

Executive Summary – Enforcement Matter – Case No. 60771

KM Liquids Terminals LLC

RN103137790

Docket No. 2021-0655-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Galena Park Terminal, 1500 Clinton Drive, south of IH-10, east of IH-610 East Loop, on the north bank of the Houston Ship Channel/Buffalo Bayou, Galena Park, Harris County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 1, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,813

Amount Deferred for Expedited Settlement: \$3,562

Total Paid to General Revenue: \$14,251

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 23, 2021

Date(s) of NOE(s): May 5, 2021

**Executive Summary – Enforcement Matter – Case No. 60771
KM Liquids Terminals LLC
RN103137790
Docket No. 2021-0655-IWD-E**

Violation Information

Failed to comply with permitted effluent limitations for pH, ammonia nitrogen, dissolved oxygen, and carbonaceous biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0001662000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, Outfall Nos. 001 and 002].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent achieved compliance with the permitted effluent limitations by February 28, 2021.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alyssa Loveday, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-5504; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: John Schlosser, President, Kinder Morgan, 500 Dallas Street, Suite 1000 C/O Jordan Mintz, Texas Department, Houston, Texas 77002-4718
Scott Eady, Director - EHS, Kinder Morgan, 300 Beltway Green Blvd, Pasadena, Texas 77503-1370

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	17-May-2021	Screening	17-May-2021	EPA Due	
	PCW	19-May-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	KM Liquids Terminals LLC
Reg. Ent. Ref. No.	RN103137790
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60771	No. of Violations	2
Docket No.	2021-0655-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Alyssa Loveday
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$18,750
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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	20.0%	Adjustment	Subtotals 2, 3, & 7	\$3,750
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Notes: Enhancement for four months of self-reported effluent 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	-\$4,687
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,250
 Estimated Cost of Compliance: \$25,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,813
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$17,813
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,813
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,562
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$14,251
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Screening Date 17-May-2021

Docket No. 2021-0655-IWD-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 60771

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN103137790

Media Water Quality

Enf. Coordinator Alyssa Loveday

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>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 20%

>> 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 months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 17-May-2021
Respondent KM Liquids Terminals LLC
Case ID No. 60771
Reg. Ent. Reference No. RN103137790
Media Water Quality
Enf. Coordinator Alyssa Loveday
Violation Number 1

Docket No. 2021-0655-IWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001662000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, Outfall No. 002

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded protective levels. Dissolved oxygen was also considered. 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 4 152 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four quarterly events are recommended for the quarters containing the months of February, May, October, November, and December 2020.

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 on February 28, 2021, prior to the Notice of Enforcement dated May 5, 2021.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,250

Violation Final Penalty Total \$14,250

This violation Final Assessed Penalty (adjusted for limits) \$14,250

Economic Benefit Worksheet

Respondent KM Liquids Terminals LLC
Case ID No. 60771
Reg. Ent. Reference No. RN103137790
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$25,000	29-Feb-2020	28-Feb-2021	1.00	\$1,250	n/a	\$1,250

Notes for DELAYED costs

Estimated cost to purchase a new Ammonia High Range Photometer, remove sludge and debris from the holding tank and pipes, replace carbon in the carbon beds, replace filters, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, and the Final Date is the 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

\$25,000

TOTAL

\$1,250

Screening Date 17-May-2021 **Docket No.** 2021-0655-IWD-E **PCW**
Respondent KM Liquids Terminals LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 60771 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN103137790
Media Water Quality
Enf. Coordinator Alyssa Loveday

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0001662000, Effluent Limitations and Monitoring Requirements No. 2, Outfall No. 001
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250
\$3,750

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the quarter containing the month of May 2020.

Good Faith Efforts to Comply 25.0% Reduction \$937

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		

Notes The Respondent achieved compliance on February 28, 2021, prior to the Notice of Enforcement dated May 5, 2021.

Violation Subtotal \$2,813

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$3,563

This violation Final Assessed Penalty (adjusted for limits) \$3,563

Economic Benefit Worksheet

Respondent KM Liquids Terminals LLC
Case ID No. 60771
Reg. Ent. Reference No. RN103137790
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit Worksheet for Violation No. 1.

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

\$0

TOTAL

\$0

KM Liquids Terminals LLC
 TPDES Permit No. WQ0001662000
 Docket No. 2021-0655-IWD-E
 Case No. 60771

Effluent Violation Table								
Monitoring Period	Outfall No. 001	Outfall No. 002						
	pH	Ammonia Nitrogen				Carbonaceous Biochemical Oxygen Demand (5-day)		Dissolved Oxygen
	Daily Max. Limit = 9 SU	Daily Avg. Conc. Limit = 3 mg/L	Daily Max. Conc. Limit = 6 mg/L	Daily Avg. Loading Limit = 2.5 lbs/day	Daily Max. Loading Limit = 5 lbs/day	Daily Avg. Conc. Limit = 20 mg/L	Daily Avg. Loading Limit = 16.6 lbs/day	Monthly Min. Conc. Limit = 4 mg/L
February 2020	c	c	c	c	c	c	c	3.41
May 2020	9.2	c	7.64	c	c	c	c	c
October 2020	c	4.9	10.7	3.7	7.7	25.2	20	c
November 2020	c	5.42	9.6	4.11	6.91	c	c	c
December 2020	c	4.56	8.54	c	c	c	c	c

Max. = maximum
 Conc. = concentration
 SU = standard units
 c = compliant

Avg. = average
 mg/L = milligrams per liter
 lbs/day = pounds per day
 Min. = minimum

