Effluent Violation Table						
Permitted Effluent Limits	Monitoring Period					
	July 2015	January 2016	February 2016	March 2016	April 2016	May 2016
Total Aluminum Daily Avg. Conc. Limit = 0.83 mg/L	c	1.55	c	1.14	1.32	1.38
Total Aluminum Daily Max. Conc. Limit = 1.77 mg/L	c	2.29	c	1.78	2.97	3.89
Total Aluminum Daily Avg. Loading Limit = 1.66 lbs/day	c	2.26	c	c	1.91	2.48
Total Aluminum Daily Max. Loading Limit = 3.54 lbs/day	c	c	c	c	c	7.19
CBOD ₅ Daily Avg. Conc. Limit = 10 mg/L	14	c	12.2	c	c	c
CBOD ₅ Daily Max. Conc. Limit = 25 mg/L	27	c	c	c	c	c
TSS Daily Max. Loading Limit = 75 lbs/day	c	76.8	c	c	c	c
Total Copper Daily Avg. Conc. Limit = 0.012 mg/L	c	c	c	c	0.015	0.015
Total Copper Daily Avg. Loading Limit = 0.024 lbs/day	c	c	c	c	c	0.026

CBOD₅ = carbonaceous biochemical oxygen demand (five-day)
mg/L = milligrams per liter
lbs/day = pounds per day
TSS = total suspended solids
c = compliant

Conc. = concentration
Avg. = average
Max. = maximum

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Compliance History Report

Compliance History Report for CN602579542, RN102325974, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator:	CN602579542, LCY ELASTOMERS LP	Classification:	SATISFACTORY	Rating:	6.88
Regulated Entity:	RN102325974, LCY ELASTOMERS	Classification:	SATISFACTORY	Rating:	6.88
Complexity Points:	20	Repeat Violator:	NO		
CH Group:	05 - Chemical Manufacturing				
Location:	On the west side of Decker Drive, approximately 1,700 feet north of Baker Road and 1,600 feet south of Redell Road in Harris County, Texas				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):					
AIR OPERATING PERMITS	ACCOUNT NUMBER HG3757A	AIR OPERATING PERMITS	PERMIT 1756		
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID TXD988067070	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR) 23457		
AIR NEW SOURCE PERMITS	PERMIT 20311	AIR NEW SOURCE PERMITS	PERMIT 42213		
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER HG3757A	AIR NEW SOURCE PERMITS	AFS NUM 4820101298		
AIR NEW SOURCE PERMITS	REGISTRATION 112539	AIR NEW SOURCE PERMITS	REGISTRATION 145945		
STORMWATER	PERMIT TXR05T536	WASTEWATER	PERMIT WQ0004772000		
WASTEWATER	EPA ID TX0128015	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER HG3757A		
POLLUTION PREVENTION PLANNING	ID NUMBER P01973				

Compliance History Period:	September 01, 2011 to August 31, 2016	Rating Year:	2016	Rating Date:	09/01/2016
Date Compliance History Report Prepared:	May 04, 2017				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	May 04, 2012 to May 04, 2017				

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

Name: Herbert Darling

Phone: (512) 239-2520

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 |

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

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

- | | | | |
|---|--|----------------------------|---------------------------------------|
| 1 | Effective Date: 04/27/2015 | ADMINORDER 2014-1267-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 11 PERMIT | | |
| | Special Terms and Conditions 9 PERMIT | | |
| | Description: Failure to record the monitoring VOC concentration data for the cooling tower (Category A12i6). | | |
| 2 | Effective Date: 11/16/2015 | ADMINORDER 2015-0243-AIR-E | (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) | | |
| | 30 TAC Chapter 116, SubChapter B 116.115(c) | | |
| | 30 TAC Chapter 122, SubChapter B 122.143(4) | | |

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Special Terms and Conditions No.11 OP

Description: Failed to comply with the annual allowable PM and PM10/PM2.5 emissions rates for the Cooling Tower, EPN VE-9. Specifically, the Respondent exceeded the annual allowable PM emissions rate of 0.61 tpy and the annual allowable PM10/PM2.5 emissions rate of 0.45 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 120 lbs of PM and 100 lbs of PM10/PM2.5.

