

Executive Summary – Enforcement Matter – Case No. 58279

Motiva Enterprises LLC

RN100209451

Docket No. 2019-1374-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AIR, IHW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Port Arthur Refinery, 2555 Savannah Avenue, Port Arthur, Jefferson County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The commenter has expressed an interest in this matter but has not indicated a wish to speak at Agenda.

Texas Register Publication Date: September 4, 2020

Comments Received: Yes, one comment was received from Amy Catherine Dinn with Lone Star Legal Aid, for Port Arthur Community Action Network

Penalty Information

Total Penalty Assessed: \$284,148

Amount Deferred for Expedited Settlement: \$56,829

Total Paid to General Revenue: \$113,660

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$113,659

Name of SEP: Texas Natural Gas Foundation (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

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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 26, 2018 through April 3, 2018, September 17, 2019, December 3, 2019, and December 14, 2019

Date(s) of NOE(s): August 22, 2019, October 10, 2019, and January 31, 2020

Violation Information

1. Failed to post warning signs at all points of access to the active waste management portion(s) of the facility and along the natural and/or artificial barriers in sufficient numbers to be seen from any approach to those portions of the facility. Specifically, TCEQ staff observed that the warning signs stating "Danger - Unauthorized Personnel Keep Out" in English that may be clearly read from a distance of at least 25 feet were not posted at the two access points for the Container Storage Area, Permit Unit No. 1, and at the seven access points for the No. 2 Aeration Basin, Permit Unit No. 11 [30 TEX. ADMIN. CODE § 335.152(a)(1), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 264.14(c), Hazardous Waste ("HW") Permit No. 50188, III. Facility Management, C.1. Security].

2. Failed to clearly identify all authorized facility units with signage indicating the Unit Number. Specifically, TCEQ staff observed that there was no signage for the Container Storage Area that clearly identified the authorized facility unit as "TCEQ Permit Unit No. 1" and for the No. 2 Aeration Basin that clearly identified the authorized facility unit as "TCEQ Permit Unit No. 11" [30 TEX. ADMIN. CODE § 335.152(c)(5), 40 CFR § 270.30(a), HW Permit No. 50188, V. Authorized Units and Operations, A.1. Authorized Units].

3. Failed to equip the solid waste management facility ("SWMF") office building with two air packs as required by the permit. Specifically, TCEQ staff observed that the two air packs were not placed at or near the SWMF office building [30 TEX. ADMIN. CODE § 335.152(a)(2), 40 CFR § 264.32(c), HW Permit No. 50188, II. General Facility Standards, C.1.n and C.2.b. State Regulations and General Facility Standards, III. Facility Management, E.5.a. Contingency Plan-Preparedness and Prevention, Table III.E.3-Emergency Equipment].

4. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"). Specifically, hydrocarbon stained soils were observed in an area measuring 72 square feet and a discharge of liquid hydrocarbons was observed contained in a shell/gravel lined ditch measuring approximately 80 square feet at or near the No. 5 Pump house loading area [30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(c)].

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5. Failed to properly follow the approved Corrective Measures Implementation ("CMI") Plan. Specifically, the Respondent did not comply with the CMI Plan by disposing of approximately 9,700 cubic yards of ISW at the surface impoundment Solid Waste Management Unit ("SWMU") SI-6 [30 TEX. ADMIN. CODE § 335.8, HW Permit No. 50188, XI. Corrective Measures, H.6. Corrective Action and Interim Corrective Measures for Solid Waste Management Units-CMI/Remedial Action Plan].

6. Failed to immediately provide notice to the Executive Director of the disposal of ISW. Specifically, the Respondent did not provide a notification of the disposal of ISW at the SWMU SI-6 surface impoundment [30 TEX. ADMIN. CODE § 335.6(b)].

7. Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for the ISW disposed of at the SWMU SI-6 surface impoundment [30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504 and 40 CFR § 262.11].

8. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW. Specifically, TCEQ staff observed 9,700 cubic yards of ISW disposed of at the SWMU SI-6 surface impoundment that is pending closure under an approved CMI Plan. Additionally, approximately 16 cubic yards of soil and limestone gravel impacted by the cut residuum spill of Tank No. 1932 that occurred on October 5, 2017 was also disposed of at the SWMU SI-6 surface impoundment [30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121(c)].

9. Failed to prevent unauthorized emissions. Specifically, the Respondent released 3,803.77 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 310129) that began on June 3, 2019 and lasted 23 hours and 32 minutes. The emissions event occurred due to a leak on an out-of-service line within the Bottoms, Solids, and Water Tank Farm area, resulting in the release to the atmosphere. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 8404, PSDTX1062M1, and PSDTX1534, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. 01386, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 19, FOP No. 03387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

10. Failed to prevent unauthorized emissions. Specifically, the Respondent released 117.54 lbs of carbon monoxide, 11.69 lbs of hydrogen sulfide ("H₂S"), 16.27 lbs of nitrogen oxides, 2,177.50 lbs of sulfur dioxide, and 214.90 lbs of VOC from the DCU2 Flare Stack, Emissions Point Number EDCU2, during an emissions event (Incident No. 315732) that occurred on July 14, 2019 and lasted 36 minutes. The emissions event occurred due to a mechanical failure of a valve on the Delayed Coker Unit ("DCU") 2

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Drum, resulting in flaring. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

11. Failed to prevent unauthorized emissions. Specifically, the Respondent released 71.83 lbs of H₂S and 2,860.25 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 320358) that occurred on September 6, 2019 and lasted 10 hours and 19 minutes. The emissions event occurred due to a pressure increase on Tank 1939, resulting in the release to the atmosphere. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By May 31, 2018, posted warning signs stating "Danger – Unauthorized Personnel Keep Out" in English that can be read from a distance of at least 25 feet at the two access points for the Container Storage Area and at the seven access points for the No. 2 Aeration Basin;
- b. By May 31, 2018, equipped the SWMF office building with two air packs as required by the permit;
- c. By April 9, 2018, removed and remediated the stained soils near the No. 5 pumphouse loading area and submitted documentation demonstrating compliance with the applicable requirements of the Texas Risk Reduction Program ("TRRP") to the Executive Director;
- d. On June 1, 2018, conducted hazardous waste determinations and waste classifications on the one waste stream disposed of at the SWMU SI-6 surface impoundment;

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e. By August 14, 2018, clearly identified the Container Storage Area as "TCEQ Permit Unit No. 1" and the No. 2 Aeration Basin as "TCEQ Permit Unit No. 11";

f. On October 15, 2018, provided notice to the Executive Director of the disposal of ISW at the SWMU SI-6 surface impoundment;

g. On October 30, 2018, obtained approval for the revised CMI Plan;

h. By July 2, 2019, contained the spill material associated to the leak on the out-of-service line within the Bottoms, Solids, and Water Tank Farm Area by installing booms to contain and minimize the spill, vacuumed the spilled material, and excavated the impacted soils and limestone and disposed of it at a facility authorized to receive the waste;

i. By November 21, 2019, installed insulation on the exposed section of piping near the valve actuator and digital valve controller to prevent high temperature exposures from the drum and made modifications to the valves associated with the coke drums in DCU 2 in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 315732; and

j. By May 1, 2020, updated the operational procedures in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 320358.

Technical Requirements:

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

2. The Order will also require the Respondent to:

a. Within 30 days:

i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 310129; and

ii. Conduct an investigation to determine whether response actions are necessary under TRRP in response to the disposal of the ISW in the SWMU SI-6 surface impoundment and submit the results to the Executive Director.

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the TRRP investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.

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- c. Within 45 days, submit written certification to demonstrate compliance with a.
- d. If the Executive Director determines that response actions are necessary, submit an Affected Property Assessment Report ("APAR").
- e. If the Executive Director determines that the APAR indicates that response actions are necessary, comply with all applicable requirements of TRRP by the deadline prescribed by the Executive Director.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Margarita Dennis, Enforcement Division, Enforcement Team 5, MC R-04, (817) 588-5892; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Texas Natural Gas Foundation, Attention: Heather Ball, Executive Director, 2315 Newfield Lane, Austin, Texas 78703

Respondent: Greg Lucchesi, Vice President and General Manager, Motiva Enterprises LLC, P.O. Box 712, Port Arthur, Texas 77641

Respondent's Attorney: N/A

TCEQ Interoffice Memorandum

To: Commissioners

Thru: *SJ* Susan Jablonski, P.E., Deputy Director, Enforcement Division

From: Michael De La Cruz, Manager, Enforcement Division

Date: February 28, 2022

Subject: Response to Comments Received Concerning Proposed Agreed Enforcement Order for Motiva Enterprises LLC, Port Arthur Refinery, Jefferson County RN100209451; Docket No. 2019-1374-MLM-E; Enforcement Case No. 58279

In response to a publication in the *Texas Register* on September 4, 2020, one comment letter has been received regarding a proposed agreed enforcement order requiring certain actions of Motiva Enterprises LLC. The comment letter was received within the thirty-day public comment period.

The proposed agreed order includes 11 violations documented during an investigation conducted from March 26, 2018 through April 3, 2018 and record reviews conducted on September 17, 2019, December 3, 2019, and December 17, 2019. The violations addressed in the proposed order include:

- 1) Failed to post warning signs at all points of access to the active waste management portion(s) of the facility and along the natural and/or artificial barriers in sufficient numbers to be seen from any approach to those portions of the facility, in violation of 30 TEX. ADMIN. CODE § 335.152(a)(1), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 264.14(c), Hazardous Waste ("HW") Permit No. 50188, III. Facility Management, C.1. Security;
- 2) Failed to clearly identify all authorized facility units with signage indicating the Unit Number, in violation of 30 TEX. ADMIN. CODE § 335.152(c)(5), 40 CFR § 270.30(a), HW Permit No. 50188, V. Authorized Units and Operations, A.1. Authorized Units;
- 3) Failed to equip the Solid Waste Management Facility office building with two air packs as required by the permit, in violation of 30 TEX. ADMIN. CODE § 335.152(a)(2), 40 CFR § 264.32(c), HW Permit No. 50188, II. General Facility Standards, C.1.n and C.2.b. State Regulations and General Facility Standards, III. Facility Management, E.5.a. Contingency Plan-Preparedness and Prevention, Table III.E.3-Emergency Equipment;

Response to Comments Received

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- 4) Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"), in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(c);
- 5) Failed to properly follow the approved Corrective Measures Implementation ("CMI") Plan, in violation of 30 TEX. ADMIN. CODE § 335.8, HW Permit No. 50188, XI. Corrective Measures, H.6. Corrective Action and Interim Corrective Measures for Solid Waste Management Units-CMI/Remedial Action Plan;
- 6) Failed to immediately provide notice to the Executive Director of the disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.6(b);
- 7) Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504 and 40 CFR § 262.11;
- 8) Caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121(c);
- 9) Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 8404, PSDTX1062M1, and PSDTX1534, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1386, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 10) Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b); and
- 11) Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b).

The proposed agreed order assesses a penalty in the amount of \$284,148, of which \$56,829 has been deferred in accordance with our expedited order process, and an amount of \$113,660 of the administrative penalty has been paid. The remaining penalty amount of \$113,659 shall be conditionally offset by Motiva Enterprises LLC's completion of a Supplemental Environmental Project. Some of the comments received from the one commenter are not limited to the provisions of the proposed order addressing the violations. No changes to the proposed agreed order were made in

response to the comments. A summary of the comments and staff response to the comments are provided below:

- Comment - After comparing the initial proposed administrative order and the revised proposed administrative order, there was no explanation for how or why the number of access points for the Container Storage Area and the No. 2 Aeration Basin were revised from 16 to nine.

Response - During the investigation conducted from March 26, 2018 through April 3, 2018, TCEQ staff alleged that 19 warning signs were not posted at all points of access to the active waste management portions of the facility and along the natural and/or artificial barriers. During the settlement negotiation period after issuing the initial proposed order, Motiva Enterprises LLC provided documentation demonstrating that two warning signs were required to be posted at the access points for the Container Storage Area and seven warning signs were required to be posted at the access points for the No. 2 Aeration Basin, in accordance with HW Permit No. 50188. Since Motiva Enterprises LLC demonstrated that only nine warning signs were required to be posted, the number of warning signs that were required to be posted was adjusted accordingly in the violation description as well as in the calculation for the penalty for this violation.

- Comment - The commenter had concerns with the approach taken by Motiva Enterprises LLC and the TCEQ to address the remedial actions.

Response - The proposed agreed order recognizes that on April 9, 2018, Motiva Enterprises LLC removed and remediated the stained soils near the No. 5 pumphouse loading area and submitted documentation demonstrating compliance with the applicable requirements of Texas Risk Reduction Program ("TRRP"), on October 15, 2018, Motiva Enterprises LLC provided the notice for the disposal of ISW at the Solid Waste Management Unit SI-6 surface impoundment, and on October 30, 2018, Motiva Enterprises LLC obtained approval for their revised CMI Plan. The technical requirements in the proposed agreed order also require Motiva Enterprises LLC to conduct an investigation to determine whether response actions are necessary under TRRP in response to the disposal of ISW in the Solid Waste Management Unit SI-6 surface impoundment, to submit the results to the Executive Director, respond completely and adequately to all requests for information concerning the TRRP investigation results, if the Executive Director determines that response actions are necessary, submit an Affected Property Assessment Report ("APAR"), and if the Executive Director determines that the APAR indicates that response actions are necessary, comply with the applicable requirements of TRRP. The TCEQ takes its mission to protect public health and environment very seriously; therefore, the TCEQ will continue to monitor Motiva Enterprises LLC's actions to remediate the Solid Waste Management Unit SI-6 surface impoundment and will take action under our authority to ensure Motiva Enterprises LLC complies with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

- Comment - The commenter had a concern that the contaminated soil removed from the outfalls that flowed into a City of Port Arthur drainage ditch at 1974 Terminal Road was never adequately addressed by the TCEQ.

