

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

FILED  
2016 AUG 25 PM 3:35  
REGIONAL HEARING CLERK  
EPA REGION VI

**In the Matter of:**

**Diamond Shamrock Refining  
Company, LP**

**Respondent**

**CONSENT AGREEMENT AND FINAL ORDER**

**EPA Docket No. CAA 06-2016-3323**

**CONSENT AGREEMENT AND FINAL ORDER**

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (“EPA”), Region 6 (“Complainant”) and Diamond Shamrock Refining Company, LP (“Respondent”) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (“CAFO”).

**I. PRELIMINARY STATEMENT**

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to sections 113(a)(3) and 113(d)(1)(B) of the Clean Air Act, as amended (“Act” or “CAA”), 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

2. For purposes of this proceeding, Respondent admits the jurisdictional allegations contained herein; however, Respondent neither admits nor denies any of the specific factual or legal allegations made by EPA in this CAFO.

11. Later in the afternoon, the OAA was asked to verify if any alarms were appearing on the SIS panel located near the heater. The OAA had just finished doing so when the deflagration in the heater occurred.

12. The Safety Instrumentation System (:SIS”) did not trip the heater as designed when the combustibles concentrated in the heater stack exceeded the designated trip set point due to it being inadvertently disabled following installation of the system.

13. The heater experienced combustion difficulties causing a deflagration within the heater unit causing an emission, which was later determined to have been caused by the trip function for the stack analyzers being off-line.

14. The Respondent created incident report #1129307 and reported the event to the National Response Center on September 24, 2015 at 3:50 p.m. CST.

15. The Respondent reported a release of Hydrogen Sulfide and Sulfur Dioxide to the National Response Center, the Texas Commission on Environmental Quality, and the U.S. Chemical Safety Board. The reports state that the release occurred on September 24, 2015, and was discovered at 3:42 p.m. CST.

16. The Respondent reported that the unit was immediately shut down.

17. Pursuant to section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), an owner/operator of a stationary source producing, processing, handling or storing substances listed pursuant to section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, has a general duty to: (1) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (2) design and maintain a safe facility, taking such steps as are necessary to prevent releases; and (3) minimize the consequences of accidental releases that do occur.

other factors which justice may require, EPA and Respondent agree that an appropriate penalty to settle this matter is \$37,500.00.

26. Respondent shall pay the assessed penalty within thirty (30) days of the effective date of this CAFO. Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of three ways: regular U.S. Postal mail (including certified mail), or U.S. Postal Service express mail - the check should be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

**PLEASE NOTE: Docket number CAA 06-2016-3323 shall be clearly typed on the check to ensure proper credit.** If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and the

costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

### **B. PARTIES BOUND**

30. The provisions of this CAFO shall apply to and be binding upon the parties to this action, their officers, directors, agents, employees, successors, and assigns. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

### **C. RETENTION OF ENFORCEMENT RIGHTS**

31. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

32. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

33. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants at or from the Facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or

**In the Matter of:  
Diamond Shamrock Refining  
Company LP  
Three Rivers, TX**

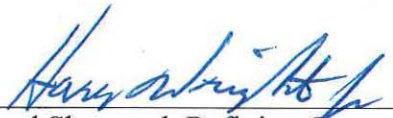
**CONSENT AGREEMENT AND FINAL ORDER  
EPA Docket No. CAA 06-2016-3332**

**Respondent**

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT  
AGREEMENT AND FINAL ORDER:**

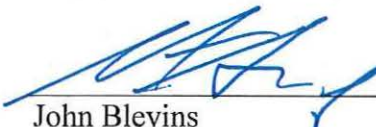
**FOR THE RESPONDENT:**

07/27/16  
Date

  
\_\_\_\_\_  
Diamond Shamrock Refining Company, LP

**FOR THE COMPLAINANT:**

12 3 AUG 2016  
Date

  
\_\_\_\_\_  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division


**CERTIFICATE OF SERVICE**

I hereby certify that the original and a copy of the foregoing Consent Agreement and Final Order (CAFO) were hand-delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was placed in the United States mail to the following by the method indicated:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # 7007 1490 0004 05629972

Claire Garza  
Director- Environmental & Safety Affairs  
Valero Three Rivers Refinery  
P.O. Box 490  
Three Rivers, TX 78071

08-25-2016  
Date

  
U.S. EPA, Region 6  
Dallas, Texas