Classification: Moderate

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

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

STC No. 11 OP

Description: Failed to comply with the annual VOC and 1,3-butadiene emissions rates for the Low Pressure Flare and High Pressure Flare, EPNs VE-7 and VE-12. Specifically, the Respondent exceeded the annual VOC emissions rate of 3.53 tpy and the annual allowable 1,3-butadiene emissions rate of 0.77 tpy, based on a 12-month rolling period, for the 12-month period from January 2012 through December 2012, resulting in the unauthorized release of approximately 1,600 lbs of VOC and 1,740 lbs of 1,3-butadiene.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	May 18, 2012	(1018618)
Item 2	June 27, 2012	(1033676)
Item 3	August 10, 2012	(1040234)
Item 4	August 23, 2012	(1070739)
Item 5	September 04, 2012	(1027623)
Item 6	September 05, 2012	(1027610)
Item 7	September 12, 2012	(1049206)
Item 8	November 13, 2012	(1070740)
Item 9	December 14, 2012	(1070741)
Item 10	February 08, 2013	(1083599)
Item 11	February 25, 2013	(1059286)
Item 12	March 07, 2013	(1091533)
Item 13	May 06, 2013	(1108912)
Item 14	June 14, 2013	(1112469)
Item 15	August 14, 2013	(1127176)
Item 16	September 10, 2013	(1131710)
Item 17	October 07, 2013	(1137458)
Item 18	November 14, 2013	(1142878)
Item 19	November 18, 2013	(1155402)
Item 20	December 11, 2013	(1149292)
Item 21	February 05, 2014	(1162722)
Item 22	March 06, 2014	(1169321)
Item 23	April 09, 2014	(1176520)
Item 24	May 19, 2014	(1182768)
Item 25	June 16, 2014	(1189634)
Item 26	July 18, 2014	(1201692)
Item 27	August 19, 2014	(1201693)
Item 28	September 07, 2014	(1207937)
Item 29	October 17, 2014	(1214341)
Item 30	November 14, 2014	(1220567)
Item 31	December 15, 2014	(1226406)
Item 32	December 17, 2014	(1233503)
Item 33	February 20, 2015	(1244386)
Item 34	March 20, 2015	(1250782)

Item 35	March 30, 2015	(1257672)
Item 36	May 08, 2015	(1251891)
Item 37	September 03, 2015	(1292364)
Item 38	October 07, 2015	(1298540)
Item 39	November 16, 2015	(1303986)
Item 40	December 07, 2015	(1310987)
Item 41	December 18, 2015	(1300006)
Item 42	May 10, 2016	(1361244)
Item 43	July 19, 2016	(1380539)
Item 44	September 10, 2016	(1374405)
Item 45	November 06, 2016	(1386501)
Item 46	December 09, 2016	(1392623)
Item 47	February 06, 2017	(1406147)

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: 05/31/2016 (1354242)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 2 Date: 07/31/2016 (1367657)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 3 Date: 02/28/2017 (1377906)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(2)(A)(i)
30 TAC Chapter 115, SubChapter H 115.764(a)(6)
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)
Special Condition 9D PERMIT
Special Terms and Conditions 10 OP
Special Terms and Conditions 1A OP
Description: Failure to conduct quarterly calibrations. (Category B1 violation)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.122(a)(1)(B)
30 TAC Chapter 115, SubChapter H 115.722(d)
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 A 60.18(c)(2)
5C THSC Chapter 382 382.085(b)
Special Condition 9B PERMIT
Special Terms and Conditions 10 OP
Special Terms and Conditions 1A OP
Description: Failure to maintain pilot on flare (EPN VE-12). (Category B19g(1) violation)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter B 115.112(e)(3)(C)
30 TAC Chapter 115, SubChapter H 115.722(d)
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 A 60.18(c)(3)(ii)
5C THSC Chapter 382 382.085(b)
Special Condition 9A PERMIT
Special Terms and Conditions 10 OP
Special Terms and Conditions 1A OP
Description: Failure to meet minimum net heating value for EPN VE-7. (Category B19g(1) violation)
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)
Special Condition 1 PERMIT

Description:	Special Terms and Conditions 10 OP Failure to meet the hourly Maximum Allowable Emission Rate (MAER) Limit (EPN VE-7). (Category B13 violation)		
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) Special Condition 1 PERMIT Special Terms and Conditions 10 OP		
Description:	Failure to meet the hourly Maximum Allowable Emission Rate (MAER) Limit (EPN VE-12). (Category B13 violation)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1) 5C THSC Chapter 382 382.085(b) Special Terms and Conditions 1A OP		
Description:	Failure to prevent visible emissions from flare (EPN VE-7). (Category B19g(1) violation)		