Response - The proposed agreed order does not address the contaminated soil that was removed from the outfalls that flowed into the City of Port Arthur drainage ditch at 1974 Terminal Road. However, the additional documentation that was provided by the commenter has been shared with the TCEQ Beaumont Regional Office to evaluate. If the TCEQ Beaumont Regional Office documents additional violations as a result of their review that prompts later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

- Comment - The commenter had a concern that the willful violations by Motiva Enterprises LLC described in Violation Nos. 4, 5, 6, and 7 did not justify a 33 percent reduction in the penalty for "other factors as justice may require".

Response - Staff may recommend an adjustment of the penalty amount, case by case, upon a consideration of factors unique to the situation per the Penalty Policy. After evaluating Violation Nos. 4, 5, 6, and 7, a downward adjustment of 33 percent due to "other factors that justice may require" was determined to be appropriate due to the additional impacts Motiva Enterprises LLC experienced from Hurricane/Tropical Storm Harvey. Since an agreement was reached between Motiva Enterprises LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor Motiva Enterprises LLC's compliance with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

- Comment - The commenter had a concern that the failure to prevent unauthorized air emissions during three emissions events should not be characterized as minor harm.

Response - The Penalty Policy defines minor harm as human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors. The penalties for the three reportable emissions events were assessed as minor harm because insignificant amounts of pollutants were released during each emissions event that did not exceed any levels that were protective of human health or environmental receptors. Since an agreement was reached between Motiva Enterprises LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners'

Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor Motiva Enterprises LLC's compliance with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

- Comment - The commenter had a concern that Motiva Enterprises LLC did not inform the public of any unauthorized releases at the time.

Response - Motiva Enterprises LLC submitted initial notifications to the TCEQ for each of the reportable emissions events within 24 hours after discovery as required by 30 TEX. ADMIN. CODE § 101.201(a). The TCEQ makes the air emissions events reports submitted to the agency available to the general public.

A copy of the comment, and the staff response to the comment, are attached for your consideration. In summary, the commentor is concerned that the approach taken by Motiva Enterprises LLC and the TCEQ to address the remedial actions may be insufficient. Staff's position, as reflected in the response, is that the proposed agreed order will require Motiva Enterprises LLC's to remediate the Solid Waste Management Unit SI-6 surface impoundment and allow Motiva Enterprises LLC to come back into compliance. Additionally, the documentation provided by the commenter has been provided to the TCEQ Beaumont Regional Office to evaluate as a separate matter. Accordingly, the Enforcement Division recommends that you adopt this proposed order.

Attachments

cc: General Counsel, MC 101, Building F
Special Counsel, MC 109, Building F
Sarah Kirksey, Air Section Manager, Beaumont Regional Office
Charlie Adams, Waste Section Manager, Beaumont Regional Office
Margarita Dennis, Coordinator, Enforcement Division, MC R04
Central Records, MC 213, Building E, 1st Floor
AIR CP_100209451_CP_20210228_Enforcement
IHW REG_30121_CO_20210228_Correspondence
Enforcement Division Electronic Reader File

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 28, 2022

Ms. Amy Catherine Dinn, Attorney
Lone Star Legal Aid
P.O. Box 398
Houston, Texas 77001-0398

Re: Comment Received, Proposed Agreed Enforcement Order
Motiva Enterprises LLC; RN100209451
Docket No. 2019-1374-MLM-E; Enforcement Case No. 58279

Dear Ms. Dinn:

On October 6, 2020, we received your letter on behalf of the Port Arthur Community Action Network (PA-CAN) concerning the proposed agreed enforcement order for the Motiva Enterprises LLC petroleum refinery in Jefferson County, Texas. I have forwarded your letter to our Beaumont Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and Motiva Enterprises LLC agreed on the terms of the proposed order on August 14, 2020. Accordingly, Motiva Enterprises LLC was assessed an administrative penalty of \$284,148, of which \$56,829 has been deferred in accordance with our expedited order process, and an amount of \$113,660 of the administrative penalty has been paid. The remaining penalty amount of \$113,659 shall be conditionally offset by Motiva Enterprises LLC's completion of a Supplemental Environmental Project.

The proposed agreed order alleges that Motiva Enterprises LLC failed to post signs at all points of access to the active waste management portion(s) of the facility and along the natural and/or artificial barriers in sufficient numbers to be seen from any approach to those portions of the facility; failed to clearly identify all authorized facility units with signage indicating the Unit Number; failed to equip the solid waste management facility office with two air packs; caused, suffered, allowed, or permitted the unauthorized disposal of Industrial Solid Waste; failed to properly follow the approved Corrective Measures Implementation Plan; failed to immediately provide notice to the TCEQ Executive Director of the disposal of Industrial Solid Waste; failed to conduct hazardous waste determination and waste classifications; and caused, suffered, allowed, or permitted the unauthorized disposal of Industrial Solid Waste during an investigation conducted by the TCEQ Beaumont Regional Office from March 26, 2018 through April 3, 2018. The proposed order also alleges that Motiva Enterprises LLC failed to prevent unauthorized emissions during a record review conducted on September 17, 2019, failed to prevent unauthorized emissions during a record review conducted on December 3, 2019, and failed to prevent unauthorized emissions during a record review conducted on December 17, 2019 by the TCEQ Beaumont Regional Office. The technical requirements in the proposed agreed order require Motiva Enterprises LLC to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 310129;

conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program ("TRRP") in response to the disposal of Industrial Solid Waste in the Solid Waste Management Unit SI-6 surface impoundment and submit the results to the TCEQ Executive Director; respond completely and adequately to all requests for information concerning the TRRP investigation results; if the TCEQ Executive Director determines that response actions are necessary, submit an Affected Property Assessment Report ("APAR"); and if the TCEQ Executive Director determines that the APAR indicates that response actions are necessary, comply with the applicable requirements of TRRP. The proposed order addresses the alleged violations that were documented during an investigation conducted from March 26, 2018 through April 3, 2018 and during record reviews conducted on September 17, 2019, December 3, 2019, and December 14, 2019 and allows Motiva Enterprises LLC to come back into compliance.

You had a concern that after comparing the initial proposed administrative order and the revised proposed administrative order, there was no explanation for how or why the number of access points for the Container Storage Area and the No. 2 Aeration Basin were revised from 16 to nine. The TCEQ appreciates your concern. During the investigation conducted from March 26, 2018 through April 3, 2018, TCEQ staff alleged that 19 warning signs were not posted at all points of access to the active waste management portions of the facility and along the natural and/or artificial barriers. During the settlement negotiation period after issuing the initial proposed order, Motiva Enterprises LLC provided documentation demonstrating that two warning signs were required to be posted at the access points for the Container Storage Area and seven warning signs were required to be posted at the access points for the No. 2 Aeration Basin, in accordance with Hazardous Waste Permit No. 50188. Since Motiva Enterprises LLC demonstrated that only nine warning signs were required to be posted, the number of warning signs that were required to be posted was adjusted accordingly in the violation description as well as in the calculation for the penalty for this violation.

You had a concern with the approach taken by Motiva Enterprises LLC and the TCEQ to address the remedial actions. The TCEQ appreciates your concern. The proposed agreed order recognizes that on April 9, 2018, Motiva Enterprises LLC removed and remediated the stained soils near the No. 5 pumphouse loading area and submitted documentation demonstrating compliance with the applicable requirements of TRRP, on October 15, 2018, Motiva Enterprises LLC provided the notice for the disposal of Industrial Solid Waste at the Solid Waste Management Unit SI-6 surface impoundment, and on October 30, 2018, Motiva Enterprises LLC obtained approval for their revised Corrective Measures Implementation Plan. The technical requirements in the proposed agreed order also require Motiva Enterprises LLC to conduct an investigation to determine whether response actions are necessary under TRRP in response to the disposal of Industrial Solid Waste in the Solid Waste Management Unit SI-6 surface impoundment, to submit the results to the TCEQ Executive Director, respond completely and adequately to all requests for information concerning the TRRP investigation results, if the TCEQ Executive Director determines that response actions are necessary, submit an APAR, and if the TCEQ Executive Director determines that the APAR indicates that response actions are necessary, comply with the applicable requirements of TRRP. The TCEQ takes its mission to protect public health and environment very seriously; therefore, the TCEQ will continue to monitor Motiva Enterprises LLC's actions to remediate the Solid Waste Management Unit SI-6 surface impoundment and will take action under our authority to ensure Motiva Enterprises LLC complies with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

You had a concern that the contaminated soil removed from the outfalls that flowed into a City of Port Arthur drainage ditch at 1974 Terminal Road was never adequately addressed by the TCEQ. The TCEQ appreciates your concern and is evaluating this issue further as a separate matter. The proposed agreed order does not address the contaminated soil that was removed from the outfalls that flowed into the City of Port Arthur drainage ditch at 1974 Terminal Road. The additional documentation that you provided has been shared with the TCEQ Beaumont Regional Office to evaluate. If the TCEQ Beaumont Regional Office documents additional violations as a result of their review that prompts later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue.

You had a concern that the willful violations by Motiva Enterprises LLC described in Violation Nos. 4, 5, 6, and 7 did not justify a 33 percent reduction in the penalty for "other factors as justice may require". The TCEQ appreciates your concern. Staff may recommend an adjustment of the penalty amount, case by case, upon a consideration of factors unique to the situation per the Penalty Policy. After evaluating Violation Nos. 4, 5, 6, and 7, a downward adjustment of 33 percent due to "other factors that justice may require" was determined to be appropriate due to the additional impacts Motiva Enterprises LLC experienced from Hurricane/Tropical Storm Harvey. Since an agreement was reached between Motiva Enterprises LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor Motiva Enterprises LLC's compliance with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

You had a concern that the failure to prevent unauthorized air emissions during three emissions events should not be characterized as minor harm. The TCEQ appreciates your concerns. The Penalty Policy defines minor harm as human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors. The penalties for the three reportable emissions events were assessed as minor harm because insignificant amounts of pollutants were released during each emissions event that did not exceed any levels that were protective of human health or environmental receptors. Since an agreement was reached between Motiva Enterprises LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor Motiva Enterprises LLC's compliance with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

You had a concern that Motiva Enterprises LLC did not inform the public of any unauthorized releases at the time. The TCEQ appreciates your concern. Motiva Enterprises LLC submitted initial notifications to the TCEQ for each of the reportable emissions events within 24 hours after discovery as required by 30 TEX. ADMIN. CODE § 101.201(a). The TCEQ makes the air emissions events reports submitted to the agency available to the general public.

We appreciate your input into the enforcement action currently pending against Motiva Enterprises LLC. The proposed agreed order is expected to be considered at an upcoming

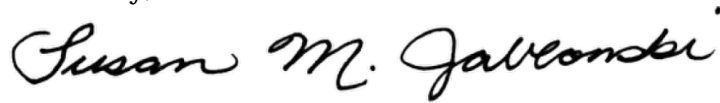
Ms. Amy Catherine Dinn

Page 4

February 28, 2022

Commissioners' Agenda. Your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it. Ms. Margarita Dennis is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Dennis at (817) 588-5892. For complaints related to Motiva Enterprises LLC's current operating conditions or procedures, you should continue to contact our Beaumont Regional Office at (409) 898-3838.

Sincerely,

A handwritten signature in black ink that reads "Susan M. Jablonski". The signature is written in a cursive, flowing style.

Susan M. Jablonski, P.E.

Deputy Director for Enforcement Division

Office of Compliance and Enforcement

Texas Commission on Environmental Quality

SMJ/md

DOCKET NO. 2019-1374-MLM-E

IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
MOTIVA ENTERPRISES, LLC	§	
	§	
RN100209451	§	ENVIRONMENTAL QUALITY

**COMMENTS OF PORT ARTHUR COMMUNITY ACTION NETWORK ON THE
PROPOSED ADMINISTRATIVE ORDER**

TO THE HONORABLE COMMISSIONERS:

Port Arthur Community Action Network (“PA-CAN”) offers these comments on the proposed administrative order with Motiva Enterprises, LLC (“Motiva”) in this enforcement docket.

SUMMARY

PA-CAN takes issue with the proposed administrative order concerning Motiva’s Port Arthur Refinery (the “Regulated Facility”) for the following reasons:

1) **Violation No. 1:** Why has the number of access points at issue decreased from 16 to 9? TCEQ reduced the proposed penalty for this violation by over \$50,000 by restating the number of the number of access points where signage was not found. Some clarification is needed as to how there was a miscount of over 9 access points without signage when the original violation stated 16 access points.

2) **Violation Nos. 5, 6, 7, and 8:** The failure to report a spill event during Hurricane Harvey should not equate to a reduction of 33% of the penalty “as justice may require.” Hurricane Harvey was a devastating event for the Port Arthur, Texas area; however, the devastation does not relieve industry of the duty to report known contamination that resulted

from a natural disaster. Here, overflow from the facility went into a City drainage area that was not reported to the TCEQ until the TCEQ followed up. Based on representations by Motiva in 2018 that everything was cleaned up, the TCEQ didn't pursue that penalty, but instead focused on the series of violations covered by the administrative order that involve Motiva's failure to dispose of oil-soiled debris on its property properly. PA-CAN questions whether this material also includes the material that was undeniably in the City's right-of-way. This comment provides pictures and direct observations of the clear contamination that Motiva remediated on its own without reporting to TCEQ until questioned.

3) Violation Nos. 9, 10, and 11: TCEQ characterizes these air emissions as minor events as they did not last a significant period, and no complaints were apparently received from the public in relation to them. Yet, Motiva, and any other company who exceeds permit limits, should have a duty to notify the public that these leaks are occurring so vulnerable populations can take care of themselves. As the air quality in Port Arthur so saturated with unique interesting smells due to all the industrial activity in the area, it's hard for the residents to know where emissions came from much less how and who to report these issues to.

FACTUAL BACKGROUND

A. HURRICANE HARVEY FLOODED THE FACILITY RESULTING IN CONTAMINATION LEAVING THE PROPERTY LINE AND ENTERING A CITY DRAINAGE DITCH OR OUTFALL.

