EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0189-MLM-E **TCEQ ID:** RN100583483 **CASE NO.:** 32539

RESPONDENT NAME: Texas Children's Hospital

ORDER TYPE:		
_X_1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	_X_MULTI-MEDIA (check all that apply)	_X_INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
_X_MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Texas Children's Hospital, 6621 Fannin Street, Houston, Harris County

TYPE OF OPERATION: Full-care pediatric hospital in the Texas Medical Center

SMALL BUSINESS: ___ **Yes** _X_ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 6, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: Mr. Maynard W. Martin, Registered Agent, Texas Children's Hospital, 6621 Fannin Street, Houston, Texas 77030
Ms. Ann B. Stern, SVP & GC, Texas Children's Hospital, 6621 Fannin Street, Houston, Texas 77030
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** November 17, 2006 **Date of NOE Relating to this Case:** January 12, 2007 (NOE) **Background Facts:** This was a routine investigation. Three violations were documented. **WASTE** 1) Failed to update the Notice of Registration. Specifically, revisions related to general information, including changing phone numbers, a change in primary contact person, and changing the mailing address of the Facility, as well as adding spent xylene as a wastestream had not been made [30 TEX. ADMIN. CODE § 335.6(c)]. 2) Failed to notify the TCEQ of recycling activity. Specifically, Texas Children's failed to notify the TCEQ of the recycling of the spent xylene generated in its Pathology Department [30 TEX. ADMIN. CODE §§ 335.6(h)]. 3) Failed to prevent the unauthorized disposal of hazardous waste. Specifically, Texas Children's Hospital sent medical waste to Waste Management Security Landfill (Type I) for disposal without prior authorization from the landfill as required [30 TEX. ADMIN. CODE §§ 330.171(c)(6) and 335.2(b)].	**Total Assessed:** $2,000 **Total Deferred:** $400 _X_Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,600 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. Notified the Commission of the recycling of spent xylene on December 22, 2006; and b. Updated the general information on the Notice of Registration on December 7, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order, cease disposal of additional waste without authorization; b. Within 30 days after the effective date of this Agreed Order, update the Notice of Registration to show xylene has been added as a wastestream; and c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision December 8, 2006*

DATES					
Assigned	22-Jan-2007				
PCW	6-Feb-2007	Screening	31-Jan-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Children's Hospital		
Reg. Ent. Ref. No.	RN100583483		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32539	No. of Violations	2
Docket No.	2007-0189-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Clinton Sims
Multi-Media	Municipal Solid Waste	EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History — **0%** Enhancement — *Subtotals 2, 3, & 7* **$0**

Notes: The Respondent has not received any NOVs or Orders for this site in the past five years.

Culpability — No — **0%** Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — **0%** Reduction — *Subtotal 5* **$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$9
Approx. Cost of Compliance	$300

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$2,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount **$2,000**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$2,000**

DEFERRAL — **20%** Reduction — *Adjustment* **-$400**

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$1,600**

Screening Date	31-Jan-2007	**Docket No.** 2007-0189-MLM-E	**PCW**
Respondent	Texas Children's Hospital		*Policy Revision 2 (September 2002)*
Case ID No.	32539		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN100583483		
Media [Statute]	Industrial and Hazardous Waste		
Enf. Coordinator	Clinton Sims		

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has not received any NOVs or Orders for this site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 31-Jan-2007 **Docket No.** 2007-0189-MLM-E **PCW**

Respondent Texas Children's Hospital *Policy Revision 2 (September 2002)*

Case ID No. 32539 *PCW Revision December 8, 2006*

Reg. Ent. Reference No. RN100583483

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c) and (h)

Violation Description Failed to notify the TCEQ of recycling activity and to update the Notice of Registration, as documented during an investigation conducted on November 17, 2006. Specifically, the Respondent failed to notify the TCEQ of the recycling of the spent xylene generated in its Pathology Department. Also, revisions related to general information, including changing phone numbers, a change in primary contact person, and changing the mailing address of the Facility, as well as adding spent xylene as a wastestream had not been made.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 75 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Texas Children's Hospital
Case ID No. 32539
Reg. Ent. Reference No. RN100583483
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$100	17-Nov-2006	19-Oct-2007	0.9	$5	n/a	$5
Other (as needed)	$100	17-Nov-2006	22-Dec-2006	0.1	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to update the Notice of Registration from the investigation date to the estimated date of compliance. Xylene needs to be added as a wastestream on the Notice of Registration; general information was updated on December 7, 2006. Also, estimated cost to notify TCEQ of xylene recycling activities from the investigation date to the date of compliance (December 22, 2006).

