TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING INTERCONTINENTAL TERMINALS COMPANY LLC RN100210806	§ § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2016-1917-AIR-E

On JUL 20 2017, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Intercontinental Terminals Company LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a liquid storage tank farm located at 1943 Independence Parkway South in La Porte, Harris County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

2. During a record review conducted from September 7, 2016 through September 19, 2016, an investigator documented that:

   a. The final record for Incident No. 218075 was due by August 16, 2015, but was not submitted until September 4, 2015;

   b. The Respondent released 101.5 pounds of 1-butene from the Tank 35-12 Dedicated Flare, Emission Point Number FL-35-12, during an avoidable emissions event (Incident No. 218075) that began on July 30, 2015 and lasted 81 hours. The emissions event occurred due to a higher than expected vapor flow

rate to the dedicated flare during the decommissioning of Tank 35-12 that resulted in higher than expected emissions from the flare. TCEQ staff determined that the emissions event could have been avoided by better operational practices and was not properly reported; and

c. The initial notification for Incident No. 218075 was due by July 31, 2015 at 11:00 a.m., but was not submitted until July 31, 2015 at 12:23 p.m.

3. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:

a. By July 31, 2015, submitted the initial notification for Incident No. 218075;

b. By August 17, 2015, decommissioned Tank 35-12;

c. By September 4, 2015, submitted the final record for Incident No. 218075; and

d. By September 16, 2016, trained staff to ensure the timely submittal of initial notifications and final records for reportable emissions events.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to submit a final record within 14 days after the end of the emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(c) and 122.143(4), Federal Operating Permit ("FOP") No. O1061, Special Terms and Conditions ("STC") No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b).

3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), FOP No. O1061, STC No. 14, TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 1078, Special Conditions No. 5. Since the emissions event could have been avoided by better operational practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to submit the initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O1061, STC No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b).

5. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of $4,251 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the $4,251 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 6. for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Intercontinental Terminals Company LLC, Docket No. 2016-1917-AIR-E" to:

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

2. 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 Site 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. 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 in this Order.

6. 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.

7. 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.

8. 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.

9. 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

Bryan W. Shaw — 7-27-17
For the Commission — Date

Romin Yazdani Jr — 6/5/17
For the Executive Director — 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 — 20170207
Date

Carl Hellay — VP-SHES & Regulatory
Name (Printed or typed) — Title
Authorized Representative of
Intercontinental Terminals Company LLC

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

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.

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 28, 2017

FIRST CLASS MAIL

Carl Holley, Vice President of Operations
Intercontinental Terminals Company LLC
1943 Independence Parkway South
La Porte, Texas 77571-9801

RE: Intercontinental Terminals Company LLC
TCEQ Docket No. 2016-1917-AIR-E; rn100210806, HG0403N, Permit No. 1078
Agreed Order Assessing Administrative Penalties

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Office of the Chief Clerk at (512) 239-3319.

Sincerely,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

BCB/lg

Enclosure

cc: Abigail Lindsey, Enforcement Coordinator, TCEQ Enforcement Division