Hurricane Harvey was an epic storm that impacted the Port Arthur area in late August 2017. Flooding at Motiva's facility in Port Arthur was widespread, and like many facilities across the Gulf Coast, the intense rainfall caused failures in the roofs of tanks resulting in overflows. *See* Photographs (Exh. 2). The facility suffered a number of releases during the storm:

- On August 28, 2017, Motiva reported to TCEQ that Tank 1854 at its Port Arthur Refinery, a fixed-roof tank, overflowed due to heavy rainfall. Motiva reported a spill of approximately 270 barrels of process water with refined oil at the Regulated Facility.¹
- On August 30, 2017, Tanks 2073 and 2074, both of which have floating roofs, overflowed and released approximately 384 barrels of oil to the containment basin of 3 Reservoir.
- Additionally, sumps throughout the facility overflowed due to flooding, releasing 1,165 barrels of oil within several operating areas.

The total amount of oil estimated to have been released due to Hurricane Harvey is 1,819 barrels.

From September 2, 2017 to September 18, 2017, members of the Charlie Branch of the Hurricane Harvey Response Unified Command conducted an emergency onsite investigation.² The Regulated Facility is located adjacent to the El Vista Neighborhood which suffered catastrophic flooding in homes and other structures. There was a clear debris line on the service road in front of the El Vista neighborhood after Motiva drained the water from its plant.

On September 3, 2017, PA-CAN Chairman, John Beard, Jr., drove by the Regulated Facility and took numerous pictures along the property line. These pictures are attached as Exhibit 1 to these comments to provide evidence of the release that was outside the refinery's fence line and ended up in a City drainage ditch in the community. *See* Photographs (Exh. 1). Based on this photographic evidence, PA-CAN reported this release to TCEQ, which clearly was being remediated by Motiva with booms.

¹ See Incident No. 274269, Attachment 1: TCEQ Oil or Hazardous Substances Spill or Bypass Report.

² *See* Investigation No. 1459031, Attachment 3, at _____.

On September 4, 2017, Motiva confirmed that they had sheen in their outfall, the same location where Beard had taken pictures.³

On September 6, 15, and 18, 2017, the TCEQ documented sheen and small amounts of oil found at the outfall at 1974 Terminal Road, and noted that absorbent booms had been placed in the area.⁴

TCEQ granted Motiva extra time to complete its remedial activities by February 24, 2018.⁵ In Motiva deciding to characterize the contaminated soil as a commercial product rather than a waste product, Motiva opted to store the collected the contaminated soil at store it on its property for potential re-use. PA-CAN assumes that the contaminated soil scraped out of the outfall was included in the estimated 9,700 cubic yards of oil-contaminated soil and gravel described in Violation Nos. 4 and 5.

On February 26, 2018, TCEQ followed up with the Regulated Facility, noting that there was a sheen and small amounts of oil found at two separate storm water outfalls regulated by the Clean Water Act. TCEQ followed up with Motiva's remediation specialist, Matt Baker, by telephone regarding the remediation that took place in the ditches outside the facility.⁶ In response to this information request, by March 5, 2018 email Motiva stated that it complied with TCEQ regulations when engaging in remediation activities to address the oil and sheen in ditches outside the facility.⁷

On March 29, 2018, TCEQ conducted an Emergency Response (ER) Onsite Follow-Up Investigation at the Regulated Facility. TCEQ's Region 10 ER Coordinator observed the

³ See Photographs dated September 3, 2017 (Exh. 1).

⁴ See Investigation No. 1459031 at 2-3. Attachment 3 (Photographs).

⁵ See Investigation No. 1479571 at 3, Attachment 3.

⁶ See Investigation No. 1479571 at 3.

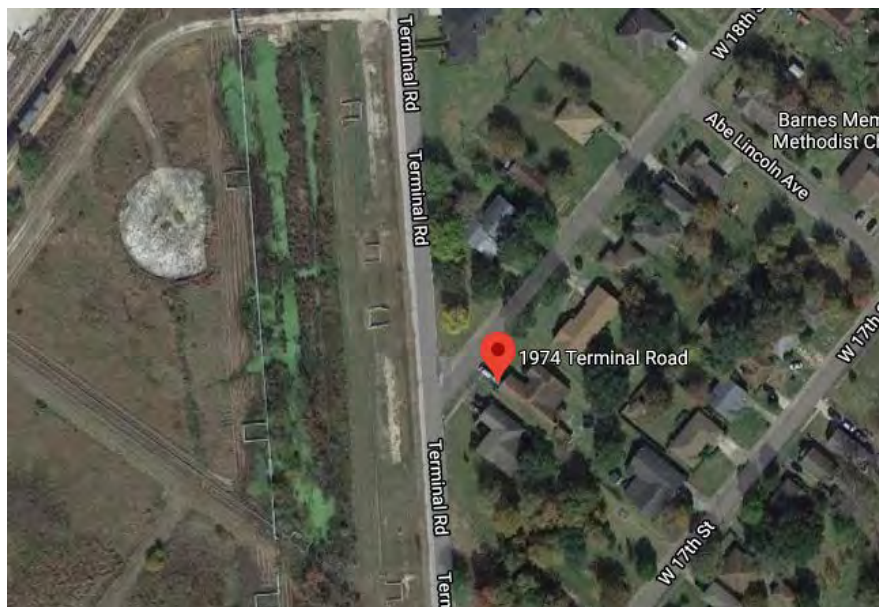
⁷ See Investigation No. 1479571 at 3, Attachment 2 (Letter of February 22, 2018 and Email of March 5, 2018).

stockpiled material being stored uncovered and directly on the ground in a solid waste management area known as Surface Impoundment 6 (SI6) referenced in Violation Nos. 5, 6 and 7. It appears that the TCEQ rolled whatever issues related to the oil and sheen in the outfall into these violations without addressing damage that might have occurred due to releases into a City drainage ditch.⁸

In filing these comments, PA-CAN absolutely agrees that Motiva's improper storage and disposal of this oil-stained soil was improper and subject to violation. However, PA-CAN believes that the TCEQ neglected to include additional violations related to the improper disposal contamination found outside the facility.

B. CONTAMINATION OUTSIDE OF THE REGULATED FACILITY

The photographic evidence submitted by PA-CAN verifies the observations found at outfall at 1974 Terminal Road, which essentially flows into the El Vista Neighborhood as shown in the photograph below.



⁸ See Investigation No. 1479571 at 4.

For its remedial measures and response actions, Motiva added absorbent booms and used a vacuum truck to remove any recoverable oil. Due to the presence of only sheen at the south impoundment (414x002) and the east tank farm (414x004), a visual inspection was conducted at outfall banks, which did not show any residual hydrocarbon impacts so they were not sampled.⁹ PA-CAN remains concerned that this release was not properly characterized by TCEQ and resulted in fewer violations than could have been included in this administrative order involving the same soiled materials.

Moreover, when PA-CAN representatives arrived at the facility a few days after its original pictures were taken, they observed scraped soil at the outfall at 1974 Terminal Road, which indicates that possibly Motiva removed the top layer of the contaminated soil, leaving shovel marks as a tell-tale sign that some remedial activity had taken place there.

DETAILED COMMENTS

Violation No. 1: The number of missing warning signs cited by TCEQ has changed.

Violation No. 1 provides that Motiva failed to post warning signs at all points of access to the active waste management portion(s) of the facility and along the natural and/or artificial barriers in sufficient numbers to be seen from any approach to those portions of the facility. Specifically, TCEQ staff observed that the warning signs stating “Danger – Unauthorized Personnel Keep Out” in English that may be clearly read from a distance of at least 25 feet were not posted at the two access points for the Container Storage Area, Permit Unit No. 1 and the seven access points for the No. 2 Aeration Basis, Unit No. 11.

⁹ Attachment 3: Response to 2/26/2018 Information Request; Attachment 1: Location Map.

In its proposed administrative order sent to Motiva on or about April 9, 2020, Violation No. 1 mentioned sixteen access points that were missing warning signs, counting this violation as 16 single events. Sixteen violation events for a total of 66 violation days yielded a violation base penalty of \$60,000.

However, the administrative order presented for public comment now only identifies 9 access points, equating to 9 violation events for a total of 66 violation days and a violation base penalty of only \$33,750.

Comparison of the administrative orders provides no explanation for how or why the number of access points for the Container Storage Area, Permit Unit No. 1, or the No. 2 Aeration Basic, Permit Unit No. 11 changed. Inexplicably reducing the number of violation events, reduced the resulting violation base penalty for Violation No. 1 by \$26,250.

Violations Nos. 4, 5, 6, and 7: Hurricane Harvey's widespread destruction does not relieve industry from complying with health and safety regulations.

PA-CAN has concerns about the approach taken by Motiva and the TCEQ to addressing the remedial actions at the Regulated Facility. PA-CAN fully agrees that the TCEQ has properly cited Motiva for health and safety concerns captured in Violations Nos. 4, 5, 6, and 7 with the improper disposal of the contaminated soil captured around the facility after storm. However, PA-CAN remains concerned that the contaminated soil removed from the outfalls that went into a City drainage ditch at 1974 Terminal Road was never adequately addressed by TCEQ. PA-CAN has provided evidence of this actionable issue that the TCEQ never followed through on. Even though Hurricane Harvey was tough event – over 60 inches of rain –for all of Port Arthur to suffer through – both residents and industry alike, the willful violations by Motiva described

in Violations Nos. 4, 5, 6, and 7 do not justify a 33% reduction in this penalty for “other factors as justice may require.” Perhaps if the company had properly disposed of the contaminated soil to avoid further contamination or leaching of these oil-saturated materials into the ground, allowing additional runoff events over time, the TCEQ would not have had to cite Motiva with these violations. PA-CAN does not want anyone to suffer any undue hardship due to a natural disaster, but the company’s failure to act responsibly should not be rewarded. While PA-CAN realizes that the agency has discretion under its Penalty Policy to make a downward “adjustment of the penalty amount, case by case, upon consideration of factors unique to the situation,” the failure of Motiva to notify the TCEQ of its unorthodox disposal plan chronicled in Violation Nos. 4, 5, 6, 7 seems to argue against any downward adjustment in this instance.¹⁰ Had Motiva contacted the agency to ask, “Is this okay?” *before* it took such action might have prevented these violations all together and been a better way to protect the public than penalties assessed after the fact. Moreover, the failure to properly address and provide notice of the outfall contamination only further concerns PA-CAN that the proposed downward adjustment is unwarranted. The difference would be equate to approximately an additional \$39,291 in penalties assessed (subject to the 20% penalty adjustment for the deferral).

Violation Nos. 9, 10, and 11: The failure to prevent unauthorized air emissions should not be characterized as minor.

For any actual, documented releases as described in Violation Nos. 9, 10, and 11, the Penalty Policy describes a “minor harm” as where human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation. The 3 violations occurred

¹⁰ TCEQ Penalty Policy at 21.

on three separate dates in the summer 2019, lasted various durations from 36 minutes (Violation No. 10), to 10 hours (Violation No. 11) to 23 hours and 32 minutes (Violation No. 9), resulted from different maintenance and operations issues, and released different amounts of hazardous air pollutants (estimated):

Air Contaminants Released	No. 9 ¹¹ 06/03/19	No. 10 ¹² 07/14/19	No. 11 ¹³ 09/06/19	Total Emitted
CO		117.54 lbs		117.54 lbs
H2S		11.69 lbs	71.83 lbs	83.52 lbs
NOX		16.27 lbs		16.27 lbs
SO2		2,177.50 lbs		2,177.50 lbs
VOCs	3,803.77 lbs	214.90 lbs	2,860.25 lbs	6,878.92 lbs

Based on information and belief, PA-CAN does not believe that Motiva informed the public of any of these releases at the time. The health-sensitive environmental justice populations that live adjacent to the Regulated Facility deserve better. Industry should have some responsibility to notify the public when hazardous air pollutants, like benzene and hydrogen sulfide, are being released into the environment.

In addition to contributing \$113,659 to the Supplemental Environmental Project for the Meteorological and Air Monitoring Network for Jefferson County administered by the Southeast Texas Regional Planning Commission which will provide for monitoring at two Port Arthur-area monitors, PA-CAN would like to see a commitment from Motiva to notify the general public

¹¹ Incident No. 310129.

¹² Incident No. 315732.

¹³ Incident No. 320358.

when these events occur so that they can take affirmative action to protect their health from excess pollutants being released in their environment.

EXHIBITS

In further support of these comments, PA-CAN attaches as Exhibit 1 photographs of the grounds outside of Motiva's facility on September 3, 2017 taken by Port Arthur Community Action Network Chairman, John Beard, Jr. Exhibit 2 includes aerial photographs taken by Alex Glostrum of the Louisiana Bucket Brigade that show the extent of the flooding at the facility in September 2017.

CONCLUSION

Port Arthur Community Action Network and the residents of Port Arthur, Texas thank the Commissioners of the TCEQ for your consideration of the community's opposition to administrative order proposed for these series of violations at Motiva's Regulated Facility. Particularly with respect to the removal of soiled materials that ended up outside of the facility without notice to the TCEQ, PA-CAN urges the TCEQ to consider the appropriateness of the penalties assessed in light of these comments.

The people of the State and the impacted residents who live near the Regulated Facility (who are not individually wealthy or politically powerful) depend on this agency to enforce the environmental laws that protect the common natural resources of this State. Please rework the administrative order, if an agreement with the Respondent for such an order is still to be had, and make it one an enforcement agency can show the larger world with a measure of pride.

For these reasons, PA-CAN respectfully requests that the agency consider these comments and revised calculations before entering the administrative order.