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $200

TOTAL $5

Screening Date 31-Jan-2007 **Docket No.** 2007-0189-MLM-E **PCW**

Respondent Texas Children's Hospital *Policy Revision 2 (September 2002)*

Case ID No. 32539 *PCW Revision December 8, 2006*

Reg. Ent. Reference No. RN100583483

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 330.171(c)(6) and 335.2(b)

Violation Description Failed to obtain authorization for the disposal of hazardous waste, as documented during an investigation conducted on November 17, 2006. Specifically, Texas Children's Hospital sent medical waste to Waste Management Security Landfill (Type I) for disposal without prior authorization from the landfill as required.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 75 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Texas Children's Hospital
Case ID No. 32539
Reg. Ent. Reference No. RN100583483
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $!!						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$100	17-Nov-2006	19-Sep-2007	0.8	$4	n/a	$4
Notes for DELAYED costs	Estimated amount to obtain acceptance authorization from Security Landfill, from the investigation date to the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $100

TOTAL: $4

Compliance History

Customer/Respondent/Owner-Operator:	CN600293666	Texas Children's Hospital	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN100583483	TEXAS CHILDRENS HOSPITAL	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	74564
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000076687
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000076687
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX1520I
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1013297

Location: 6621 FANNIN ST, HOUSTON, TX, 77030 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 23, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 23, 2002 to January 23, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Alison Echlin Phone: 512-239-3308

Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1 03/22/2004 (264436)

N/A

2 01/12/2007 (532098)

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

N/A

F. Environmental audits.

N/A

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
TEXAS CHILDREN'S HOSPITAL	§	
RN100583483	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0189-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Children's Hospital ("Texas Children's") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Texas Children's appear before the Commission and together stipulate that:

1. Texas Children's owns and operates a full-care pediatric hospital in the Texas Medical Center at 6621 Fannin Street in Houston, Harris County, Texas (the "Facility").

2. The Facility involves or involved the management of industrial or municipal hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. The Commission and Texas Children's agree that the Commission has jurisdiction to enter this Agreed Order, and that Texas Children's is subject to the Commission's jurisdiction.

4. Texas Children's received notice of the violations alleged in Section II ("Allegations") on or about January 17, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Texas Children's of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Dollars ($2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Texas Children's has paid One Thousand Six Hundred Dollars ($1,600) of the administrative penalty and Four

Hundred Dollars ($400) is deferred contingent upon Texas Childrens's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Texas Children's fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Texas Children's to pay all or part of the deferred penalty.

7. 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.

8. The Executive Director of the TCEQ and Texas Children's have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Texas Children's has implemented the following corrective measures at the Facility:

   a. Notified the Commission of the recycling of spent xylene on December 22, 2006..

   b. Updated the general information on the Notice of Registration on December 7, 2006.

10. 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 Texas Children's has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Texas Children's is alleged to have:

1. Failed to update the Notice of Registration, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on November 17, 2006. Specifically, revisions related to general information, including changing phone numbers, a change in primary contact person, and changing the mailing address of the Facility, as well as adding spent xylene as a wastestream had not been made.

2. Failed to notify the TCEQ of recycling activity, in violation of 30 TEX. ADMIN. CODE §§ 335.6(h), as documented during an investigation conducted on November 17, 2006. Specifically, Texas Children's failed to notify the TCEQ of the recycling of the spent xylene generated in its Pathology Department.

3. Failed to prevent the unauthorized disposal of hazardous waste, in violation of 30 TEX. ADMIN. CODE §§ 330.171(c)(6) and 335.2(b), as documented during an investigation conducted on

November 17, 2006. Specifically, Texas Children's sent medical waste to Waste Management Security Landfill (Type I) for disposal without prior authorization from the landfill as required.

III. DENIALS

Texas Children's generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Texas Children's pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Texas Children's's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Children's Hospital, Docket No. 2007-0189-MLM-E" to:

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

2. It is further ordered that Texas Children's shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, cease disposal of additional waste without authorization, in accordance with 30 TEX. ADMIN. CODE §§ 330.171(c)(6) and 335.2(b);

   b. Within 30 days after the effective date of this Agreed Order, update the Notice of Registration to show xylene has been added as a wastestream, in accordance with 30 TEX. ADMIN. CODE § 335.6(c); and

   c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and 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 fine 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:

Industrial and Hazardous Waste Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Texas Children's. Texas Children's is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Texas Children's fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Texas Children's failure to comply is not a violation of this Agreed Order. Texas Children's shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Texas Children's shall notify the Executive Director within seven days after Texas Children's becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Texas Children's shall be made in writing to the Executive Director. Extensions are not effective until Texas Children's receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Texas Children's in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Texas Children's, or three days after the date on which the Commission mails notice of the Order to Texas Children's, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 8/27/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

_____ 5-15-07
Signature Date

Ann. B. Stern SVP & GC
Name (Printed or typed) Title
Authorized Representative of
Texas Children's Hospital

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Wm. B. Stern

Wm & Co

Wm. B. Stern

Wm & Co