



REGION 6

DALLAS, TX 75270

May 23, 2024

TRANSMITTED VIA ELECTRONIC MAIL

Mr. Mitch Colvin
Senior Manager, Environmental
Delek US
1000 McHenry St.
El Dorado, Arkansas 71730
mitch.colvin@delekus.com

Re: United States, et al. v. Lion Oil Company, Civil Action Nos. 03-1028, and 1:03-cv-01028-HFB (W.D. Arkansas) – Tail Gas (TG) and Hydrocarbon (HC) Flaring Incident – Lion Oil (Delek US) – El Dorado, AR Refinery

Dear Mr. Colvin:

The United States Environmental Protection Agency (EPA) received a report dated July 26, 2023, regarding a tail gas and hydrocarbon flaring incident that occurred on June 13-14, 2023, at the Lion Oil (Delek US) Refining facility located in El Dorado, AR. Per Paragraph 21 of the CD, stipulated penalties under either Paragraphs 20.C and 49 shall not apply to HC Flaring Incident(s). According to the report, the TG incident lasted a total of 22 hours and resulted in a release of 244.61 pounds (0.12 tons) of sulfur dioxide (SO₂).

The report explains that the root cause of the incident was an unplanned refinery-wide shut down after the facility experienced a partial power failure during a severe thunderstorm. The power failure originated at a third-party electrical utility provider and was caused by a lightning strike that resulted in catastrophic damage to the utility's substation transformer that serves the refinery. The subsequent power loss affected approximately half of the refinery. EPA notes that Lion Oil (Delek US) raised an affirmative defense of force majeure under Paragraph 20.C.iv.a. However, because the report was not submitted until six weeks after the event occurred, the force majeure defense does not meet the ten (10) business day notification requirement of Paragraph 62, and therefore, EPA considers the force majeure defense void under Paragraph 63.

Upon review of the other information submitted by Lion Oil (Delek US) and review of previous TG incidents, EPA has determined that the incident did meet the criteria of a sudden and unavoidable malfunction pursuant to Paragraph 20.C.iii.a of the Consent Decree and assesses no penalty for the incident. If you have any questions regarding this matter, please contact Diana Lundelius at (214) 665-4726 or by email at Lundelius.diana@epa.gov.

Sincerely,

STEVEN
THOMPSON

Digitally signed by
STEVEN THOMPSON
Date: 2024.05.23
10:53:06 -05'00'

Steve Thompson

Manager

Air Enforcement Branch

Ecc:

Heather Harriss, Delek US Holdings, Inc., Heather.Harriss@delekus.com

General Counsel, Delek US Holdings, Inc., Legalnotices@delekus.com

Mary E. Greene, Director, Air Enforcement Division, Office of Enforcement and Compliance Assurance,
U.S. EPA, greenes.mary.e@epa.gov

Teresa Dykes, Attorney-Advisor Air Enforcement Division, Office of Enforcement and Compliance
Assurance, U.S. EPA, dykes.teresa@epa.gov

Michael McAlister, Arkansas Department of Environmental Quality, Legal Services,
mcalister@adeq.state.ar.us

Carlos Zequeira, U.S. EPA Region 6, zequeira.c@epa.gov