Dated: October 6, 2020

Respectfully submitted,

/s/ Amy Catherine Dinn

Amy Catherine Dinn

Texas State Bar No. 24026801

LONE STAR LEGAL AID

P.O. Box 398

Houston, Texas 77001-0398

Phone: (713) 652-0077 ext. 1118

Fax: (713) 652-3141

adinn@lonestarlegal.org

**ATTORNEY FOR PORT ARTHUR
COMMUNITY ACTION NETWORK**

DOCKET NO. 2019-1374-MLM-E

IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
MOTIVA ENTERPRISES, LLC	§	
	§	
RN100209451	§	ENVIRONMENTAL QUALITY

**COMMENTS OF PORT ARTHUR COMMUNITY ACTION NETWORK ON THE
PROPOSED ADMINISTRATIVE ORDER**

EXHIBIT 1

PICTURES OF REGULATED FACILITY

SEPTEMBER 3, 2017





































CSOX 23618

CSOX 23649

RESTRICTED
AREA

















DOCKET NO. 2019-1374-MLM-E

IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
MOTIVA ENTERPRISES, LLC	§	
	§	
RN100209451	§	ENVIRONMENTAL QUALITY

**COMMENTS OF PORT ARTHUR COMMUNITY ACTION NETWORK ON THE
PROPOSED ADMINISTRATIVE ORDER**

EXHIBIT 2

PICTURES OF REGULATED FACILITY

Credit: Alex Glostrum / Louisiana Bucket Brigade

SEPTEMBER 2017





1ST AVE
KUNNEAR DR

STOP

STOP

1ST AVE



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	26-Aug-2019			
	PCW	22-Jul-2020	Screening	4-Sep-2019	EPA Due 21-Mar-2019

RESPONDENT/FACILITY INFORMATION

Respondent	Motiva Enterprises LLC	
Reg. Ent. Ref. No.	RN100209451	
Facility/Site Region	10-Beaumont	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	58279	No. of Violations	11
Docket No.	2019-1374-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	Margarita Dennis
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$138,750
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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.

Compliance History	100.0%	Adjustment	Subtotals 2, 3, & 7	\$138,750
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Notes

Enhancement for four NOV's with same/similar violations, three orders containing a denial of liability, and seven orders without a denial of liability. Reduction for four notices of intent to conduct an audit and three disclosures of violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$23,436
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Economic Benefit	50.0%	Enhancement*	Subtotal 6	\$69,375
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Total EB Amounts	\$165,966
Estimated Cost of Compliance	\$1,085,863

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$323,439
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-12.1%	Adjustment	-\$39,291
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended 33% reduction for Violation Nos. 5, 6, 7, and 8 that occurred during Hurricane/Tropical Storm Harvey.

Final Penalty Amount	\$284,148
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$284,148
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DEFERRAL	20.0%	Reduction	Adjustment	-\$56,829
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$227,319
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Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	58279			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			

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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	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	7	175%
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>)	4	-4%
	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>)	3	-6%
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) 245%

>> 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 four NOVs with same/similar violations, three orders containing a denial of liability, and seven orders without a denial of liability. Reduction for four notices of intent to conduct an audit and three disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 245%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW	
Respondent	Motiva Enterprises LLC	<i>Policy Revision 4 (April 2014)</i>			
Case ID No.	58279	<i>PCW Revision March 26, 2014</i>			
Reg. Ent. Reference No.	RN100209451				
Media	Industrial and Hazardous Waste				
Enf. Coordinator	Margarita Dennis				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 335.152(a)(1), 40 Code of Federal Regulations ("CFR") § 264.14(c), Hazardous Waste ("HW") Permit No. 50188, III. Facility Management, C.1. Security				
Violation Description	Failed to post warning signs at all points of access to the active waste management portion(s) of the facility and along the natural and/or artificial barriers in sufficient numbers to be seen from any approach to those portions of the facility. Specifically, TCEQ staff observed that the warning signs stating "Danger - Unauthorized Personnel Keep Out" in English that may be clearly read from a distance of at least 25 feet were not posted at the two access points for the Container Storage Area, Permit Unit No. 1, and at the seven access points for the No. 2 Aeration Basin, Permit Unit No. 11.				
Base Penalty			\$25,000		
>> Environmental, Property and Human Health Matrix					
OR	Release			Harm	
				Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
			Percent	0.0%	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
			Percent	15.0%	
Matrix Notes	100% of the rule requirements were not met.				
Adjustment			\$21,250		
			\$3,750		
Violation Events					
Number of Violation Events		9	66	Number of violation days	
	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="checkbox"/>			
Nine single events are recommended (one event for each missing warning sign).					
Good Faith Efforts to Comply		25.0%	Reduction		\$8,437
		Before NOE/NOV NOE/NOV to EDRP/Settlement Offer			
	Extraordinary	<input type="text"/>			
	Ordinary	<input checked="" type="checkbox"/>			
	N/A	<input type="text"/>			
Notes	The Respondent achieved compliance by May 31, 2018, prior to the Notice of Enforcement ("NOE") dated August 22, 2019.				
Violation Subtotal			\$25,313		
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$7	Violation Final Penalty Total		\$66,713
This violation Final Assessed Penalty (adjusted for limits)					\$66,713

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$747	26-Mar-2018	31-May-2018	0.18	\$7	n/a	\$7

Notes for DELAYED costs

Actual cost (per documents submitted by the Respondent) to post warning signs stating "Danger - Unauthorized Personnel Keep Out" in English that can be read from a distance of at least 25 feet at the two access points for the Container Storage Area and at the seven access points for the No. 2 Aeration Basin (\$83/sign x nine signs). Date Required is the investigation date. Final Date is the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$747

TOTAL

\$7

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC	Policy Revision 4 (April 2014)		
Case ID No.	58279	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 335.152(c)(5), 40 CFR § 270.30(a), HW Permit No. 50188, V. Authorized Units and Operations, A.1. Authorized Units			
Violation Description	Failed to clearly identify all authorized facility units with signage indicating the Unit Number. Specifically, TCEQ staff observed that there was no signage for the Container Storage Area that clearly identified the authorized facility unit as "TCEQ Permit Unit No. 1" and for the No. 2 Aeration Basin that clearly identified the authorized facility unit as "TCEQ Permit Unit No. 11".			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

Matrix Notes: 100% of the rule requirements were not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events	2		141	Number of violation days
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daily		Violation Base Penalty	\$7,500
weekly			
monthly			
quarterly			
semiannual			
annual			
single event	x		

Two single events are recommended (one event for each missing sign).

Good Faith Efforts to Comply **25.0%**

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

Notes: The Respondent achieved compliance by August 14, 2018, prior to the NOE dated August 22, 2019.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount	\$3	Violation Final Penalty Total	\$14,825
This violation Final Assessed Penalty (adjusted for limits)			\$14,825

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$166	26-Mar-2018	14-Aug-2018	0.39	\$3	n/a	\$3

Notes for DELAYED costs

Actual cost (per documents submitted by the Respondent) to clearly identify the Container Storage Area as "TCEQ Permit Unit No. 1" and the No. 2 Aeration Basin as "TCEQ Permit Unit No. 11" (\$83/sign x two signs). Date Required is the investigation date. Final Date the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$166

TOTAL

\$3

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC	Policy Revision 4 (April 2014)		
Case ID No.	58279	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 335.152(a)(2), 40 CFR § 264.32(c), HW Permit No. 50188, II. General Facility Standards, C.1.n and C.2.b. State Regulations and General Facility Standards, III. Facility Management, E.5.a. Contingency Plan-Preparedness and Prevention, Table III.E.3-Emergency Equipment			
Violation Description	Failed to equip the solid waste management facility ("SWMF") office building with two air packs as required by the permit. Specifically, TCEQ staff observed that the two air packs were not placed at or near the SWMF office building.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent
					0.0%

Matrix Notes	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$17,500
	\$7,500

Violation Events

Number of Violation Events	3		66	Number of violation days
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	daily		
	weekly		
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		Violation Base Penalty
			\$22,500

Three monthly events are recommended from the March 26, 2018 investigation date to the May 31, 2018 compliance date.

Good Faith Efforts to Comply

	25.0%		
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Reduction
Extraordinary			\$5,625
Ordinary	x		
N/A			
Notes	The Respondent achieved compliance by May 31, 2018, prior to the NOE dated August 22, 2019.		
Violation Subtotal			\$16,875

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$50
	Violation Final Penalty Total
	\$44,475
This violation Final Assessed Penalty (adjusted for limits)	
\$44,475	

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$4,000	26-Mar-2018	31-May-2018	0.18	\$2	\$48	\$50
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	Estimated delayed cost to equip the SWMF office building with two air packs as required by the permit. Date Required is the investigation date. Final Date is the compliance date.						

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance \$4,000

TOTAL \$50

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	58279			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 335.4 and Tex. Water Code § 26.121(c)			
Violation Description	Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"). Specifically, hydrocarbon stained soils were observed in an area measuring 72 square feet and a discharge of liquid hydrocarbons was observed contained in a shell/gravel lined ditch measuring approximately 80 square feet at or near the No. 5 Pumphouse loading area.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes		Falsification	Major	Moderate	Minor	
						Percent 0.0%
		Human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				

Adjustment	\$17,500
	\$7,500

Violation Events

Number of Violation Events	2	14	Number of violation days
	<div style="border: 1px solid black; padding: 2px;"> daily weekly monthly quarterly semiannual annual single event </div>	<div style="border: 1px solid black; padding: 2px;"> x </div>	Violation Base Penalty \$15,000
Two monthly events are recommended from the March 26, 2018 investigation date to the April 9, 2018 compliance date (one event for each spill).			

Good Faith Efforts to Comply

	25.0%		Reduction	\$3,750
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary	x			
N/A				
Notes	The Respondent achieved compliance by April 9, 2018, prior to the NOE dated August 22, 2019.			
		Violation Subtotal	\$11,250	

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$19
	Violation Final Penalty Total \$29,650
This violation Final Assessed Penalty (adjusted for limits) \$29,650	

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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	\$10,000	26-Mar-2018	9-Apr-2018	0.04	\$19	n/a	\$19
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to remove and remediate the stained soils near the No. 5 pumphouse loading area and to submit documentation demonstrating compliance with the applicable requirements of the Texas Risk Reduction Program ("TRRP") to the Executive Director. Date Required is the investigation date. Final Date is the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$19

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC	<i>Policy Revision 4 (April 2014)</i>		
Case ID No.	58279	<i>PCW Revision March 26, 2014</i>		
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			
Violation Number	5			
Rule Cite(s)	30 Tex. Admin. Code § 335.8, HW Permit No. 50188, XI. Corrective Measures, H.6. Corrective Action and Interim Corrective Measures for Solid Waste Management Units-Corrective Measures Implementation ("CMI")/Remedial Action Plan			
Violation Description	Failed to properly follow the approved CMI Plan. Specifically, the Respondent did not comply with the CMI Plan by disposing of approximately 9,700 cubic yards of ISW at the surface impoundment Solid Waste Management Unit ("SWMU") SI-6.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes		Falsification			
		Major	Moderate	Minor	
					Percent 0.0%

Human health or the environment will or could be exposed to significant amounts of pollutants that would 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	390	Number of violation days
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daily						
weekly						
monthly						
quarterly		x				
semiannual						
annual						
single event						

Violation Base Penalty \$18,750

Five quarterly events are recommended from the October 5, 2017 disposal date to the October 30, 2018 revised CMI Plan approval date.

Good Faith Efforts to Comply

	0.0%		Reduction
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer			
Extraordinary			
Ordinary			
N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal \$18,750

Economic Benefit (EB) for this violation

Estimated EB Amount	\$534	Statutory Limit Test
		Violation Final Penalty Total \$41,181
		This violation Final Assessed Penalty (adjusted for limits) \$41,181

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$10,000	5-Oct-2017	30-Oct-2018	1.07	\$534	n/a	\$534

Notes for DELAYED costs

Estimated delayed cost to obtain approval for the revised CMI Plan. Date Required is the disposal date.
Final Date is the compliance date.

See the Economic Benefit for Violation No. 8.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$534

Screening Date 4-Sep-2019 Respondent Motiva Enterprises LLC Case ID No. 58279 Reg. Ent. Reference No. RN100209451 Media Industrial and Hazardous Waste Enf. Coordinator Margarita Dennis	Docket No. 2019-1374-MLM-E	PCW <small>Policy Revision 4 (April 2014)</small> <small>PCW Revision March 26, 2014</small>
Violation Number 6		
Rule Cite(s) 30 Tex. Admin. Code § 335.6(b)		
Violation Description Failed to immediately provide notice to the Executive Director of the disposal of ISW. Specifically, the Respondent did not provide a notification of the disposal of ISW at the SWMU SI-6 surface impoundment.		
Base Penalty		\$25,000
>> Environmental, Property and Human Health Matrix		
OR	Release	Harm
	Major Moderate Minor	
	Actual 	
Potential 		Percent 0.0%
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	 x 	Percent 15.0%
Matrix Notes	100% of the rule requirements were not met.	
Adjustment		\$21,250
		\$3,750
Violation Events		
Number of Violation Events 1		375 Number of violation days
	<div style="border: 1px solid black; padding: 2px;"> daily weekly monthly quarterly semiannual annual single event x </div>	Violation Base Penalty \$3,750
One single event is recommended.		
Good Faith Efforts to Comply		25.0% Reduction \$937
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer		
Extraordinary		
Ordinary	x	
N/A		
Notes	The Respondent achieved compliance on October 15, 2018, prior to the NOE dated August 22, 2019.	
Violation Subtotal		\$2,813
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	\$13	Violation Final Penalty Total \$7,413
This violation Final Assessed Penalty (adjusted for limits)		\$7,413

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$250	5-Oct-2017	15-Oct-2018	1.03	\$13	n/a	\$13

Notes for DELAYED costs

Estimated delayed cost to provide notice to the Executive Director of the disposal of ISW at the SWMU SI-6 surface impoundment. Date Required is the date the notice was due. Final Date is the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$13

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC	Policy Revision 4 (April 2014)		
Case ID No.	58279	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			
Violation Number	7			
Rule Cite(s)	30 Tex. Admin. Code §§ 335.62, 335.503, and 335.504 and 40 CFR § 262.11			
Violation Description	Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for the ISW disposed of at the SWMU SI-6 surface impoundment.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$17,500
	\$7,500

Violation Events

Number of Violation Events	1	Number of violation days	239
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	daily		Violation Base Penalty \$7,500
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

One single event is recommended.