F. Environmental audits:

Notice of Intent Date: 02/28/2017 (1396808)
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
LCY ELASTOMERS LP;
RN102325974**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2017-0615-IWD-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LCY ELASTOMERS LP ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Kirk F. Sniff of the law firm Clark Hill PLC, presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

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

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

FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment facility located on the west side of Decker Drive, approximately 1,700 feet north of Baker Road and 1,600 feet south of Redell Road in Harris County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on July 22, 2016, an investigator documented that Respondent:
 - a. Failed to comply with the quarterly Whole Effluent Toxicity ("WET") limit of not less than 56 percent ("%") effluent concentration. Specifically, an effluent concentration of 24% was reported as toxic for the monitoring period ending December 31, 2015; and

- b. Failed to comply with permitted effluent limitations, as shown in the violation table, below.

Effluent Violation Table						
Permitted Effluent Limits	Monitoring Period					
	July 2015	January 2016	February 2016	March 2016	April 2016	May 2016
Total Aluminum Daily Avg. Conc. Limit = 0.83 mg/L	c	1.55	c	1.14	1.32	1.38
Total Aluminum Daily Max. Conc. Limit = 1.77 mg/L	c	2.29	c	1.78	2.97	3.89
Total Aluminum Daily Avg. Loading Limit = 1.66 lbs/day	c	2.26	c	c	1.91	2.48
Total Aluminum Daily Max. Loading Limit = 3.54 lbs/day	c	c	c	c	c	7.19
CBOD ₅ Daily Avg. Conc. Limit = 10 mg/L	14	c	12.2	c	c	c
CBOD ₅ Daily Max. Conc. Limit = 25 mg/L	27	c	c	c	c	c
TSS Daily Max. Loading Limit = 75 lbs/day	c	76.8	c	c	c	c
Total Copper Daily Avg. Conc. Limit = 0.012 mg/L	c	c	c	c	0.015	0.015
Total Copper Daily Avg. Loading Limit = 0.024 lbs/day	c	c	c	c	c	0.026

3. The Executive Director recognizes that Respondent conducted trials and incorporated a newly designed flocculant into the water treatment method at the Facility and returned to compliance with all permitted effluent limitations as of August 31, 2016.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with the quarterly WET limit of not less than 56% effluent concentration, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0004772000, WET Limit.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to comply with permitted effluent limitations, as shown in the violation table, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004772000, Effluent Limitations and Monitoring Requirements No. 1.
4. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of seventy-eight thousand seven hundred fifty dollars (\$78,750.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid thirty-nine thousand three hundred seventy-five dollars (\$39,375.00) of the penalty. Pursuant to TEX. WATER CODE § 7.067, nineteen thousand three hundred seventy-five dollars (\$19,375.00) of the penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference); ten thousand dollars (\$10,000.00) of the penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a SEP as defined in the SEP Agreement ("Attachment B" - incorporated herein by reference); and ten thousand dollars (\$10,000.00) of the penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a SEP as defined in the SEP Agreement ("Attachment C" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes any payment schedule and the timely and satisfactory completion of all provisions of the SEP Agreements, as determined by the Executive Director.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action.

The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.

2. Respondent shall implement and complete SEPs as set forth in Conclusion of Law No. 5. The amount of thirty-nine thousand three hundred seventy-five dollars (\$39,375.00) of the assessed administrative penalty is conditionally offset based on Respondent's implementation and completion of SEPs pursuant to the terms and conditions contained in the SEP Agreements, as defined in Attachments A, B, and C. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
11. 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Margi Lizalde

For the Executive Director

Date

July 6, 2018

Date

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

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

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

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

Nolan A. Smith

Signature

Nolan A. Smith

Name (Printed or typed)

Authorized representative of
LCY ELASTOMERS LP

6/11/18

Date

Site General Mgr.

Title

☐ If mailing address has changed, please check this box and provide the new address below:

Attachment A
Docket Number: 2017-0615-IWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	LCY Elastomers LP
Penalty Amount:	Seventy-Eight Thousand Seven Hundred Fifty Dollars (\$78,750)
SEP Offset Amount:	Nineteen Thousand Three Hundred Seventy-Five Dollars (\$19,375)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council
Project Name:	<i>Wastewater Treatment Assistance</i>
Location of SEP:	Austin, Brazoria, Chambers, Colorado, Fort Bend, Harris, Galveston, Grimes, Liberty, Matagorda, Montgomery, San Jacinto, Waller, Walker, and Wharton Counties

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

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council** for the *Wastewater Treatment Assistance* project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to provide assistance to low-income homeowners to repair or replace malfunctioning or failing onsite wastewater treatment systems. The Third-Party Administrator may also provide extension of first-time sewer service, pump out service, and water conservation equipment such as low-flow showerheads. The Third-Party Administrator shall review applications for eligibility for assistance at its own expense. The Third-Party Administrator shall seek bids from local onsite wastewater treatment system contractors to perform the work. The Third-Party Administrator shall ensure that all Project work is performed in compliance with local, state, and federal rules relating to onsite wastewater treatment systems. 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 materials, supplies, 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.