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



Compliance History Report

Compliance History Report for CN603254707, RN103137790, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN603254707, KM Liquids Terminals LLC **Classification:** SATISFACTORY **Rating:** 0.32
Regulated Entity: RN103137790, GALENA PARK TERMINAL **Classification:** SATISFACTORY **Rating:** 0.75
Complexity Points: 10 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 1500 Clinton Drive, south of Interstate Highway (IH) 10, east of IH 610 East Loop, on the north bank of the Houston Ship Channel/Buffalo Bayou in the City of Galena Park, Harris County, Texas
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
WASTEWATER PERMIT WQ0001662000 **WASTEWATER EPA ID** TX0030929
TAX RELIEF ID NUMBER 16924

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: May 17, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 17, 2016 to May 17, 2021

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

Name: Alyssa Loveday **Phone:** (512) 239-5504

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	May 24, 2016	(1339344)	Item 11	July 20, 2017	(1440266)
Item 2	June 20, 2016	(1352585)	Item 12	August 18, 2017	(1443946)
Item 3	June 27, 2016	(1346150)	Item 13	September 20, 2017	(1450552)
Item 4	July 20, 2016	(1352584)	Item 14	October 19, 2017	(1456408)
Item 5	December 20, 2016	(1390954)	Item 15	November 20, 2017	(1461874)
Item 6	January 18, 2017	(1397574)	Item 16	December 15, 2017	(1468259)
Item 7	February 21, 2017	(1404464)	Item 17	January 19, 2018	(1474956)
Item 8	April 07, 2017	(1411556)	Item 18	February 19, 2018	(1487176)
Item 9	May 19, 2017	(1418052)	Item 19	June 07, 2018	(1501045)
Item 10	June 20, 2017	(1431683)	Item 20	August 17, 2018	(1520517)

Item 21	September 20, 2018	(1527686)	Item 33	September 10, 2019	(1606820)
Item 22	October 20, 2018	(1534046)	Item 34	October 11, 2019	(1613661)
Item 23	November 20, 2018	(1541878)	Item 35	November 14, 2019	(1619475)
Item 24	December 20, 2018	(1545651)	Item 36	January 17, 2020	(1634469)
Item 25	January 29, 2019	(1560952)	Item 37	February 18, 2020	(1641085)
Item 26	February 18, 2019	(1560950)	Item 38	April 16, 2020	(1653946)
Item 27	March 11, 2019	(1560951)	Item 39	May 19, 2020	(1660525)
Item 28	April 16, 2019	(1572248)	Item 40	July 20, 2020	(1673987)
Item 29	May 10, 2019	(1584105)	Item 41	August 19, 2020	(1680766)
Item 30	June 19, 2019	(1584106)	Item 42	September 20, 2020	(1687335)
Item 31	July 17, 2019	(1593587)	Item 43	October 16, 2020	(1693675)
Item 32	August 19, 2019	(1599917)			

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 05/31/2020 (1667039)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 10/31/2020 (1713717)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 11/30/2020 (1713718)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 4 Date: 12/31/2020 (1713719)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KM LIQUIDS TERMINALS LLC
RN103137790**

**§
§
§
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§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0655-IWD-E**

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a petroleum refinery located at 1500 Clinton Drive, south of Interstate Highway 10, east of Interstate Highway 610 East Loop, on the north bank of the Houston Ship Channel/ Buffalo Bayou in Galena Park, Harris County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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. WATER CODE ch. 26 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 \$17,813 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$14,251 of the penalty and \$3,562 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
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 achieved compliance with the permitted effluent limitations by February 28, 2021.

II. ALLEGATIONS

During a record review conducted on March 23, 2021, an investigator documented that the Respondent:

1. Failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0001662000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, Outfall Nos. 001 and 002, as shown in the effluent violation table below:

Effluent Violation Table								
Monitoring Period	Outfall No. 001	Outfall No. 002						
	pH	Ammonia Nitrogen				Carbonaceous Biochemical Oxygen Demand (5-day)		Dissolved Oxygen
	Daily Max. Limit = 9 SU	Daily Avg. Conc. Limit= 3 mg/L	Daily Max. Conc. Limit = 6 mg/L	Daily Avg. Loading Limit = 2.5 lbs/day	Daily Max. Loading Limit= 5 lbs/day	Daily Avg. Conc. Limit = 20 mg/L	Daily Avg. Loading Limit= 16.6 lbs/day	Monthly Min. Conc. Limit = 4 mg/L
February 2020	c	c	c	c	c	c	c	3.41
May 2020	9.2	c	7.64	c	c	c	c	c
October 2020	c	4.9	10.7	3.7	7.7	25.2	20	c
November 2020	c	5.42	9.6	4.11	6.91	c	c	c
December 2020	c	4.56	8.54	c	c	c	c	c

Max. = maximum
Conc. = concentration
SU = standard units
c = compliant

Avg. = average
mg/L = milligrams per liter
lbs/day = pounds per day
Min. = minimum

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: KM Liquids Terminals LLC, Docket No. 2021-0655-IWD-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. 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 Facility operations referenced in this Order.
4. 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.
5. 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.
6. 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.
7. 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



For the Executive Director

Date

3/2/2022

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



Date

7 Sept 21

Scott Eady
Name (Printed or typed)
Authorized Representative of
KM Liquids Terminals LLC

Director, EHS
Title

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

Kinder Morgan
300 Beltway Green Boulevard
Pasadena, TX 77503-1370

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