Good Faith Efforts to Comply

	25.0%		Reduction	\$1,875
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	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary	x		
N/A			

	Notes: The Respondent achieved compliance on June 1, 2018, prior to the NOE dated August 22, 2019.
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Violation Subtotal	\$5,625
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Economic Benefit (EB) for this violation

	Statutory Limit Test
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Estimated EB Amount	\$138	Violation Final Penalty Total	\$14,825
This violation Final Assessed Penalty (adjusted for limits)		\$14,825	

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$4,200	5-Oct-2017	1-Jun-2018	0.65	\$138	n/a	\$138

Notes for DELAYED costs

Estimated delayed cost to conduct hazardous waste determinations and waste classifications on the one waste stream disposed of at the SWMU SI-6 surface impoundment. Date Required is the date the waste determinations and clasffications were due. Final Date is the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,200

TOTAL

\$138

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC	<i>Policy Revision 4 (April 2014)</i>		
Case ID No.	58279	<i>PCW Revision March 26, 2014</i>		
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			
Violation Number	8			
Rule Cite(s)	30 Tex. Admin. Code § 335.4(1) and Tex. Water Code § 26.121(c)			
Violation Description	Caused, suffered, allowed, or permitted the unauthorized disposal of ISW. Specifically, TCEQ staff observed 9,700 cubic yards of ISW disposed of at the SWMU SI-6 surface impoundment that is pending closure under an approved CMI Plan. Additionally, approximately 16 cubic yards of soil and limestone gravel impacted by the cut residuum spill of Tank No. 1932 that occurred on October 5, 2017 was also disposed of at the SWMU SI-6 surface impoundment.			
Base Penalty			\$25,000	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
					Percent	0.0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants that would 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	390	Number of violation days
----------------------------	---	-----	--------------------------

daily					
weekly					
monthly					
quarterly	x				
semiannual					
annual					
single event					

Violation Base Penalty \$18,750

Five quarterly events are recommended from the October 5, 2017 disposal date to the October 30, 2018 revised CMI Plan approval date.

Good Faith Efforts to Comply

	0.0%			
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	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	\$163,942	Violation Final Penalty Total
		\$41,181
This violation Final Assessed Penalty (adjusted for limits)		\$41,181

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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	\$985,000	5-Oct-2017	1-Feb-2021	3.33	\$163,942	n/a	\$163,942
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual delayed cost (per documents submitted by the Respondent) to dispose of the ISW at a facility authorized to receive the waste (\$955,000) and estimated delayed cost to demonstrate compliance with the applicable requirements of TRRP to the Executive Director (\$30,000). Date Required is the disposal date. Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$985,000

TOTAL

\$163,942

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW																
Respondent	Motiva Enterprises LLC	<i>Policy Revision 4 (April 2014)</i>																		
Case ID No.	58279	<i>PCW Revision March 26, 2014</i>																		
Reg. Ent. Reference No.	RN100209451																			
Media	Industrial and Hazardous Waste																			
Enf. Coordinator	Margarita Dennis																			
Violation Number	9																			
Rule Cite(s)	30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 8404, PSDTX1062M1, and PSDTX1534, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1386, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 19, FOP No. O3387, GTC and STC No. 22, and Tex. Health & Safety Code § 382.085(b)																			
Violation Description	Failed to prevent unauthorized emissions. Specifically, the Respondent released 3,803.77 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 310129) that began on June 3, 2019 and lasted 23 hours and 32 minutes. The emissions event occurred due to a leak on an out-of-service line within the Bottoms, Solids, and Water Tank Farm area, resulting in the release to the atmosphere. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.																			
		Base Penalty	\$25,000																	
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3" style="text-align: center;">Harm</th> </tr> <tr> <td style="text-align: center;">Release</td> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual			x	Potential			
		Harm																		
	Release	Major	Moderate	Minor																
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Potential																				
Percent				15.0%																
>> Programmatic Matrix																				
Matrix Notes	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td style="text-align: center;">Falsification</td> <td></td> <td></td> <td></td> </tr> </table>					Major	Moderate	Minor	Falsification											
		Major	Moderate	Minor																
	Falsification																			
Percent				0.0%																
		Adjustment	\$21,250																	
			\$3,750																	
Violation Events																				
Number of Violation Events		1	1	Number of violation days																
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td></td></tr> <tr><td style="text-align: center;">weekly</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td></td></tr> <tr><td style="text-align: center;">single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty		\$3,750	
daily																				
weekly																				
monthly																				
quarterly	x																			
semiannual																				
annual																				
single event																				
		One quarterly event is recommended.																		
Good Faith Efforts to Comply		0.0%	Reduction	\$0																
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th style="text-align: center;">Before NOE/NOV</th> <th style="text-align: center;">NOE/NOV to EDPRP/Settlement Offer</th> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td style="text-align: center;">Notes</td> <td colspan="2" style="text-align: center;">The Respondent does not meet the good faith criteria for this violation.</td> </tr> </table>				Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x		Notes	The Respondent does not meet the good faith criteria for this violation.		
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer																		
Extraordinary																				
Ordinary																				
N/A	x																			
Notes	The Respondent does not meet the good faith criteria for this violation.																			
		Violation Subtotal	\$3,750																	
Economic Benefit (EB) for this violation		Statutory Limit Test																		
Estimated EB Amount		\$1,033	Violation Final Penalty Total	\$8,236																
		This violation Final Assessed Penalty (adjusted for limits)																		
		\$8,236																		

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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	\$50,000	3-Jun-2019	2-Jul-2019	0.08	\$199	n/a	\$199
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	3-Jun-2019	1-Feb-2021	1.67	\$834	n/a	\$834

Notes for DELAYED costs

Estimated delayed cost to contain the spill material associated to the leak on the out-of-service line with the Bottoms, Solids, and Water Tank Farm Area by installing booms to contain and minimize the spill, vacuum the spilled material, and excavate the impacted soils and limestone and dispose of it at a facility authorized to receive the waste (\$50,000) and estimated delayed cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 310129 (\$10,000). Dates Required is the date the emissions event began. Final Dates are the date the spill material was contained and removed and the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$60,000

TOTAL

\$1,033

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW																
Respondent	Motiva Enterprises LLC	Policy Revision 4 (April 2014)																		
Case ID No.	58279	PCW Revision March 26, 2014																		
Reg. Ent. Reference No.	RN100209451																			
Media	Industrial and Hazardous Waste																			
Enf. Coordinator	Margarita Dennis																			
Violation Number	10																			
Rule Cite(s)	30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and Tex. Health & Safety Code § 382.085(b)																			
Violation Description	<p>Failed to prevent unauthorized emissions. Specifically, the Respondent released 117.54 lbs of carbon monoxide, 11.69 lbs of hydrogen sulfide ("H2S"), 16.27 lbs of nitrogen oxides, 2,177.50 lbs of sulfur dioxide, and 214.90 lbs of VOC from the Delayed Coker Unit ("DCU") 2 Flare Stack, Emissions Point Number EDCU2, during an emissions event (Incident No. 315732) that occurred on July 14, 2019 and lasted 36 minutes. The emissions event occurred due to a mechanical failure of a valve on the DCU2 Drum, resulting in flaring. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.</p>																			
		Base Penalty	\$25,000																	
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3" style="text-align: center;">Harm</th> </tr> <tr> <td style="text-align: center;">Release</td> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual			x	Potential			
		Harm																		
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Potential																				
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		Major	Moderate	Minor																
	Falsification																			
Percent				0.0%																
Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.																				
		Adjustment	\$21,250																	
		\$3,750																		
Violation Events																				
Number of Violation Events		1	1	Number of violation days																
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>		daily		weekly		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty			\$3,750	
daily																				
weekly																				
monthly																				
quarterly	x																			
semiannual																				
annual																				
single event																				
One quarterly event is recommended.																				
Good Faith Efforts to Comply		25.0%	Reduction	\$937																
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer																				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Extraordinary</td> <td></td> </tr> <tr> <td>Ordinary</td> <td style="text-align: center;">x</td> </tr> <tr> <td>N/A</td> <td></td> </tr> </table>		Extraordinary		Ordinary	x	N/A														
Extraordinary																				
Ordinary	x																			
N/A																				
Notes		The Respondent achieved compliance by November 21, 2019, prior to the NOE dated January 31, 2020.																		
		Violation Subtotal	\$2,813																	
Economic Benefit (EB) for this violation Statutory Limit Test																				
Estimated EB Amount		\$178	Violation Final Penalty Total	\$7,413																
		This violation Final Assessed Penalty (adjusted for limits)																		
		\$7,413																		

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$10,000	14-Jul-2019	21-Nov-2019	0.36	\$178	n/a	\$178

Notes for DELAYED costs

Estimated delayed cost to install insulation on the exposed section of piping near the valve actuator and digital valve controller to prevent high temperature exposures from the drum and made modifications to the valves associated with the coke drums in DCU2 in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 315732. Date Required is the date the emissions event occurred. Final Date is the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$178

Screening Date	4-Sep-2019	Docket No.	2019-1374-MLM-E	PCW
Respondent	Motiva Enterprises LLC	Policy Revision 4 (April 2014)		
Case ID No.	58279	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN100209451			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Margarita Dennis			
Violation Number	11			
Rule Cite(s)	30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to prevent unauthorized emissions. Specifically, the Respondent released 71.83 lbs of H2S and 2,860.25 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 320358) that occurred on September 6, 2019 and lasted 10 hours and 19 minutes. The emissions event occurred due to a pressure increase on Tank 1939, resulting in the release to the atmosphere. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.			
Base Penalty				\$25,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			x
	Potential			
				Percent 15.0%
>> Programmatic Matrix				
Matrix Notes	Falsification	Major	Moderate	Minor
				Percent 0.0%
Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment				\$21,250
				\$3,750
Violation Events				
Number of Violation Events		1	Number of violation days	
	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
		Violation Base Penalty		
		\$3,750		
One quarterly event is recommended.				
Good Faith Efforts to Comply		0.0%	Reduction	
		\$0		
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer				
	Extraordinary			
	Ordinary			
	N/A	x		
	Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal				\$3,750
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$49	Violation Final Penalty Total	
			\$8,236	
This violation Final Assessed Penalty (adjusted for limits)				\$8,236

Economic Benefit Worksheet

Respondent Motiva Enterprises LLC
Case ID No. 58279
Reg. Ent. Reference No. RN100209451
Media Industrial and Hazardous Waste
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$1,500	6-Sep-2019	1-May-2020	0.65	\$49	n/a	\$49

Notes for DELAYED costs

Estimated delayed cost to update the operational procedures in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 320358. Date Required is the date the emissions event occurred. Final Date is the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$49



Compliance History Report

Compliance History Report for CN600124051, RN100209451, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600124051, Motiva Enterprises LLC **Classification:** SATISFACTORY **Rating:** 2.48

Regulated Entity: RN100209451, Port Arthur Refinery **Classification:** SATISFACTORY **Rating:** 8.74

Complexity Points: 48 **Repeat Violator:** NO

CH Group: 02 - Oil and Petroleum Refineries

Location: 2555 Savannah Avenue Port Arthur, Texas 77640-3672, Jefferson County

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER JE0095D
AIR OPERATING PERMITS PERMIT 3387

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30121
WASTEWATER PERMIT WQ0000414000
AIR NEW SOURCE PERMITS PERMIT 6056
AIR NEW SOURCE PERMITS REGISTRATION 7304
AIR NEW SOURCE PERMITS PERMIT 8404
AIR NEW SOURCE PERMITS REGISTRATION 11297
AIR NEW SOURCE PERMITS REGISTRATION 11777
AIR NEW SOURCE PERMITS REGISTRATION 12059
AIR NEW SOURCE PERMITS REGISTRATION 12482
AIR NEW SOURCE PERMITS REGISTRATION 13358
AIR NEW SOURCE PERMITS REGISTRATION 54322
AIR NEW SOURCE PERMITS PERMIT 56287
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1062M1

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1062M3
AIR NEW SOURCE PERMITS REGISTRATION 132678
AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX156
AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX121
AIR NEW SOURCE PERMITS REGISTRATION 150469
AIR NEW SOURCE PERMITS REGISTRATION 153153
AIR NEW SOURCE PERMITS EPA PERMIT PAL56
AIR NEW SOURCE PERMITS PERMIT AMOC60
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1534
AIR NEW SOURCE PERMITS REGISTRATION 147680
AIR NEW SOURCE PERMITS REGISTRATION 147378
AIR NEW SOURCE PERMITS REGISTRATION 150817
AIR NEW SOURCE PERMITS REGISTRATION 158701
AIR NEW SOURCE PERMITS REGISTRATION 160605
AIR NEW SOURCE PERMITS REGISTRATION 155121
AIR NEW SOURCE PERMITS REGISTRATION 160291
AIR NEW SOURCE PERMITS REGISTRATION 153219
AIR NEW SOURCE PERMITS REGISTRATION 156220
TAX RELIEF ID NUMBER 17004
TAX RELIEF ID NUMBER 17254
TAX RELIEF ID NUMBER 17006
TAX RELIEF ID NUMBER 16190
TAX RELIEF ID NUMBER 17255

AIR OPERATING PERMITS PERMIT 1386
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD008097529
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50188

WASTEWATER EPA ID TX0005835
AIR NEW SOURCE PERMITS REGISTRATION 7160
AIR NEW SOURCE PERMITS REGISTRATION 8210
AIR NEW SOURCE PERMITS ACCOUNT NUMBER JE0095D
AIR NEW SOURCE PERMITS REGISTRATION 11762
AIR NEW SOURCE PERMITS REGISTRATION 11895
AIR NEW SOURCE PERMITS REGISTRATION 12117
AIR NEW SOURCE PERMITS REGISTRATION 13313
AIR NEW SOURCE PERMITS REGISTRATION 13534
AIR NEW SOURCE PERMITS AFS NUM 4824500020
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1062
AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX121M1
AIR NEW SOURCE PERMITS REGISTRATION 113586
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1404
AIR NEW SOURCE PERMITS REGISTRATION 136013
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1062M2
AIR NEW SOURCE PERMITS REGISTRATION 155122
AIR NEW SOURCE PERMITS REGISTRATION 151089
AIR NEW SOURCE PERMITS REGISTRATION 148251
AIR NEW SOURCE PERMITS REGISTRATION 148672
AIR NEW SOURCE PERMITS REGISTRATION 150113
AIR NEW SOURCE PERMITS REGISTRATION 148670
AIR NEW SOURCE PERMITS REGISTRATION 148261
AIR NEW SOURCE PERMITS REGISTRATION 158137
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1534M1
AIR NEW SOURCE PERMITS REGISTRATION 155599
AIR NEW SOURCE PERMITS REGISTRATION 155985
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1062M4
AIR NEW SOURCE PERMITS REGISTRATION 155123
TAX RELIEF ID NUMBER 17194
TAX RELIEF ID NUMBER 17196
TAX RELIEF ID NUMBER 17193
TAX RELIEF ID NUMBER 17008
TAX RELIEF ID NUMBER 19600
TAX RELIEF ID NUMBER 22635