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

B. Environmental Benefit

Many of the onsite wastewater treatment systems currently in use in Third-Party Administrator's region are substandard or in disrepair, resulting in the discharge of sewage into local neighborhoods, ditches, and waterways. These septic system failures coupled with proximity to the coast and numerous waterways increases the need to identify problem systems and replace or repair them to prevent further release of raw sewage into the environment.

Each failing septic system that is replaced will improve the water quality in waterways and watersheds by preventing raw sewage with high levels of bacteria, viruses, and protozoa from entering the environment. Sewage overflows may reach rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats. Removal of sewage as a source of pollution will also protect ground, surface, and drinking water from contamination.

This Project has the potential to not only improve water quality but also improve the public health for a sector of the population that is least able to afford health care. Diseases that result from sewage contaminated water range from mild gastroenteritis (causing stomach cramps and diarrhea) to life threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from water in lawns or streets, and inhalation and skin absorption.

C. Minimum Expenditure

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

2. Performance Schedule

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

Houston-Galveston Area Council
Attention: Todd Running, Water Resources Program Manager
3555 Timmons Lane, Suite 120
Houston, TX 77027

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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

Attachment B
Docket Number: 2017-0615-IWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	LCY Elastomers LP
Penalty Amount:	Seventy-Eight Thousand Seven Hundred Fifty Dollars (\$78,750)
SEP Offset Amount:	Ten Thousand Dollars (\$10,000)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Wastewater Treatment Assistance</i>
Location of SEP:	Statewide

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

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Wastewater Treatment Assistance* project. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to repair or replace failing or inadequately designed on-site wastewater treatment systems such as septic systems for low-income households. Low-income households fall at or below the 80 percent median income level for households in the county where they live.

The Third-Party Administrator shall ensure that all repairs, replacements, and installations are performed in compliance with local, state, and federal rules relating to on-site wastewater treatment systems. The Third-Party Administrator shall ensure that only properly licensed contractors are utilized for repair of existing on-site wastewater treatment systems and installation of new on-site wastewater treatment systems.

An on-site wastewater treatment system is a system of treatment devices or disposal facilities that (1) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial

establishments; (2) is located on the site where the sewage is produced; and (3) produces not more than 5,000 gallons of waste a day. 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 the Project, including materials, supplies, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

B. Environmental Benefit

This SEP will provide a benefit to the environment by preventing the release of sewage into the environment and by protecting human health. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from water in lawns or streets, and inhalation and skin absorption.

Sewage overflows may cause damage to the environment. Sewage overflows may reach rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

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 B and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any

LCY Elastomers LP
Docket No. 2017-0615-IWD-E
Attachment B

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

Attachment C
Docket Number: 2017-0615-IWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	LCY Elastomers LP
Penalty Amount:	Seventy-Eight Thousand Seven Hundred Fifty Dollars (\$78,750)
SEP Offset Amount:	Ten Thousand Dollars (\$10,000)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Household Hazardous Waste Collection</i>
Location of SEP:	Statewide

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

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Household Hazardous Waste Collection* project. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities (collectively known as "Partner Entities") to conduct events for residents to bring in Household Hazardous Waste ("HHW") such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal. Where possible, the Project may also offer electronics collection, disposal, and recycling. The Third-Party Administrator shall work with Partner Entities to determine exactly which materials will be accepted and how they will be disposed of or recycled.

The Third-Party Administrator shall ensure that individuals qualified to make determinations regarding receiving, handling, and temporarily storing HHW are present at each event. Third-Party Administrator shall use only licensed haulers and authorized disposal sites. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including materials, supplies, and equipment. Any portion of this contribution that is not able

to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

B. Environmental Benefit

This SEP will provide a means of properly disposing of HHW which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with HHW, and will provide for proper and protective disposal or recycling of collected materials.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

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 C and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.