STORMWATER PERMIT TXR05DZ91
STORMWATER PERMIT TXR15802T
PETROLEUM STORAGE TANK STAGE II REGISTRATION
57808
AIR EMISSIONS INVENTORY ACCOUNT NUMBER JE0095D
POLLUTION PREVENTION PLANNING ID NUMBER
P00651

STORMWATER PERMIT TXR15767U
STORMWATER PERMIT TXR15212Y
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION
(SWR) 30121
POLLUTION PREVENTION PLANNING ID NUMBER
P06462
PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 90370

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: April 07, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 07, 2015 to April 07, 2020

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

Name: Margarita Dennis

Phone: (817) 588-5892

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: 04/09/2015 | ADMINORDER 2014-1514-AIR-E | (Findings Order-Agreed Order Without Denial) |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 101, SubChapter A 101.20(3) | | |
| | 30 TAC Chapter 116, SubChapter B 116.115(c) | | |
| | 30 TAC Chapter 122, SubChapter B 122.143(4) | | |
| | 5C THSC Chapter 382 382.085(b) | | |
| | Rqmt Prov: General Terms and Conditions OP | | |
| | SC 1 PERMIT | | |
| | SC 18 OP | | |
| | Description: Failed to prevent unauthorized emissions. | | |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 101, SubChapter A 101.20(3) | | |
| | 30 TAC Chapter 116, SubChapter B 116.115(c) | | |
| | 30 TAC Chapter 122, SubChapter B 122.143(4) | | |
| | 5C THSC Chapter 382 382.085(b) | | |
| | Rqmt Prov: General Terms and Conditions OP | | |
| | SC 1 PERMIT | | |
| | Special Terms and Conditions No. 20 OP | | |
| | Description: Failed to prevent unauthorized emissions. | | |
| 2 | Effective Date: 10/01/2015 | ADMINORDER 2014-0837-AIR-E | (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 101, SubChapter A 101.20(3) | | |
| | 30 TAC Chapter 116, SubChapter B 116.115(c) | | |
| | 30 TAC Chapter 122, SubChapter B 122.143(4) | | |
| | 5C THSC Chapter 382 382.085(b) | | |
| | Rqmt Prov: Special Condition 18 OP | | |
| | Special Conditions No. 7 PERMIT | | |
| | Description: Failure to comply with annual emissions limits. | | |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 101, SubChapter A 101.20(3) | | |
| | 30 TAC Chapter 116, SubChapter B 116.115(a) | | |
| | 30 TAC Chapter 122, SubChapter B 122.143(4) | | |
| | 5C THSC Chapter 382 382.085(b) | | |
| | Rqmt Prov: General Terms and Conditions OP | | |

SC 18 OP
SC 29 PERMIT

Description: Failure to conduct daily monitoring.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to report all instances of deviations within 30 days after the end of the reporting period.

- 3 Effective Date: 10/11/2015 ADMINORDER 2015-0630-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(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: SC 1 PERMIT
SC 16 OP
SC 1A OP
Description: Failure to maintain an emission rate below the allowable emission limits during Incident 207911.
- 4 Effective Date: 02/11/2016 ADMINORDER 2015-0860-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: TCR MCL Violation 05/2015 - System exceeded a maximum contaminant level.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: TCR MCL Violation 04/2015 - System exceeded a maximum contaminant level.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: TCR MCL Violation 03/2015 - System exceeded a maximum contaminant level.
- 5 Effective Date: 10/11/2016 ADMINORDER 2016-0210-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)
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: PSD-TX-1062M1, Special Condition 1 PERMIT
Special Terms and Conditions 18 OP
Description: Failure to prevent unauthorized emissions to the atmosphere during Incident 222911.
- 6 Effective Date: 05/11/2017 ADMINORDER 2016-0846-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 101, SubChapter F 101.201(g)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)
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: PSDTX1062M1, General Condition 10 PERMIT
PSDTX1062M1, Special Condition 1 PERMIT

Special Terms and Conditions 16 OP
Special Terms and Conditions 2F OP
Special Terms and Conditions 2I OP

Description: Failure to submit the initial notification in the State of Texas Environmental Electronic Reporting System (STEERS) for a reportable emissions event no later than 24 hours after the discovery of the event, and to submit the final report for a reportable emissions event in STEERS within 14 days after the end of the event.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: PSDTX1062M1, Special Condition 1 PERMIT
Special Terms and Conditions 16 OP

Description: Failure to prevent unauthorized emissions to the atmosphere during Incident 227240.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
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: PSDTX1062M1, Special Condition 1 PERMIT
Special Terms and Conditions 16 OP

Description: The Respondent released 11,511.24 lbs of VOC from the EPN FVPS4, during an emissions event (Incident No. 228106) that began on February 22, 2016 and lasted 13 hours and 41 minutes. The event occurred when a bypass valve that was supposed to be closed was open because the valve was incorrectly marked. The open valve allowed 21,630 gallons of naphtha to fill up the knockout drums. Additionally, an estimated 13,020 gallons of naphtha leaked onto the ground from the flare line piping leak.

7 Effective Date: 02/14/2018 ADMINORDER 2017-0057-AIR-E (Findings Order-Agreed Order Without Denial)

Classification: Minor

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

Rqmt Prov: PSDTX1062M2, Special Condition 1 PERMIT
Special Terms and Conditions 16 OP
Special Terms and Conditions 2F OP
Special Terms and Conditions 2I OP

Description: Failure to submit the initial notification in the State of Texas Environmental Electronic Reporting System (STEERS) for a reportable emissions event no later than 24 hours after the discovery of the event.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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: PSDTX1062M2, Special Condition 1 PERMIT
Special Terms and Conditions 16 OP

Description: Failure to prevent unauthorized emissions to the atmosphere during Incident 244208.

8 Effective Date: 10/08/2018 ADMINORDER 2017-1201-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(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: PSD-TX-1062M1, Special Condition 44 PERMIT
PSD-TX-1062M2, Special Condition 1 PERMIT
Special Terms and Conditions 18 OP

Description: Failure to maintain Carbon Monoxide (CO) emissions below the authorized emissions limits from Maintenance, Startup, and Shutdown (MSS) activities (Emission Point Number (EPN) POSCEPMN).

- 9 Effective Date: 07/01/2019 ADMINORDER 2018-0781-AIR-E (Findings Order-Agreed Order Without 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: GTC OP
 PSD-TX-1062M2, Special Condition 1 PERMIT
 PSD-TX-1062M2, Special Condition 8A PERMIT
 Special Terms and Conditions 22 OP
 Description: Failed to comply with the NOx annual emissions rate for the Vacuum Pipe Still No. 5, Nos. 1 and 2 and Vacuum Heaters, EPN SVPS5-2
 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: GTC OP
 PSD-TX-1062M2, SC 1 PERMIT
 PSD-TX-1062M2, SC 8A PERMIT
 STC No. 22 OP
 Description: Failed to comply with the NOx annual emissions rate for the Vacuum Pipe Still No. 5, Nos. 1 and 2 Vacuum Heaters, EPN SVPS5-2. Specifically, the Respondent exceeded the allowable annual emissions rate of 10.20 tons per year based on a 12-month rolling period for the 12-month periods ending from October 2016 through September 2017, resulting in 0.33 ton of unauthorized NOx
- 10 Effective Date: 11/18/2019 ADMINORDER 2017-0530-AIR-E (Findings Order-Agreed Order Without Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: PSDTX1062M1, Special Condition 1 PERMIT
 Special Terms and Conditions 19 OP
 Description: Failed to prevent unauthorized emissions.
 Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: PSDTX1062M1, General Condition 10 PERMIT
 Special Terms and Conditions 2F OP
 Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 80.57 pounds of CO, 15.84 pounds of NOx, 3,854.95 pounds of SO2, 127.97 pounds of VOC, and 41.8 pounds of H2S from the ALKY 4 Flare Stack Pilots, EPN EFCCU1&2, and Hydrocracking Unit No. 1 Flare Stack Pilots, EPN EHCU, during an emissions event (Incident No. 250411) that began on January 13, 2017 and lasted three hours and 45 minutes. The emissions event occurred during a control system software upgrade when
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: PSDTX1062M1, Special Condition 1 PERMIT
 Special Terms and Conditions 19 OP
 Description: Failed to submit an initial notification within 24 hours after discovery of the emissions event, in violation of 30 TEX. ADMIN. CODE §§101.201(a)(1)(B) and 122.143(4), TEX. HEALTH & SAFETY CODE §382.085(b), and FOP No. O1386, STC No. 2.F. Specifically, the initial notification for Incident No. 250411 was due by January 14, 2017 at 10:19 a.m., but was not submitted until January 15, 2017 at 4:36 p.m.
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 113, SubChapter C 113.340
 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 AA 63.654(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 17A PERMIT

Special Terms and Conditions 19 OP

Description: Failed to conduct monthly VOC monitoring in accordance with the requirements of the TCEQ Sampling Procedures Manual, Appendix P, in violation of 30 TEX. ADMIN. CODE §§101.20(2) and (3), 113.340, 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE §382.085(b), 40 CODE OF FEDERAL REGULATIONS §63.654(c), FOP No. O1386, STC No. 19, and NSR Permit Nos. 8404 and PSDTX1062M1, SC No. 17.A. Specifically, from April 1, 2012 through March 31, 2017, the Respondent did not collect cooling tower water sa

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

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

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 31B PERMIT

Special Terms and Conditions 1A OP

Special Terms and Conditions 22 OP

Description: Failed to comply with the permitted hourly emissions rates, in violation of 30 TEX. ADMIN. CODE §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), TEX. HEALTH & SAFETY CODE §382.085(b), FOP No. O3387, STC No. 22, and NSR Permit Nos. 6056, PSDTX1062M2, and GHGPSDTX121, SC No. 1. Specifically, SRU5/ TGTU5 Incinerator, EPN STGTU5-1, exceeded the permitted SO2 emissions rate of 71.11 pounds/hour ("lbs/hr") for three hours on July 19, 2015 by an average of 154.8 lbs/hr; the SRU6/TGTU6 Incinerat

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 20, 2015	(1255510)
Item 2	May 18, 2015	(1251844)
Item 3	June 05, 2015	(1246100)
Item 4	June 17, 2015	(1259052)
Item 5	June 19, 2015	(1269389)
Item 6	July 08, 2015	(1253313)
Item 7	July 09, 2015	(1259153)
Item 8	July 10, 2015	(1261786)
Item 9	July 17, 2015	(1276935)
Item 10	July 30, 2015	(1266381)
Item 11	August 12, 2015	(1266361)
Item 12	August 13, 2015	(1269158)
Item 13	August 17, 2015	(1283112)
Item 14	September 09, 2015	(1265749)
Item 15	September 17, 2015	(1290251)
Item 16	September 29, 2015	(1268903)
Item 17	October 13, 2015	(1281993)
Item 18	October 15, 2015	(1280452)
Item 19	October 19, 2015	(1296455)
Item 20	November 09, 2015	(1289494)
Item 21	November 12, 2015	(1287259)
Item 22	November 19, 2015	(1301908)
Item 23	November 24, 2015	(1294259)
Item 24	November 30, 2015	(1294053)
Item 25	December 03, 2015	(1294908)
Item 26	December 18, 2015	(1308836)
Item 27	December 21, 2015	(1296335)
Item 28	December 29, 2015	(1293612)
Item 29	January 18, 2016	(1315620)
Item 30	January 19, 2016	(1282556)
Item 31	January 21, 2016	(1306273)
Item 32	January 25, 2016	(1305404)

Item 33	February 15, 2016	(1325012)
Item 34	February 16, 2016	(1307488)
Item 35	March 07, 2016	(1281615)
Item 36	March 08, 2016	(1314381)
Item 37	March 17, 2016	(1331741)
Item 38	March 29, 2016	(1319004)
Item 39	April 06, 2016	(1322370)
Item 40	April 07, 2016	(1314382)
Item 41	April 20, 2016	(1338904)
Item 42	May 09, 2016	(1330229)
Item 43	May 16, 2016	(1328891)
Item 44	May 20, 2016	(1345704)
Item 45	June 17, 2016	(1338465)
Item 46	June 29, 2016	(1343281)
Item 47	July 06, 2016	(1343036)
Item 48	July 15, 2016	(1359120)
Item 49	July 19, 2016	(1342175)
Item 50	July 21, 2016	(1345307)
Item 51	July 25, 2016	(1287337)
Item 52	August 03, 2016	(1343289)
Item 53	August 08, 2016	(1337517)
Item 54	August 18, 2016	(1365544)
Item 55	September 01, 2016	(1358233)
Item 56	September 09, 2016	(1322481)
Item 57	September 19, 2016	(1372245)
Item 58	September 23, 2016	(1362760)
Item 59	October 03, 2016	(1351881)
Item 61	October 19, 2016	(1363352)
Item 62	October 20, 2016	(1378422)
Item 63	November 03, 2016	(1370563)
Item 64	November 14, 2016	(1371610)
Item 65	November 15, 2016	(1369817)
Item 66	November 17, 2016	(1371989)
Item 67	November 18, 2016	(1371999)
Item 68	December 16, 2016	(1390518)
Item 69	December 28, 2016	(1377195)
Item 70	January 05, 2017	(1375572)
Item 72	January 19, 2017	(1397135)
Item 73	January 24, 2017	(1388327)
Item 75	January 31, 2017	(1389053)
Item 76	February 08, 2017	(1382930)
Item 77	February 20, 2017	(1388451)
Item 78	February 21, 2017	(1384148)
Item 79	February 23, 2017	(1395459)
Item 80	March 08, 2017	(1395439)
Item 81	March 20, 2017	(1411120)
Item 82	March 22, 2017	(145801)
Item 83	March 23, 2017	(1400652)
Item 84	April 03, 2017	(1401843)
Item 85	April 06, 2017	(148917)
Item 86	May 05, 2017	(1408070)
Item 87	May 17, 2017	(1425212)
Item 88	May 25, 2017	(1410994)
Item 89	May 30, 2017	(1410936)
Item 90	May 31, 2017	(1408461)
Item 91	June 02, 2017	(1410392)
Item 92	June 19, 2017	(1431215)
Item 93	July 06, 2017	(1423697)
Item 94	July 20, 2017	(1416503)
Item 95	August 07, 2017	(1429034)

Item 96	August 08, 2017	(1428970)
Item 97	August 11, 2017	(1443512)
Item 98	October 03, 2017	(1437180)
Item 99	October 11, 2017	(1442847)
Item 100	October 18, 2017	(1442818)
Item 101	October 24, 2017	(1446941)
Item 102	November 14, 2017	(1449756)
Item 103	November 15, 2017	(1461440)
Item 104	November 21, 2017	(1449175)
Item 105	December 05, 2017	(1442823)
Item 106	December 15, 2017	(1459031)
Item 107	December 19, 2017	(1467819)
Item 108	January 19, 2018	(1430454)
Item 109	January 24, 2018	(1454287)
Item 110	January 30, 2018	(1464503)
Item 111	January 31, 2018	(1455382)
Item 112	February 01, 2018	(1466604)
Item 113	February 14, 2018	(1466128)
Item 114	February 15, 2018	(1466888)
Item 115	February 19, 2018	(1486750)
Item 116	February 20, 2018	(1471397)
Item 117	March 01, 2018	(1472423)
Item 118	March 06, 2018	(1472568)
Item 119	March 21, 2018	(1478141)
Item 120	April 10, 2018	(1493664)
Item 121	May 02, 2018	(1482338)
Item 122	May 11, 2018	(1479571)
Item 123	May 18, 2018	(1500582)
Item 124	May 30, 2018	(1485663)
Item 125	June 15, 2018	(1507699)
Item 126	June 18, 2018	(1490138)
Item 127	June 19, 2018	(1485154)
Item 128	June 22, 2018	(1482095)
Item 129	July 03, 2018	(1498354)
Item 130	July 19, 2018	(1514016)
Item 131	July 31, 2018	(1505250)
Item 132	August 15, 2018	(1485259)
Item 133	August 16, 2018	(1520078)
Item 134	August 20, 2018	(1505806)
Item 135	September 18, 2018	(1527243)
Item 136	October 18, 2018	(1533601)
Item 137	October 26, 2018	(1524161)
Item 138	November 08, 2018	(1541436)
Item 139	November 12, 2018	(1524188)
Item 140	November 20, 2018	(1519890)
Item 141	November 21, 2018	(1531112)
Item 142	November 27, 2018	(1527015)
Item 143	November 28, 2018	(1526464)
Item 144	December 04, 2018	(1526660)
Item 145	December 13, 2018	(1545220)
Item 146	January 18, 2019	(1559635)
Item 147	February 15, 2019	(1545053)
Item 148	February 22, 2019	(1549747)
Item 149	February 27, 2019	(1549802)
Item 150	February 28, 2019	(1408424)
Item 151	March 18, 2019	(1559634)
Item 152	April 03, 2019	(1552024)
Item 153	April 09, 2019	(1554148)
Item 154	April 12, 2019	(1548512)
Item 155	April 16, 2019	(1571817)

Item 156	May 10, 2019	(1549158)
Item 157	May 15, 2019	(1583243)
Item 158	May 16, 2019	(1556183)
Item 159	May 22, 2019	(1558197)
Item 160	June 17, 2019	(1583244)
Item 161	July 16, 2019	(1593130)
Item 162	July 30, 2019	(1571457)
Item 163	August 05, 2019	(1582213)
Item 164	August 16, 2019	(1599476)
Item 165	August 26, 2019	(1576150)
Item 166	September 13, 2019	(1606381)
Item 167	October 08, 2019	(1597021)
Item 168	October 17, 2019	(1613227)
Item 169	October 18, 2019	(1592322)
Item 170	October 30, 2019	(1603455)
Item 171	November 19, 2019	(1619041)
Item 172	November 21, 2019	(1611009)
Item 173	November 25, 2019	(1605554)
Item 174	December 17, 2019	(1626393)
Item 175	January 02, 2020	(1618100)
Item 176	January 14, 2020	(1611425)
Item 177	January 16, 2020	(1634034)
Item 178	January 24, 2020	(1622943)
Item 180	February 12, 2020	(1625867)
Item 181	February 13, 2020	(1630327)
Item 182	February 19, 2020	(1629927)
Item 183	February 24, 2020	(1630081)
Item 184	March 31, 2020	(1638910)

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: 05/10/2019 (1555074)	
	Self Report? NO	Classification: Moderate
	Citation: 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 J 60.104(a)(1) 5C THSC Chapter 382 382.085(b) General Terms and Conditions OP Special Condition 22 OP Special Condition 6 PERMIT	
	Description: Failure to maintain the 160 ppmv H2S 3-hour rolling averages as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.	
	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) General Terms and Conditions OP Special Condition 22 OP Special Condition 8A PERMIT	
	Description: Failure to maintain Nitrogen Oxides (NOx) and Carbon Monoxide (CO) concentrations below the permitted limits as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 113, SubChapter C 113.780 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 J 60.104(a)(2) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1568(a)(1) 5C THSC Chapter 382 382.085(b) General Terms and Conditions OP Special Condition 1E OP Special Condition 21 PERMIT Special Condition 22 OP	

Description: Special Condition 63 PERMIT
 Failure to maintain compliance with Maximum Achievable Control Technology (MACT) UUU concentration limit of Sulfur Dioxide (SO₂) 250 parts per million (ppm) 12-hour rolling average at zero excess O₂ as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

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
 General Terms and Conditions OP
 Special Condition 22 OP
 Special Condition 48A PERMIT

Description: Failure to perform the Continuous Emission Monitoring System (CEMS) daily calibrations for heater 3 at Delayed Coker Unit 2 (DCU2) as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

Self Report? NO Classification: Moderate

Citation: 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 QQQ 60.692-2(a)(2)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Condition 10 PERMIT
 Special Condition 22 OP
 Special Condition 61 PERMIT
 Special Condition 9 OP

Description: Failure to conduct oil/water drain rounds at DCU2 as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

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)
 General Terms and Conditions OP
 Special Condition 22 OP
 Special Condition 24 PERMIT
 Special Condition 26 PERMIT

Description: Failure to conduct weekly hand gauging and daily hydrocarbon checks at the 10- and 15-foot levels for Tanks 1930, 2076, 2077, and 2078 as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

Self Report? NO Classification: Moderate

Citation: 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 UUU 63.1567(a)(2)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Condition 1D OP
 Special Condition 22 OP
 Special Condition 47B PERMIT
 Special Condition 63 PERMIT

Description: Failure to maintain the daily pH average above 6.81 as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

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)
 General Terms and Conditions OP
 Special Condition 1 PERMIT
 Special Condition 22 OP
 Special Condition 8 PERMIT

Description: Failure to maintain the maximum firing rates and Particulate Matter (PM) emissions at Vacuum Pipe Still 5 (VPS5) as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

Self Report? NO Classification: Moderate

Citation: 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 UUU 63.1572(c)(1)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP

Special Condition 1E OP
Special Condition 22 OP
Special Condition 63 PERMIT

Description: Failure to conduct and record quarterly CPMS inspections as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to report deviations in the correct reporting period as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

2

Date: 10/30/2019 (1603707)

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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 11A PERMIT
Special Condition 22 OP

Description: Failure to maintain Nitrogen Oxides (NOx) emissions below the authorized emissions limits from Vacuum Pipe Still Number 5, as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2018 through June 30, 2019.

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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 11A PERMIT
Special Condition 22 OP

Description: Failure to maintain the hourly NOx lb/MMBtu and the CO ppm concentration below the permitted limit as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

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 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648(a)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 14E PERMIT
Special Condition 22 OP

Description: Failure to prevent open ended lines (OELs) as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2018 through June 30, 2019.

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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 22 OP
Special Condition 34C(2) PERMIT

Description: Failure to maintain cooling tower permitted limits as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2017 through June 30, 2018.

Self Report? NO Classification: Moderate

Citation: 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 UUU 63.1568(a)(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 1E OP
Special Condition 22 OP
Special Condition 24 PERMIT

Special Condition 73 PERMIT

Description: Failure to maintain the SO₂ concentration below the regulatory limit of 250 ppm 12-hour rolling average, as reported in the semiannual deviation reports for FOP 3387 covering the compliance period of July 1, 2018, through June 30, 2019.

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)
General Terms and Conditions OP
Special Condition 22 OP
Special Condition 22 PERMIT

Description: Failure to maintain the incinerator firebox temperature.

Self Report? NO Classification: Moderate

Citation: 1A OP
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 J 60.104(a)(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 22 OP
Special Condition 6 PERMIT
Special Condition 71 PERMIT

Description: Failure to maintain the Hydrogen Sulfide (H₂S) content of refinery fuel gas below a 3-hour rolling average concentration of 160 Parts per Million by Volume (PPMV) H₂S as reported in the semiannual deviation reports for FOP-3387, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO 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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 22 OP

Description: Failure to maintain an emission rate below the allowable emission limits.

3

Date: 01/27/2020 (1613017)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)
5C THSC Chapter 382 382.085
General Terms and Conditions OP
Special 45 PERMIT
Special Condition 13E PERMIT
Special Condition 19 OP

Description: Failure to install a plug, cap, or blind on an open-ended line as reported in the FOP O-01386 semi-annual deviation reports covering the reporting period of July 1, 2018 to June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
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 J 60.104(a)(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 19 OP
Special Condition 45 PERMIT
Special Condition 9 PERMIT

Description: Failure to maintain the 160/162 ppmv H₂S 3-hour rolling averages and the 24-hour rolling averages as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ja 60.102a(c)(2)(ii)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1564(a)(2)

5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 19 OP
Special Condition 47 PERMIT

Description: Failure to maintain the 3-hour rolling average liquid-to-gas ratio above the limit established in the performance test as reported in the semiannual deviation reports for FOP -1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ja 60.102a(c)(2)(i)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1564(a)(2)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 19 OP
Special Condition 47 PERMIT

Description: Failure to maintain the differential pressure at or above the minimum requirement at the FCCU as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(f)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 19 OP
Special Condition 39B PERMIT
Special Condition 45 PERMIT
Special Condition 8A OP

Description: Failure to maintain records of daily calibrations as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1572(c)(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 19 OP
Special Condition 47 PERMIT

Description: Failure to conduct and record quarterly continuous parameter monitoring system (CPMS) inspections as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT QQQ 60.692-2(b)(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.346(b)(2)(i)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 45 PERMIT
Special Condition 12A OP
Special Condition 19 OP
Special Condition 46 PERMIT
Special Condition 9B OP

Description: Failure to maintain a tight seal around the edge of the junction box covers and shall be kept in place at all times, except during inspection and maintenance as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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)
General Terms and Conditions OP
Special Condition 1 PERMIT

Special Condition 19 OP

Description: Failure to route tank vapors to the vapor recovery system as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2017 through June 30, 2018.

Self Report? NO 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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 17B PERMIT
Special Condition 19 OP

Description: Failure to maintain an emission rate below the allowable limit for Particulate Matter (PM) at the cooling towers as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO 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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 19 OP
Special Condition 23A PERMIT

Description: Failure to maintain the allowable 24-hour average NOx concentration of 68 ppmv as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO 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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 19 OP

Description: Failure to maintain the British thermal units (Btu) values on the heaters as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO 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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 19 OP
Special Condition 23A PERMIT

Description: Failure to maintain the SO2 hourly concentration of 157 ppmv from the FCCU Regenerator as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to report deviations in the correct reporting period as reported in the semiannual deviation reports for FOP-1386, covering the compliance period of July 1, 2018 through June 30, 2019.

Self Report? NO 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)
General Terms and Conditions OP
Special Condition 1 PERMIT
Special Condition 19 OP

Description: Failure to maintain an emission rate below the allowable emission limits as reported in the semiannual deviation reports for FOP O1386, covering the the compliance period of July 1, 2018 through June 30, 2019.

Date: 03/06/2020 (1631470)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)
30 TAC Chapter 335, SubChapter E 335.112(a)

Description: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)
Failure to maintain weekly inspection logs.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)
30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)
P.P. II.C.2.a. PERMIT
P.P. III.D. PERMIT
P.P.II.C.n PERMIT

Description: Failure to maintain weekly container storage area inspection records.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)
30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15(d)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)
P.P. II.C.2.a PERMIT
P.P.II.1.n PERMIT

Description: Failure to document on the an inspection record, the inspector's full name, date (month/day/year) and time of inspection.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)
30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15(a)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)
P.P. III.D. PERMIT
P.P.II.C.1.n. PERMIT
P.P.II.C.2.a PERMIT

Description: Failure to conduct and maintain weekly inspection records.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)
30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15(a)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)
P.P. III.D. PERMIT
P.P.II.C.1.n. PERMIT
P.P.II.C.2.a. PERMIT

Description: Failure to conduct and maintain benchmark inspection records for Hazardous Waste Management Unit (HWMU), MTR-11.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
P.P. V.A.1. PERMIT
P.P.II.C.1.n. PERMIT

Description: Failure to post "TCEQ Permit Unit No. " signs at each authorized Hazardous Waste Management Units (HWMU): Closed Land Treatment Unit, Former C9/ C10 impoundment, Closed L-1 landfill, and Closed MTR-11 CAMU.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.14
P.P.II.C.1.n. PERMIT
P.P.II.C.2.b PERMIT
P.P.III. C.1 PERMIT

Description: Failure to post warning signs labeled "Danger - Unauthorized Personnel Keep Out" at all access points to closed waste management units: L-1 Landfill, MTR-11, and C-9/C-10, along barriers in sufficient numbers to be seen from any approach.

F. Environmental audits:

Notice of Intent Date: 06/02/2014 (1190426)

Disclosure Date: 10/21/2015

Viol. Classification: Moderate

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

Rqmt Prov: PERMIT NSR Permit 6056, SC 2.C.
PERMIT NSR Permit 6056, SC 3.G.
PERMIT NSR Permit 6056, SC. 2.A.

Description: Failed to record throughput for tanks 004 and 2085.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter A 106.4
30 TAC Chapter 106, SubChapter A 106.8
Description: Failed to calculate emissions from Tank 2041, Tank 1937, and Tank 2127.
Viol. Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
Description: Failed to obtain proper authorization for Tanks 001, 003, 0013, 1943.
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT NSR Permit 6056, SC 2.F.
Description: Failed to accurately represent types of controls for the tanks in the permit application. Specifically, Tanks 2113 and 2115 should be represented as being controlled by vapor recovery; Tank 1908 should be represented as being controlled by a PRV with no working or standing loss; and Tank 2139 should be represented as controlled by a PRV, rather than vapor recovery.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.10(b)
Rqmt Prov: PERMIT NSR Permit 6056, SC 2.G.
Description: Failed to report emissions for Tank 1930 in the emissions inventory.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT NSR Permit 6056, SC 1
Description: Failed to limit emissions to the annual (12 month rolling average) limits established in the permit. Specifically, tanks 1475, 1775, 1885, 1893, 1920, 1932, 1933, 1934, 2041 exceeded twelve month rolling emission limits.

Notice of Intent Date: 02/18/2016 (1314378)
Disclosure Date: 07/28/2016
Viol. Classification: Major
Citation: 30 TAC Chapter 115, SubChapter B 115.116(b)
Description: Failed to have emissions authorized from Tank Nos. 1691 and 1728.
Disclosure Date: 01/11/2017
Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
Rqmt Prov: PERMIT sc 1
Description: The plant under reported emissions from EPN SVPS4-7 and had exceedances of the MAERT limit.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
Rqmt Prov: PERMIT SC 1
PERMIT SC 8a
Description: The plant under reported emissions from EPN SVPSS and exceeded the MAERT limit.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.355(c)(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(b)(1)
Description: Total Annual Benzene (TAB) calculations have not been updated to reflect changes in refinery operations.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.355(b)(4)
Description: Failed to include Turnaround (TA) waste streams in the TAB or uncontrolled 2MG demonstration.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.355(a)(1)
Description: The uncontrolled benzene quantity from spills is estimated using air emissions from the spill instead of the quantity of the spill and the benzene concentration in the spill.

Notice of Intent Date: 04/14/2016 (1329068)
No DOV Associated

Notice of Intent Date: 01/27/2017 (1390093)
No DOV Associated

Notice of Intent Date: 05/21/2018 (1486466)
Disclosure Date: 01/09/2019
Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6655(f)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.9(b)(2)
Description: Failure to provide Initial Notifications in accordance with the requirements of 40 CFR Part 63 Subchapters A

and ZZZZ

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter W 106.511

30 TAC Chapter 116, SubChapter B 116.110(a)

Description: Failure to maintain documentation of authorization of emergency engines under a permit by rule.

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
MOTIVA ENTERPRISES LLC
RN100209451**

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

AGREED ORDER DOCKET NO. 2019-1374-MLM-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 Motiva Enterprises LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and 382 and TEX. WATER CODE ch. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a petroleum refinery located at 2555 Savannah Avenue in Port Arthur, Jefferson County, Texas (the "Plant"). The Plant involves or involved the management of industrial solid waste ("ISW") as defined in TEX. HEALTH & SAFETY CODE ch.361. The Plant consists of or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$284,148 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$113,660 of the penalty and \$56,829 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$113,659 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The 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 the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. 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). 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.
6. 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 Order.
7. 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.
8. 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.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. By May 31, 2018, posted warning signs stating "Danger – Unauthorized Personnel Keep Out" in English that can be read from a distance of at least 25 feet at the two access points for the Container Storage Area and at the seven access points for the No. 2 Aeration Basin;
 - b. By May 31, 2018, equipped the solid waste management facility ("SWMF") office building with two air packs as required by the permit;
 - c. By April 9, 2018, removed and remediated the stained soils near the No. 5 pumphouse loading area and submitted documentation demonstrating compliance with the applicable requirements of the Texas Risk Reduction Program ("TRRP") to the Executive Director;
 - d. On June 1, 2018, conducted hazardous waste determinations and waste classifications on the one waste stream disposed of at the Solid Waste Management Unit ("SWMU") SI-6 surface impoundment;
 - e. By August 14, 2018, clearly identified the Container Storage Area as "TCEQ Permit Unit No. 1" and the No. 2 Aeration Basin as "TCEQ Permit Unit No. 11";

- f. On October 15, 2018, provided notice to the Executive Director of the disposal of ISW at the SWMU SI-6 surface impoundment;
- g. On October 30, 2018, obtained approval for the revised Corrective Measures Implementation ("CMI") Plan;
- h. By July 2, 2019, contained the spill material associated to the leak on the out-of-service line within the Bottoms, Solids, and Water Tank Farm Area by installing booms to contain and minimize the spill, vacuumed the spilled material, and excavated the impacted soils and limestone and disposed of it at a facility authorized to receive the waste;
- i. By November 21, 2019, installed insulation on the exposed section of piping near the valve actuator and digital valve controller to prevent high temperature exposures from the drum and made modifications to the valves associated with the coke drums in Delayed Coker Unit ("DCU") 2 in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 315732; and
- j. By May 1, 2020, updated the operational procedures in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 320358.

II. ALLEGATIONS

- 1. During an investigation conducted from March 26, 2018 through April 3, 2018, an investigator documented that the Respondent:
 - a. Failed to post warning signs at all points of access to the active waste management portion(s) of the facility and along the natural and/or artificial barriers in sufficient numbers to be seen from any approach to those portions of the facility, in violation of 30 TEX. ADMIN. CODE § 335.152(a)(1), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 264.14(c), Hazardous Waste ("HW") Permit No. 50188, III. Facility Management, C.1. Security. Specifically, TCEQ staff observed that the warning signs stating "Danger - Unauthorized Personnel Keep Out" in English that may be clearly read from a distance of at least 25 feet were not posted at the two access points for the Container Storage Area, Permit Unit No. 1, and at the seven access points for the No. 2 Aeration Basin, Permit Unit No. 11.
 - b. Failed to clearly identify all authorized facility units with signage indicating the Unit Number, in violation of 30 TEX. ADMIN. CODE § 335.152(c)(5), 40 CFR § 270.30(a), HW Permit No. 50188, V. Authorized Units and Operations, A.1. Authorized Units. Specifically, TCEQ staff observed that there was no signage for the Container Storage Area that clearly identified the authorized facility unit as "TCEQ Permit Unit No. 1" and for the No. 2 Aeration Basin that clearly identified the authorized facility unit as "TCEQ Permit Unit No. 11".
 - c. Failed to equip the SWMF office building with two air packs as required by the permit, in violation of 30 TEX. ADMIN. CODE § 335.152(a)(2), 40 CFR § 264.32(c), HW Permit No. 50188, II. General Facility Standards, C.1.n and C.2.b. State

Regulations and General Facility Standards, III. Facility Management, E.5.a. Contingency Plan-Preparedness and Prevention, Table III.E.3-Emergency Equipment. Specifically, TCEQ staff observed that the two air packs were not placed at or near the SWMF office building.

- d. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(c). Specifically, hydrocarbon stained soils were observed in an area measuring 72 square feet and a discharge of liquid hydrocarbons was observed contained in a shell/gravel lined ditch measuring approximately 80 square feet at or near the No. 5 Pumphouse loading area.
 - e. Failed to properly follow the approved CMI Plan, in violation of 30 TEX. ADMIN. CODE § 335.8, HW Permit No. 50188, XI. Corrective Measures, H.6. Corrective Action and Interim Corrective Measures for Solid Waste Management Units-CMI/Remedial Action Plan. Specifically, the Respondent did not comply with the CMI Plan by disposing of approximately 9,700 cubic yards of ISW at the surface impoundment SWMU SI-6.
 - f. Failed to immediately provide notice to the Executive Director of the disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.6(b). Specifically, the Respondent did not provide a notification of the disposal of ISW at the SWMU SI-6 surface impoundment.
 - g. Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504 and 40 CFR § 262.11. Specifically, hazardous waste determinations and waste classifications were not conducted for the ISW disposed of at the SWMU SI-6 surface impoundment.
 - h. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121(c). Specifically, TCEQ staff observed 9,700 cubic yards of ISW disposed of at the SWMU SI-6 surface impoundment that is pending closure under an approved CMI Plan. Additionally, approximately 16 cubic yards of soil and limestone gravel impacted by the cut residuum spill of Tank No. 1932 that occurred on October 5, 2017 was also disposed of at the SWMU SI-6 surface impoundment.
2. During a record review conducted on September 17, 2019, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 8404, PSDTX1062M1, and PSDTX1534, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O1386, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 3,803.77 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 310129) that began on June 3, 2019 and lasted 23 hours and 32 minutes. The emissions event occurred due to a leak on an out-of-service line within the Bottoms, Solids, and Water Tank Farm area, resulting in the

release to the atmosphere. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

3. During a record review conducted on December 14, 2019, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 117.54 lbs of carbon monoxide, 11.69 lbs of hydrogen sulfide ("H₂S"), 16.27 lbs of nitrogen oxides, 2,177.50 lbs of sulfur dioxide, and 214.90 lbs of VOC from the DCU2 Flare Stack, Emissions Point Number EDCU2, during an emissions event (Incident No. 315732) that occurred on July 14, 2019 and lasted 36 minutes. The emissions event occurred due to a mechanical failure of a valve on the DCU2 Drum, resulting in flaring. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
4. During a record review conducted on December 3, 2019, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 6056, PSDTX1062M2, GHGPSDTX121, and PSDTX1534, SC No. 1, FOP No. O1386, GTC and STC No. 19, FOP No. O3387, GTC and STC No. 22, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 71.83 lbs of H₂S and 2,860.25 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 320358) that occurred on September 6, 2019 and lasted 10 hours and 19 minutes. The emissions event occurred due to a pressure increase on Tank 1939, resulting in the release to the atmosphere. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Motiva Enterprises LLC, Docket No. 2019-1374-MLM-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 an SEP as set forth in Section I, Paragraph No. 4. The amount of \$113,659 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. 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. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 310129; and
 - ii. Conduct an investigation to determine whether response actions are necessary under TRRP in response to the disposal of the ISW in the SWMU SI-6 surface impoundment, in accordance with 30 TEX. ADMIN. CODE ch. 350, and submit the results to the Executive Director, as described in Ordering Provision No. 3.f.
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the TRRP investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
 - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a, as described in Ordering Provision No. 3.f.
 - d. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team at the address listed below in Ordering Provision No. 3.f and to any additional addresses as directed by the Executive Director.
 - e. If the Executive Director determines that the APAR indicates that response actions are necessary, comply with all applicable requirements of TRRP in accordance with 30 TEX. ADMIN. CODE ch. 350, by the deadline prescribed by the Executive Director.
 - f. The certifications or investigation results shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records

and shall be signed by the Respondent and shall 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:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
6. If the 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, the Respondent's failure to comply is not a violation of this 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.
7. 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 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

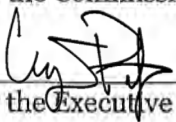
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This 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.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director


12/30/2021
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, 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.


Signature

8/5/2020
Date

Greg Lucchesi
Name (Printed or typed)
Authorized Representative of
Motiva Enterprises LLC

VP+GM Port Arthur Refinery
Title

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

Attachment A
Docket Number: 2019-1374-MLM-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Motiva Enterprises LLC
Payable Penalty Amount:	\$227,319
SEP Offset Amount:	\$113,659
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Texas Natural Gas Foundation
Project Name:	<i>High Emission Vehicle Replacement Project</i>
Location of SEP:	Preference for Jefferson County; TCEQ Air Control Region 022: Shreveport-Texarkana-Tyler

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, **Texas Natural Gas Foundation**, for the *High Emission Vehicle Replacement Project* (the “Project”). The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ, which details the terms and conditions of the Project.

Specifically, the SEP Offset Amount will be used to reimburse an eligible public entity for the total purchase price or five-year lease price of a standard base model alternative-fueled vehicle that will replace an eligible older, diesel-fueled vehicle that the public entity has decommissioned and removed from its fleet. Public entities eligible to receive assistance include state agencies, counties, municipalities, school districts, or other political subdivisions created under the constitution or any statute of this state.

Old, diesel-fueled vehicles emit large amounts of nitrogen oxides (“NOx”) and particulate matter (“PM”), as well as other harmful pollutants such as volatile organic compounds (“VOCs”) and carbon monoxide (“CO”). These pollutants contribute to serious public health problems. This Project shall reduce NOx, PM, VOCs, and CO emissions by replacing high-emission, diesel-fueled vehicles with low-emission, alternative-fueled

vehicles. 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, 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 to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

This Project will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate several respiratory diseases, including asthma. For example, replacing a model year 2002 heavy-duty diesel dump truck with a model year 2010 or newer dump truck powered by natural gas or propane may reduce passengers' exposure to NOx by 95% and PM by 99.9%. Moreover, replacing a model year 1989 diesel school bus with a model year 2010 or newer school bus powered by natural gas or propane may reduce passengers' exposure to NOx by 98%, VOCs by 83%; and PM by 99%.

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 **Texas Natural Gas Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Natural Gas Foundation
Attention: Heather Ball, Executive Director
2315 Newfield Lane
Austin, Texas 78703

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

In the event the Executive Director 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 Executive Director, 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:

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

5. Publicity

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

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

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